

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation – Code Audit Report

To: City of Milwaukie Project Management Team

From: Marcy McInnelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

CODE AUDIT SUMMARY REPORT

Introduction

Implementing the Comprehensive Plan

In 2015, as part of its project Milwaukie All Aboard, the city initiated a dialogue with the community to update its 20-year old vision statement and identify an Action Plan. Building on its visioning process, the city then spent two years working hand in hand with the community to update its Comprehensive Plan. Updating the Comprehensive Plan is a major undertaking that Oregon requires cities to complete on a periodic basis. An update can be conducted as a check-the-boxes exercise, or it can be used to bring a community together, to foster important conversation about the future, and to memorialize a compelling vision. The Milwaukie Comprehensive Plan adopted in August of 2020 is an example of the latter. Now that it is adopted, the Plan will guide decisions that shape Milwaukie for the next ten to twenty years.

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

The effect of these zoning changes will be both very large and very slow. Very large in that the Milwaukie areas affected equal over 70% of the land within the City; very slow in that these changes will occur somewhat randomly, lot by lot, and gradually over a long period of time. While the changes are very important, they will not happen overnight. Making the changes does create a framework for addressing historic patterns of inequity.

Exclusion and lack of affordability

Changes to Milwaukie's zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type.

The Comprehensive Plan touches on how Oregon, as a state, and areas in Milwaukie enacted "Exclusion Laws." These laws banned slavery but also prohibited Black people from settling or remaining in the territory, and later from owning property or entering into contracts. Exclusion was further enacted through specific discriminatory laws and housing practices, such as racist deed restrictions (only banned in 1948). More subtle forms of exclusion continued, largely through the mapping and designation of single family zoning over wide expanses of America cities, including Milwaukie. By the time of the 1968 passage of federal Fair Housing Laws, racial exclusion practices continued "de facto," through zoning.

Richard Rothstein, in "The Color of Law," details how even after all of the achievements of the civil rights movement—the desegregation of schools, swimming pools, water fountains, employment, and transportation—one remaining

form of segregation in neighborhoods remained: segregated zoning. Single family zoning enacts systemic exclusion that still exists today. By end of 1960s, the civil rights movement had persuaded much of the country that racial segregation was wrong, and harmful, to both Blacks and whites, and “incompatible with our self-conception as a constitutional democracy”—but zoning in cities was largely left untouched.

After decades of exclusion ranging from being denied home loans, having neighborhoods in which they lived “redlined” (when federal certifiers designated neighborhoods ineligible for loans), facing discrimination in employment, and receiving less pay, Black people were denied the opportunity to own a home. Unable to join the middle class and build generational wealth through homeownership, they were essentially excluded from the American dream which White people had access to for decades. Generations of denial have compounded to make it harder for Black people to buy single family homes today. Exclusion and segregation persists between Black and White people in neighborhoods zoned exclusively for single family homes.

Milwaukie’s history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

Addressing a housing crisis, needs, and goals

Major generational and demographic shifts that affect housing supply and demand are taking place in Oregon and the country. Some of these affect the entire country and state—such as the recent Great Recession, new households forming, young people growing up, older people downsizing. Some of these affect Milwaukie in particular, such as the development of the MAX Orange Line light rail and increasing population. These national and local trends have combined to create a housing crisis; the supply of housing is not keeping up with the demand, and the need for affordable housing has reached a state of emergency.

The Oregon legislature recently passed House Bill 2001 (HB 2001) intended to address this crisis. Milwaukie, having declared a state of housing emergency since 2015, is ahead of other cities in Oregon. Using its vision and adopted Comprehensive Plan, Milwaukie is well prepared to address housing needs. The City has already made numerous incremental amendments that partially address the issues of housing choice and affordability and bring the zoning code closer in alignment with city goals. The purpose of this project is to think bigger and be bolder—to rethink the single-family neighborhood, and in the process, rethink the role of parking and how to codify the contribution of trees.

A policy mandate and how the current zoning code falls short

The purpose of this document is to explain which zoning provisions and procedures fall short of or prevent the city from meeting its Comprehensive Plan goals. A code audit is one of the first steps. In Milwaukie, the code audit is primarily targeting the zoning code, but there are many related documents that will need to be amended—either as a part of this project or future efforts.

A policy mandate

Adopted policy documents establish a clear policy mandate for this project, which can be summarized in three main themes: housing, tree canopy, and parking.

1. Increase the supply of middle or attainable housing and provide equitable access and housing choice for all
2. Increase the tree canopy and preserve existing trees
3. Manage parking to enable middle housing and protect trees

The code audit

In September the consultant team initiated the Milwaukie Comprehensive Plan Implementation Code Audit. The team audited existing policies and regulations to identify barriers preventing the city from achieving the goals of the Comprehensive Plan. Specifically, the team identified existing policies in the Comprehensive Plan and other policy documents that support the city’s goals and vision and reviewed regulations, including policy documents related to urban forestry, affordable housing, and House Bill 2001. The team then reviewed regulations including the zoning code, public works standards, and draft tree code to pinpoint requirements in conflict with identified policies that need to be changed. This memo summarizes key findings and recommendations to address identified obstacles.

FINDINGS AND ISSUES

Following is a summary by the three primary themes of the major findings of code regulations that fail to meet the project objectives identified through the code audit.

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

Goal 7 of the Comprehensive Plan recognizes that the shift to permit more forms of housing will require zoning and code changes in order to remove barriers. Additional housing types will need to be allowed in low and medium density zones. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Further support for the development of denser forms of housing is found in the recent Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. Both the Comprehensive Plan and Milwaukie Housing Affordability Strategy cite the need to enable equitable housing options that meet the needs of all residents, including in low and medium density zones.

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

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

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

Removing barriers to middle housing

Many sections of the land division and zoning code place requirements on developments with multiple units or multiple lots that single detached dwellings are not also required to meet. These types of requirements negatively affect the cost and feasibility of middle housing and are not required of detached single dwelling development. For example, land use review is required for Accessory Dwelling Units (ADUs) and duplexes, but not for single dwellings.

HB 2001 generally prohibits additional requirements for middle housing that are more restrictive or create a greater burden than are faced by single detached dwellings in the same zone. For example, the maximum height of a middle

housing-type dwelling cannot be lower than the maximum height allowed for single detached dwellings in the same zone, and setbacks cannot be greater.

Similarly, Title 17 land division requirements, particularly those in 17.12.020 - Application Procedure and Approval Criteria, create a greater burden on development with four or more lots by requiring a Type III review, which is a more difficult review procedure. This will negatively affect cottage cluster or townhouse developments.

Key Issues

- **Large number of undifferentiated residential zones that do not permit middle housing equitably**

While eight residential zones exist in Milwaukie, several of them are minimally used and are almost identical to other zones in terms of development standards and permitted uses. This creates a lack of clarity about the intent of each residential zone and how it meets stated Comprehensive Plan Goals. Also of note is that the large majority of residentially zoned lands are mapped in the R-10 and R-7 zones. These low-density zones only allow duplexes and ADUs through land use review, including a discretionary Type II review using subjective approval criteria; as a result the vast majority of the city does not meet the policy goal to provide opportunities for a wide range of rental and ownership housing choices and to remove barriers to development of these middle housing types. While the code does permit some middle housing types (duplexes, rowhouses, cottage clusters and ADUs) in some zones, not all types are defined and permitted as required by HB 2001. All middle housing types will need to be allowed in zones that permit single detached dwellings, with duplexes permitted on all lots and other middle housing types permitted in areas defined through this code update and engagement process.

- **Housing types are regulated using permitted land use table**

Currently each housing type is treated as a separate permitted use regulated in the permitted use tables and defined across base zones (Tables 19.301.2 and 19.302.2). This approach confuses housing types with the broader residential land use category. It would be more consistent with the Milwaukie vision to separate housing types from land uses so that the “uses allowed” table for residential zones only lists land uses (e.g., commercial). The categories of residential land uses should be limited (e.g. group living or household living). A separate housing types table would specify which housing types are permitted in which zones and how (e.g. permitted, not permitted, conditional).

- **Housing types confused with household types**

The zoning code uses terms for housing types that are in conflict with goals for equity, affordability, and also conflict with HB 2001 requirements. Definitions for housing types should be based on the building form and lot type rather than who lives in it; for example “single detached dwelling” refers to one house not attached to any other houses located on its own fee-simple lot whereas “single-family detached home” refers to both the building form and lot type but also who lives in the home. Who lives in a home is irrelevant. Definitions should be clearly defined to be consistent with the Milwaukie vision and implementation goals in order to truly promote a wide range of housing types for all types of households living in the city. Terms should be updated and used consistently in all applicable sections of the code (e.g. parking provisions, land use table, etc.).

- **Restrictive standards limit the development of certain housing types**

The middle housing types that are currently allowed are subject to further restrictive and subjective development standards (including in Section 19.500 Supplementary Development Regulations) that discourage their development. For example, cottage cluster housing is subject to standards for size, height, orientation, and required yards in addition to prescriptive design standards addressing individual units and the site. Another example is if a duplex is not allowed outright in a zone, it is required to be located so as “not to have substantial impact on the existing pattern of single-family detached dwellings within the general vicinity,” and its design must be “generally

consistent with surrounding development.” Similar restrictive development and design standards impact the potential development of ADUs, rowhouses, and flag lots.

- **Lack of equitable review processes for housing types**

Different housing types are subject to different review processes in the Milwaukie code. The current regulations need to be carefully evaluated to reduce or eliminate any procedural discrimination for certain housing types. For example, duplexes are currently subject to Type II review in the R-10 and R-7 zones when single dwelling detached homes are not subject to any land use review (Table 19.301.2). This difference in review creates a barrier to achieving the city’s goal of permitting the development of middle housing through new construction and conversions and promoting housing choice for all by creating a more difficult process for certain housing types and in certain zones.

- **Expensive street and frontage improvements**

Public facility improvements (including street, sidewalk, and planter strips) are required for an additional unit as well as an addition greater than 1,500 square feet to an existing home. This includes the development of ADUs and conversions of single units into duplexes. These improvements present barriers to development of these housing types by adding cost. In addition, a traditional curbed street improvement creates a potential conflict with existing established trees that may be in the right-of-way; the required width for new planter strip widths may not be generous enough to accommodate larger trees. More flexible options that allow for rural-character street design would reduce the burden of cost on new and converted middle housing units while maintaining an essential element of Milwaukie’s character. For example, the Island Station Neighborhood Greenway has street types with gravel shoulders and no planter strips. This could be a good model for certain contexts.

Recommendations

- Allow duplexes across all residential zones
- Amend permitted residential types to include triplexes, quadplexes, and townhouses (currently referred to as rowhouses)
- Review low density and moderate density zones to identify areas where triplexes, quadplexes, townhouses, and cottage clusters are a permitted use
- Consolidate residential zones and revise zoning map to expand the area in which middle housing types are permitted equitably across the entire city
- Decouple housing types from uses table and clean up definitions to remove confusions with household types
- Simplify and reduce the amount of design standards applicable to middle housing types and make them clear and objective so that all housing types, whether detached single units or larger number of attached units, are subject to the same standards
- Permit all middle housing types to be permitted using the same approval type as single family dwellings are subject to today
- Increase flexibility for street and frontage improvements and permit creative street designs to reduce the burden of cost on middle housing development

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees

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

Because many of the most magnificent trees that contribute to Milwaukie are on private property, it is appropriate that there be greater protection of those trees in order to achieve the community's goals. This means trees on private property will be regulated differently than they have been in the past in order to preserve the existing and contribute to the future canopy of the city.

Changing the code to preserve trees on private property will have implications for city staff; there will be more applications to manage and a greater load on review boards. A culture shift may be required on the part of citizens, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. The city established a Tree Board recently and the committed Public Works department views trees as another form of citywide infrastructure. If site and tree specific conversations occur early in the application process, there will be a much better understanding of goals and priorities by all parties.

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

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

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone
- 19.1200 Solar Access Protection
- Draft Tree Preservation Amendments

Other sections that were reviewed and for which amendments are recommended that are not part of this project:

- 19.401 Willamette Greenway Overlay Zone

Key Issues

- **Solar access requirements are potentially in conflict with tree canopy goals**
Understanding how solar access provisions are enforced over time, especially regarding tree planting, growth and future shading, will be important. The approved tree list should be updated to clarify which trees are preferred, noting which do not interfere with solar collection. A list of solar-friendly trees should also be listed on the city website.
- **Additional consideration should be given to native trees and other climate change suited species**
This should also include measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies to encourage the propagation of a diversity of species that increase forest resiliency.
- **Flexible standards for tree preservation, especially as it relates to middle housing development, should be further explored**
Standards for tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into larger patterns of the area. Included in this analysis should be consideration given to areas identified as

deficient in tree canopy in an effort to make tree plantings more equitable across the city. These standards should include protection measures during construction.

- **Consider enforcement of tree planting and preservation after development is completed**

Continued funding and staffing resources are needed for successful enforcement.

Recommendations

- Create more distinct code sections in Section 16.32-Tree Code for development and non-development related code criteria, and create standards for the preservation and planting of priority street tree species with development
- Reference desired tree species and conditions in updated public works standards and revised code for private residential property; ensure they include native trees , other climate change suited species and support canopy goals
- Ensure newly planted trees have access to adequate soil volumes that support their long term growth to maturity
- Create enforcement mechanisms to ensure newly planted trees become established and are properly managed for the long term as condition of permit approval
- For projects in which tree preservation on site is not feasible, explore fee-in-lieu programs, i.e., the property owner or developer pays into a fund

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

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments in order to reduce vehicle emissions and encourage the use of alternate transportation. There is a desire to create a more energy efficient land use pattern in Milwaukie. This includes infill development and neighborhood hubs that includes mixed-use development while providing a wider range of rental and ownership choices.

There is also a strong desire to create more housing opportunities for all income levels throughout Milwaukie, not just in areas where multi dwelling units are allowed. The Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

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

- 19.200 Definitions, Parking-related definitions
- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Other sections that were reviewed regarding to this policy mandate, and for which amendments are recommended but are not part of this project:

- Public works standards – 5.0110 Private Streets/Alleys

Key Issues

- **Ensure adequate parking**

While many Milwaukians still drive and own cars, the community has expressed a clear desire to increase its share of people who don't own cars, who own fewer cars, and who bike or walk for many of their needs. It will continue to be

important consider parking that allows people to store their cars at or near their homes for the foreseeable future. However, there are a number of strategies that can be put into place that can help the city achieve multiple objectives while still providing enough parking to meet most people’s needs. It does signal a major change in that parking will become the commodity it is and will no longer be as free or abundant. This change will happen over time, and hopefully in concert with other investments in transportation that provides people with more options to not drive.

- **Managing parking in residential zones (off-street)**

Parking requirements are another area where the current zoning code (Section 19.600 Off-Street Parking and Loading) places additional burdens on middle housing. Parking requirement can impact the affordability of housing in a number of ways. Currently the requirement for a minimum of one space per dwelling unit and 1.25 spaces for housing that includes 3 or more dwelling units that are over 800 square feet makes many forms of middle housing infeasible, financially and physically. In order to comply with HB 2001, only one parking space may be required for middle housing, and on-street parking may be allowed to count toward the requirement.

- **Managing parking in residential zones (on-street)**

Section 19.600 includes a purpose statement that generally supports many aspects of the policy mandate, such as “provide adequate, but not excessive, space for off-street parking. However, “avoid parking-related congestion on the streets,” may be problematic. It assumes that on-street parking causes congestion, and also assumes auto congestion is an issue. On local streets in particular, on-street parking can reduce auto speeds (congestion) and make streets safer. This language may preclude ideas about reprioritizing and rethinking local streets that have been brought up by the community. Likewise managing parking is an important way for the city to achieve housing affordability and tree canopy goals. There are opportunities throughout Milwaukie to use the on-street parking system to help offset onsite parking demand. This approach may require some form of residential parking management at some point in the future. In addition to addressing off-street parking requirement in the zoning code, public works standards for streets and implications for on-street parking, will also need to be addressed. Historically, most cities have not managed on street parking in residential zones, however new approaches to parking will be needed to balance housing and transportation needs.

- **Achieving greater flexibility for parking**

Currently Section 19.600 does not permit on-street parking to count toward meeting parking requirements for new development. This section also precludes unbundling of onsite parking from housing, and may prohibit parking spaces from being rented or sold separately from the dwelling unit. In future Milwaukie neighborhoods where managing parking and middle housing options are more prevalent, permitting the “unbundling” of parking from dwelling units can make middle housing more economically feasible and affordable. Additional design standards in Section 19.607 further regulate the location and design of parking and have an impact on the feasibility and cost of developing middle housing. For example, off-street parking is not permitted within the required front or side yard or within 15 feet of the front lot line. This requirement essentially requires two parking spaces for each unit as the parking cannot be provided in the first 15 feet of the driveway approach. This standard has been a barrier to the conversion of garages as ADUs and reduces the potential developable area for middle housing types.

- **Importance of on-street parking**

Permitting parking on the street to count against parking requirements can make a lot of sense if the goal is to reduce the cost of housing, since even a surface parking space adds cost to housing. And if the street is already paved (or planned to be paved or widened), it makes sense to use already-paved space for parking instead of adding additional paved area on private property. Any strategy to reduce overall paved area in the city will benefit natural resource protections and trees, and reduce stormwater runoff.

Recommendations

- Explore the feasibility of reducing parking minimums in light of use of on-street space and on-site design
- Tailor reduction of parking minimums in tandem with use of on-street space, and on-site design to neighborhood supply and demand
- Ensure parking minimums comply with HB 2001
- Consider the usefulness of technology (e.g., car stackers), and if appropriate ensure the code does not preclude their use
- Consider defining active transportation and how it can be required in a residential development to address goals for better connectivity, transit, etc. in the Plan
- Clarify those active transportation measures which can be addressed by development, as opposed to ones which require infrastructure investments commonly made by the public sector
- Employ data to quantify underused on-street space in affected neighborhoods and “calibrate” to real impacts of new development on existing supply
- Adjust code requirements to reflect true capacity
- A request for “reducing” a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed. Amend approval criteria to permit lowering the minimum requirement or locating parking off-site
- Eliminating current exemptions/reductions process and use requirements of the Transportation Demand Management (TDM) in 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Consider building TDM measures in as options for developers along with lower parking minimums
- When considering stacker technology for parking solutions (see above), review height maximum of 8 feet for cottage cluster garages

APPENDICES

Attachment A: Code Audit

The Code Audit Summary (Attachment A) provides an in-depth review of relevant policies as well as relevant regulations. It is a spreadsheet with the following sheets:

1. Policy Review

- Lists relevant goals and policies from the Comprehensive Plan
- References related code sections
- Identifies any issues or areas for discussion

2. Code Audit (regulatory review)

- Lists relevant sections of the code that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

3. Public Works Audit

- Lists relevant sections of the standards that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

Attachment B: Milwaukie Residential Zones – Summary Tables

Attachment B summarizes, in a series of tables, relevant regulations from the Milwaukie Municipal Code. Summary tables include the following:

Title 17– Land Division

- Boundary Change Actions Table

Title 19 – Zoning

- Use Comparison Summary Table
- Development Standards Comparison Summary Table
- Other Applicable Development Standards Table
 - Accessory Structures Standards Table
 - Site Design Standards Table
 - Cottage Cluster Housing Development and Design Standards
 - Rowhouse Design Standards
 - Off-Street Parking Standards / Additional Design Standards
 - Public Facility Improvements
 - ADU design and development standards and review requirements
 - Duplex development standards and review requirements
- Approval Types Summary Table / By Residential Zone

Attachment C: Summary of HB 2001 Compliance Paths

Attachment C summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Comprehensive Plan					
3 - Natural Resources and Environmental Quality					
				Most of the policies in this section appear to be addressed in the relevant development code, at least as it relates to trees and vegetation.	None
				Cities often divide tree regulations into development and non-development code standards. In reviewing the Milwaukie code as it relates to development, trees are regulated on public lands and rights-of-way (Chapter 16.32), in the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), and through solar access requirements (Chapter 19.1200). Public Works street design standards (Section 5.0030) and associated landscape standards influence planting and preservation options for street trees with public improvements. The Tree Board has also drafted potential development and non-development code amendments for street trees, public trees, and private trees. These standards should be further reviewed, amended, and reorganized as needed to ensure consistency with these Comprehensive Plan policies and with each other.	
	3.3.5	Require mitigation that restores ecological functions and addresses impacts to habitat connectivity as part of the development review process.		Requires mitigation that restores ecological functions and processes to address impacts to habitat connectivity. However, the revised draft tree code and other development code sections do not yet have the accounting methods for this process spelled out	Implement an accounting method to address function and processes. Potentially integrate functions and values of trees and replacement trees into development code by addressing tree size, canopy size, fruiting or flowering, use by cavity nesters, etc.
3.4	3.4.2	Pursue the City's goal of creating a 40% tree canopy through a combination of development code and other strategies that lead to preservation of existing trees and planting of new trees and prioritize native and climate-adapted species, while also considering future solar access.	16.32 Tree Code, 19.1203 Solar Access for New Development, Title 19 Zoning, Chapter 15 Building Code, Chapter 18.04 Flood Hazard Areas, Title 17 Land Division (H) Title 2	(A.) Lack of inclusion of non-city owned land, management within engineering (not arborist/PW) (B) Need to modify 19.1203.4C to better protect tree health and for monitoring requirements (C.) Title 19 Zoning reduces zoning protections to primarily riparian and wetland areas, potential value for upland habitat assessment and inclusion, zoning density could be in conflict w/ tree canopy expansion if not managed carefully (D) Building code w/o tree preservation code does not align w/ canopy goals (E) Fireworks in greenspaces increase vegetation damage and impact local wildlife (F.) Out of date floodplain maps could minimize protections for otherwise conserved riparian areas that would not be in conflict w/ new development (G) Land division code that supports smaller plots can likeliness of tree removal in division process for development (H) Title 2 Tree Board?	
	3.4.3	Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.	19.402.13	Desire for flexibility to preserve natural resources (including trees on private property) will need to be balanced with defining clear and objective standards	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	3.4.5	Through the development code, protect existing native-species and climate-adapted trees and create incentives for the retention of large and old-growth trees that contribute to a diverse and multi-aged tree canopy.	Policy # 3.4.2	See 3.4.2; Ensure PW standards and Yard tree lists promote species diversity for planting to increase resiliency and growth rate	
		Policy 3.4.5 discusses creation of incentive for retention of large and old-growth trees. The development code provides for protection of native species, but does not appear to create an incentive to retain large trees.			Add incentives for large tree retention, such as stormwater discounts.

4 - Willamette Greenway

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
5 - Natural Hazards					
5.1	5.1.3	Encourage and prioritize development in areas with low risk of natural hazards and restrict development in areas with high risk that cannot be adequately mitigated.	Potentially a new section in 19.400 to create an overlay identifying these areas with mapping and regulations similar to 19.402.	No code language currently exists identifying these areas. Restricting development, or creating discretionary language related to housing development, in these areas will need to be carefully written.	
	5.4.6	Create designated emergency routes and provide an array of disaster recovery facilities, with emergency supplies, that can withstand major natural hazard events, and keep the public informed of them through a variety of different outreach methods.		Policy 5.4.6 regarding designated emergency routes. Would street trees become a hindrance to emergency response if they fall into the street? Could that become an issue during windstorms, ice storms, or earthquake response?	Identify emergency routes and plant trees with deep root systems and canopy types that are not as prone to wind, ice, and liquefaction effects.
6 - Climate Change and Energy					
6.1	6.1.1/6.1.4	Encourage the use of innovative design and building materials that increase energy efficiency and natural resource conservation, and minimize negative environmental impacts of building development and operation.		Tree-related policies call for resource conservation and standards and guidelines to contribute to a 40% citywide tree canopy	
		Develop standards and guidelines that contribute to a 40% citywide tree canopy.	Goal 6.2.3 mentions establishing desired mode splits for transportation	Clear relationships between Goals 6.1.1 - 6.1.4 and efforts to minimize parking in new developments. This includes innovative design (6.1.1), flexible standards (6.1.2), and reducing emissions (6.1.3). Without these goals, there can be conflicts with achieving 40% tree canopy (6.1.4).	Reduced parking minimums, use of on-street space, on-site design, even technology (e.g., car stackers) will need to be explored and tailored. Minimum parking requirements could be calibrated to drive alone mode split targets. This is also consistent with 6.2.6.
	6.1.5/6.1.6	Create a more energy efficient land use pattern that includes but is not limited to infill and cluster development, neighborhood hubs and increased density. / Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the city that provide a mix of uses and help reduce transportation emissions and energy usage.	19.504.8, 19.505.4	Housing-related policies call for more energy efficient land use pattern of walkable neighborhoods including infill and cluster development, neighborhood hubs and increased density	Revise zoning code to allow middle housing types in low-density zones. Rewrite supplementary design standards to reduce barriers/encourage development. Consider changes to flag lot development standards to permit more infill housing throughout city to allow properties to take advantage of large/deep lots.
	6.1.9	Streamline review for solar projects on rooftops, parking lots, and other areas with significant solar capacity.		Solar projects are also encouraged	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7 - Housing					
7.1	7.1.1	Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukie, including additional middle housing types in low and medium density zones.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes (only allow detached single family residences or duplexes on larger lot sizes: 10K in R-5, 14K in R-7 and R-10; cottage cluster not permitted in low-density zones; MFR only with a CU in R-3 and R-2.5; confusing minimum lot size calculations in 19.302.5.F; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); 19.505.4 - cottage cluster design code very prescriptive; 19.505.5: minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.2	Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.	19.301, 19.302, 19.505.5, 19.910.3	Need option for form-based code that focus on clear and objective standards rather than discretionary standards that are disincentive to middle housing types	
	7.1.3	Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.5	Will require all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.		ADA modifications, such as ramps, are not included as exceptions to minimum setbacks, resulting in variance requirements if permanent (temp use permit if temporary).	
	7.1.6	Consider cultural preferences and values as well as diversity, equity and inclusion when adopting development and design standards, including but not limited to the need to accommodate extended family members and provide opportunities for multi-generational housing.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.2	7.2.2	Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.	19.301, 19.302, 19.505.5	Low density zones in 19.301 only allow detached single family residences or duplexes on larger lot sizes (10K in R-5, 14K in R-7 and R-10). Medium density zones in 19.302 (R-3 and R-2.5) allow for rowhouses and cottage clusters but not triplexes or quadplexes. 19.505.5 only allows a maximum of 4 attached rowhouses. There are currently no density or other incentives to encourage regulated affordable housing. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.2.3	Consider programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements.	19.605, 19.702	Potentially add regulated affordable housing to list of exemptions for frontage improvements in 19.702.4 (maybe subject to adequate backfill from city funds), or add a tiered level of applicability (similar to 19.702.2 for SFR).	
	7.2.4	Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-family homes into duplexes or other middle housing types.	19.910.1 (ADUs), 19.301.2	19,301.2 permits duplexes in R-7 and R-10 zones but only through Type II process, so conversions are not a streamlined process. ADUs over 600 sf in footprint or over 15 feet in height require a Type II process as well, although they do allow smaller setbacks than the Type I process. HB 2001 requires duplexes to be permitted on any lot that allows a detached SFR, so city will likely see some conversions and should make the process easier to encourage middle housing options	
	7.2.6	Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing type.	19.301, 19.302, 19.910.3, 19.505.1	Manufactured dwelling parks are only allowed through a Type III process in R-3, R-5 and R-7 zones. Manufactured homes are allowed on any lot that allows a detached SFR, but are subject to SF design standards in 19.505.1, which can be hard to meet sometimes for prefab buildings.	
	7.2.7	Support the use of tiny homes as an affordable housing type, while addressing adequate maintenance of these and other housing types through the City's code enforcement program.		Tiny homes are not specifically addressed in zoning code. Tiny home on wheels are treated as vehicles, and can't be occupied in residential zones. Tiny homes on foundations are essentially treated as the main SFR or and ADU (if there is already a primary residence).	
	7.2.8	Implement development code provisions to permit shelters and transitional housing for people without housing.	19.904	Homeless shelters are defined as temporary or transitional facilities, which are permitted through the city's Community Service Use (CSU) process. New CSUs are a Type III land use application and require a PC public hearing. City needs to decide if they want a more clear and objective process for shelters.	
	7.2.9	Monitor and regulate vacation rentals to reduce their impact on availability and long-term affordability of housing.	19.301.2, 19.302.2, 19.905.9	Vacation rentals require a CU in all residential zones. Short term rentals are less commercial in nature and are a permitted use in all residential zones, subject to city standards/process.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.3	7.3.1	Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.	19.301.4, 19.302.4, 19.303.4, 19.304.4.B.8, 19.304.5.H, 19.401, 19.402, 19.505.3.D	The city does not currently have a tree protection ordinance for private property, except for natural resource and WG areas. There is a lot coverage and minimum vegetation standards in SF zones, but not an open space standard. Private and public open space for MFR development is regulated by 19.505.3.D. The city has extensive regulations for areas within Willamette Greenway (19.401) and Natural Resource (19.402) overlay zones*. Natural hazard areas are generally covered in Title 16 and 18 (flood prevention). *NR zones are narrow (100ft) and do not promote sufficient buffer for wildlife/habitat connectivity. NR zones also prioritize riparian/wetland areas and typically not upland habitat w/o ESA or threatened species	
	7.3.2	Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.	19.402.14.C, 19.505.3	The NR code currently allows for residential cluster development. It only covers HCA and WQR areas, and so would not apply to projects looking to preserve trees outside of these areas. The MFR design standards call out tree preservation the sustainability section in 19.505.3.B and the table in 19.505.3.D, but other than requiring 1 tree be planted or preserved for every 2,000 sf (through the clear and objective process), don't have specific standards or incentives. There are no standards or incentives for SFR zones.	
	7.3.3	Incentivize, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, improve building durability, produce or use clean energy, conserve water, use deconstructed or sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices.	19.303.4.B.3, 19.304.5.B.3, 19.508, 19.510	The city offers one additional story in the GMU and DMU zones for buildings that meet green building standards in 19.510. The City has adopted the 2016 Portland Stormwater Manual, but is considering changing to the Clackamas County WES standards. The standards generally encourage but do not require natural stormwater management. The Zoning Code does not generally require or incentivize energy conservation measures beyond what is required by the state's building and energy codes, and it is difficult to require projects to exceed the requirements of the building code, so incentives may be the best we can do.	
	7.3.5	Increase economic opportunities for locally owned and operated businesses by encouraging the development and redevelopment of more housing near transit, shopping, local businesses, parks, and schools.	19.303.4.B.3, 19.304.5.B.3, 19.605.3.B	The city offers incentives for development near transit lines and within certain commercial and mixed use zones by reducing parking requirements, as detailed in 19.605.3.B. The city has a number of mixed use zones that allow both residential development and commercial development, and offers one story of additional building height for projects with a residential component in the DMU and GMU zones.	
	7.3.8	Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors.	19.605.3.B	As noted above, the city allows parking reductions along transit lines within certain distances of transit stops. However, these reductions are somewhat limited, and lower than many other jurisdictions.	
7.4	7.4.1 - HUBS??	Implement land use and public investment decisions and standards that foster creation of denser development in centers, neighborhood hubs, and along corridors	19.302, 19.303	19.302 - Medium and High Density Residential, 19.303 - Commercial Mixed-Use Zones, Hubs code language TBD	Hubs to still be determined of exact locations and how many. Centers is defined in the Comp Plan, is it the same in land use code? Corridor streets are defined in TSP.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	7.4.2	Require that new development improves the quality and connectivity of active transportation modes by providing infrastructure and connections that make it easier and more direct for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.	19.700	This would be part of the possible frontage improvements section of 19.700.	May need to figure out where those connections should be, if not already in TSP
	7.4.3	Administer development code standards that require new housing to complement the public realm and provide for appropriate setback and lot coverage standards.	19.301, 19.302, 19.505.3,	Update design standards in low-density residential, medium to high-density residential, and multifamily	
	7.4.4	Require that multi-family housing units have access to an adequate amount of usable open space, either on-site or adjacent to the site.	19.505.3.D	In the objective process for multifamily design standards, projects with 20 units or less are required to provide 2 common open space features. Projects over 20 units are required to provide 4 common open space features. Examples of open space features are provided in the code. Only projects with 5 or more units are required a minimum of 10% of the gross site area, or 750 sq ft, whichever is greater, shall be designated as common open space. In the discretionary process, no required minimum of space is provided or examples of common open space features. It only states that sufficient open space be required.	
	7.4.5	Implement development and design standards to transition between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.	19.504.6	This code section is about transition measures for commercial, mixed-use, and industrial uses that are next to lower density residential uses. There is no code language around transition measures between residential development.	
	7.4.6	Reduce development code barriers for intentional communities.	19.301, 19.302, 19.505.4	There is no code language around intentional communities. The closest is the cottage cluster code language. Language may need to exist in low-density residential and median to high-density residential.	
8 - Urban Design and Land Use					
8.2	8.2.1	Pedestrian and bicycle design policies	19.700; Title 12; Title 17?	required frontage improvements	
	8.2.2	Parking design policies	19.600	Variety of changes for commercial uses and parking, TDM, on-street parking, off-street parking, and much more.	
	8.2.3	Natural environment integration policies: require landscape plan approval as part of the development review process; use that process to ensure tree canopy and better habitat connectivity; integrate natural features into the site planning process, while also ensuring mapped natural resources are protected.	tree code; Title 17; 19.402	*Integrate with future habitat connectivity assessment/SAP to reflect transportation infrastructure barriers in devisionmaking processes?	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	8.2.5	Community character design policies: use standards for size, bulk, and scale to encourage compatibility with surrounding uses.		form-based code option, language to be written	
8.3	8.3.1	Use a two-track development review process to ensure that new non-residential development and redevelopment projects are well designed. Provide a clear and objective set of standards as well as an optional, discretionary track that allows for greater design flexibility provided design objectives are satisfied.	19.505.7, 19.907	19.505.7 non-residential development does not have a two-track review process, 19.907 Downtown Design Review has different review processes, but not in a two-track system	
	8.3.2	Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.	19.301, 19.302, 19.505.1, 19.505.3.D, 19.505.4, 19.505.5, 19.505.6	19.301 - Low Density Residential does not have a clear and objective process for middle housing types, 19.302 - Middle and High Density Residential, ensure that all housing types meet clear and objective standards	
	8.3.4	Refine development standards in order to: - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for the types of uses permitted as home occupations where it can be demonstrated that the home occupation will help meet the daily needs of residents in the surrounding neighborhood.	19.507	Neighborhood Hubs code TBD, 19.507 Home Occupations: add additional allowed uses or standards to allow flexibility, define "daily needs"	
Milwaukee HNA					
	NSFR	52% of future need			
	New attached SFR	15% of future need			
	Duplexes, triplexes, quads	7% of future need			
	MFR	23% of future need			
	Mobile homes	1% of future need			
		Limited land with increasing need, 1,150 projected new units needed by 2036		Supports Comprehensive Plan policies requiring housing in low and medium density zones.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
		Strong current need for more affordable housing		Shortage of units for lowest pricing level, particularly rental units. In order for all households current and new, to pay less than 30% of their income toward housing, a total of 1,189 rental units affordable at \$900 or less would be required in 2036. Also some renters/owners have ability to pay for higher price units, relieving some of the pressure on existing units in lower price range	
				Interesting number that 12,390 jobs in Milwaukie and only 678 (5.5%) are residents. In other words, 94.5% of employee commute trips (11,700) come from outside Milwaukie (page 10). Conversely, 9,086 employed Milwaukie residents, 93% of them commute elsewhere to employment (page 10).	
				93% of Milwaukie households own at least one car (page 17). This can have definite impact on trying to justify a lower minimum requirement. Supports need to be creative in allowing use of public right of way.	
				Figure 3.4 (page 23) shows combined surplus of housing per future demand, but significant unmet "need" in lower income categories. What is the total "unmet" need? Can new units meeting this unmet category come with lower parking requirements?	
				The model projects growth in the number of non-group households over 20 years of roughly 1,070 households, with accompanying population growth of 2,150 new residents (page 32). In order for all households, current and new to pay 30% or less of their income towards housing in 2036, a total of 1,189 rental units affordable at \$900 or less would be required. This indicates that some of the current supply, while it shows up as existing available housing, would need to become less expensive to meet the needs of current households (page 36).	With LRT, close in neighborhoods can support lower and more flexible minimum requirements. Still a concern related to outer neighborhoods and previously referenced car ownership numbers. 1,070 units over 20 years is 54 units a year spread over neighborhoods. Not much impact on parking overall if demand is met for lower income groups. 1,189 = 59 units per year
Milwaukie Housing Affordability Strategy					
Action 1.4		Create an internal culture that is friendly to developers by exploring ways to streamline permitting and planning		Remove barriers such as parking requirements to reduce cost of development and reducing partial street improvement requirements. Be aware of additional cost of tree preservation.	
Action 1.8		Explore rightsizing parking requirements for ADUs, cottage clusters, tiny homes, etc.	19.605.1 - ADUs - completed; 19.505.4 g. - cottage cluster	removed off-street parking requirement for ADUs, cottage cluster requirement is currently 1 space per dwelling unit but located within common area for other cottage parking	
Action 1.9		Explore incentivizing/encouraging ADU and cottage cluster development.		Provide community-approved template plans; waive SDC fees; revise the zoning code and other development standards to facilitate creation of ADUs	
Action 1.14		Seek to adopt or modify existing land use policies to meet developer and community needs		Be prepared to move forward with code/zoning changes that the housing element of the comp plan recommends.	
Climate Action Plan					

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Land Use/ Transportation		Promote "neighborhood hubs" through Comprehensive Plan policies		Housing-related strategies call for "neighborhood hubs" to encourage walking/bicycling	
Vehicles and Fuels				Parking-related strategies call for reduction of vehicle emissions with EVs (pp. 36-37), parking pricing in downtown (p. 46), and lower parking ratios near high capacity transit (p. 46).	
Natural Resources		Increase tree canopy to 40%		Tree-related strategies call for developing a tree planting program for low income neighborhoods (p. 61) and planting trees (pp. 63-64). Community solar projects are encouraged (p. 30).	Determine how the tree planting/preservation strategy to increase the tree canopy will need to be balanced with the desire for more solar applications.
Urban Forestry Management Plan					
Forest Health		Consider updating tree protection measures for development		The recommendations in the Urban Forestry Management Plan are generally consistent with and supportive of Comprehensive Plan policies for trees. They add an additional level of specificity that should be used when reviewing and revising development related code standards for public lands and rights-of-way (Chapter 16.32), the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), solar access requirements (Chapter 19.1200), and Public Works design standards (Section 5.0030) and associated landscape standards. The draft Tree Board development and non-development code amendments for street trees, public trees, and private trees should also be evaluated for consistency with the Urban Forest Management Plan recommendations.	
Age/Species Diversity		Evaluate priority tree species and create stricter diameter thresholds for removal, Update street tree planting list, Include climate adapted species, Consider developing standards for mature tree preservation and planting for public infrastructure improvements			
Education/ Outreach		Engage with developers to showcase sustainable design			

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 16 - Environment				
16.32 Tree Code	Public Works (5.0030)		<p>This code section is generally geared toward non-development tree issues as it relates to Tree Board responsibilities, and the preservation and planting of trees on public lands and rights-of-way. However, this code section does address permitting for the planting, pruning, and removal of trees for right of way improvements. This has major implications for development projects that are required to plant, preserve, and/or remove trees with right of way and/or site improvements. In many cases, due to the density of site development, the public right-of-way presents the best opportunity for the preservation and planting of tree canopy in support of the City's goals</p>	<p>This code section mixes both development and non-development standards for trees on public lands and in City rights-of-way. Considerations for implementing tree related policies of the Comprehensive Plan and Urban Forest Management Plan for development include: -Creating more distinct code sections for development and non-development related code criteria; Creating standards for the preservation and planting of priority street tree species with development; Ensuring flexible standards for right-of-way improvements that are context sensitive and allow for the preservation and planting of priority street tree species consistent with neighborhood character and/or vision; Reviewing and amending the City's Street Tree List and planting standards as needed to ensure they include priority species and support canopy goals; Amending Public Works design standards (Section 5.0030) and</p>
			<p>The existing Chapter 16.32 section has several inconsistencies within it and with other sections (notably Chapter 19.400). The revised adopted Chapter 16.32 (Nov. 2020) addresses some of the inconsistencies. The revised Chapter includes a reference to the Council of Tree and Landscape Appraisers. It is not referenced again in this chapter, and can be removed from the definitions. The revised Chapter 16.32 better incorporates the intent of the Urban Forestry Management Plan and Comprehensive Plan. However, it removes the differentiation of small, medium, and large trees. To meet policy goals of replacing ecological functions and creating a multi-level, uneven-aged canopy, review the possibility to include greater differentiation of tree types to include conifers, wide-canopy broadleaf, and narrow-canopy broadleaf.</p>	<p>Replace existing Chapter 16.32 with revised language. Remove CTLA (Council of Tree and Landscape Appraisers) reference. Revise chapter to integrate desired tree species and conditions.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 17 - Land Division				
17.12	17.12.020	Application Procedure / Approval Criteria	Requires any subdivision affecting 4 or more lots to follow Type III review, which would affect Cottage Cluster and Townhouse projects on fee-simple lots. May be changed to Type II Review if consistent with applicable standards and criteria, consistent with basis of findings of original approval, and does not increase number of lots.	
	17.12.030, 17.20.010, 17.24.050	Approval Criteria	Approval criteria include that boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which property is located.	
17.16	17.16.080		Requires preliminary plats for cottage clusters to demonstrate compliance with 19.505.4. Cottage Cluster Housing, which contains the requirements for a cottage cluster subdivision	
17.28	17.28.050	Flag Lot Design and Development Standards	Flag lots are permitted as interim measure where there is potential for future development on adjacent lots with new roadway development. However, Planning Commission review is required and flag lots must be designed to allow for future street development. This is problematic for long skinny lots found throughout city.	
Title 19 - Zoning				
19.100 Introductory Provisions				
		Zoning Map	There's an apparent inconsistency between the Comprehensive Plan's policy support in Section 7 for "middle housing" but then having the vast majority of the residential areas on the plan zoned for low density (R-10, R-7 and R-5).	Determine what zoning map changes may be necessary at the conclusion of this project. Decide which housing types/density levels are appropriate in which neighborhoods/zones.
		R-2 (Comp Plan High Density) - East of downtown	Comp Plan text says R-2 is MedD	Option 1 - Change the plan text to make R-2 an HD zone; Option 2 - Rezone all planned HD to areas to R-1. Note: Look to see if there are R-2/MedD locations
		R-7 (Comp Plan High Density) - East of Safeway	Built-out single detached lots zoned for apartments	Option 1 - redesignate as LD or MD; Option 2 - resone
		R-2.5 (Comp Plan High Density) - East of Safeway	Only location in town	Rezone as R-2; Eliminate R-2.5 zone; Revise R-2 language to capture R-2.5 requirements
		R-5 (Comp Plan Moderate Density/C) - North of Pond	One zone for one plan designation	Eliminate Moderate Density - either combine with
		R-5 (Comp Plan High Density/C) - North of Pond	Density conflict	Reduce planned density to keep some lower density SF-type zoning near the downtown
		R-3 (Comp Plan Medium Density/C) - East of	One zone for one plan designation	Combine MD and MedD
		R-1-B (Comp Plan High Density/C) - East of	Names are not descriptive	Rename the zone and plan designation as Mixed Use Residential or Mixed Use Office; or OMU Office Mixed
		R-3 (Comp Plan High Density/C) - East of	Not a good office site - plans approved for apts	Change plan designation to correspond to R-3 -- MD or
19.200 Definitions				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		Definitions of housing types	Uses terms for housing types that are in conflict with goals for equity, affordability and also conflict with HB 2001 requirements	Clearly define housing types in definitions that are consistent with Milwaukie Vision and implementation goals and consistent with HB 2001 definitions. Avoid confusing housing types or building types with household category or land use. Use consistent terms
		Middle housing definitions	Some definitions outlined in the model code are not currently included in the Milwaukie code (building footprint, common courtyard, townhouse etc.) while others are but are not included in definitions but in body of code (door area, window area)	Update definitions with additional terms identified
		Tree-related definitions		Check native vegetation definition for consistency with other amendments related to this project
		Parking-related definitions	Parking-related issue is that off-street parking doesn't specifically include garage spaces (but perhaps is interpreted to include).	Confirm that off-street parking is interpreted to include garage space.
19.202.4			Minimum density deducts floodways (a relatively small area), while maximum density deducts the 100 year floodplain (a much larger area). So, minimum density in areas along rivers/creeks are always larger than maximum density, requiring the provision that when minimum density is larger than maximum density, then minimum density is also maximum density.	Either swap them (deduct floodways from maximum density and floodplains from minimum density) or come up with a different formula. Look at Metro's BLI formula for calculating capacity in Title 3/13 lands.
19.300 Base Zones				
19.301 Low Density Residential Zones		Table 19.301.2 - Residential Uses Allowed	Does not include middle housing types required by HB 2001 (R-10, R-7, R-5). Density standards for low density zones may be contrary to HB 2001 because tri/quadplex development could exceed maximum density. Cottage cluster development not permitted in low-density zones.	Include tri/quadplex buildings and cottage cluster housing in low-density zones. Test density standards against what could actually be built and adjust them as necessary to be consistent with city housing policy and HB 2001. Evaluate dimensional standards to
			Table lists out specific housing types	Separate housing types from land uses so that "uses allowed" table for residential zones only lists land uses (e.g. commercial). In the "uses allowed" table, limit the land uses that are listed to residential categories (e.g. group living or household living). Include a separate housing types table that specifies the housing types which are allowed where (in which
		Table 19.301.4 / Table 19.302.4 - Development Standards	Density standards (11.6/ac except to R-1) for medium density zones and ability to accommodate missing middle housing types	Remove density standard requirements for middle housing types to be in compliance with HB 2001

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.302. Medium and High Density Residential Zones		Table 19.302.2 - Residential Uses Allowed	Number of moderate to medium density residential zones (R-5, R-3, R-2.5, R-2) show minimal differences. Minimal differences in development standards between R-3, R-2.5, R-2, R-1, and R1.5. Few lots/total numbr of acres within several of these zones per GIS analysis.	Can be reduced to fewer zones and re-mapped. Zone purpose needs to be re-written to be in compliance with HB 2001 - not just single-detached dwellings. Additional changes to use table based on recommendations for Table 19.301.2 above.
		Table 19.302.4 - Development Standards	Duplexes require a minimum lot size of 6,000 sf in the R-3 zone, 5,000 sf in the R-2.5 zone, but 7,000 sf in the R-2 zone. This could be a deliberate attempt to discourage duplex development in a zone (R-2) that allows multi-family development, but a 4,000 sf R-2 lot essentially doesn't allow any type of development.	This is somewhat of a moot point, as under HB 2001 city will be required to allow duplexes on a 5,000 sf lot in the R-2, R-2.5 and R-3 zones if the minimum lot size for detached SFR's in these zones remains at 5,000 sf. However, it may be good to allow a duplex on a 4,000 sf lot as well, in case there are undersized
			Density requirements (min and max) discourage types of middle housing	Remove density standard requirements for middle housing types to be in compliance with HB 2001
			Maximum lot coverage allows for modifications - increased lot coverage for duplexes and rowhouses	Need to extend increased coverage option for other HB housing types.
			One primary building for dwelling purposes permitted per lot in low-density residential zones	Will need to be adjusted to include permission of duplexes.
	19.302.5.F.2		Requiring a minimum lot size of 5,000 sf for the first unit of a MFR development in the R-1 and R-2 zone effectively reduces the maximum density of a development and makes it hard to meet the minimum density for a triplex, which is considered MFR.	Get rid of Table 19.302.5.F.2. Setbacks and other development standards will influence how large the lot needs to be to feasibly accomodate a MFR development.
19.311 Planned Development Zone			PD functions as an overlay zone that allows greater design and density flexibility. A PD requires City Council approval of a final development plan. Approval standards are more subjective than the base zones and the process appears to be somewhat cumbersome.	Evaluate a potential modified PD zone as a way to enable middle housing. To the extent possible, the process would need to be more "user friendly" with more objective approval criteria.
19.400 Overlay Zones and Special Areas				
19.401 Willamette Greenway Overlay Zone	19.402		The Willamette Greenway code requires the preservation of native and large trees within 25 feet of the river but allows removal of dead, dying, and hazardous trees. It also allows tree removal for limited views. Pruning of vegetation is allowed. Tree protection standards for development is not specified. These code standards are generally supportive of the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. It will be important to work with City staff, residents, and the development community to identify potential issues with the existing code. There may be potential administration challenges	Upland tree groves should be identified and protected through the Goal 5 process and included in the natural resource protection program. This will support habitat connectivity work recommend in Comprehensive Plan. Discuss if large and other priority trees species are adequately defined and give them higher level protection from development. Define tree protection standards and draft code to implement them including mitigation standards, to the extent that new plantings become established. Discuss administrative challenges to mixing development and non-development tree removal replacement standards and

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			<p>Willamette Greenway Zone provides definitions regarding vegetation that is not the same as in the existing Chapter 16. In particular, there are conflicting definitions regarding “large trees” and how to identify “native vegetation” when compared to the existing Chapter 16. Several of these inconsistencies might be addresses in the draft Chapter 16 from July 2020.</p> <p>The Chapter 19. 400 code has not been updated recently, as is still refers to the Division of State Lands. The designation was changed to the Department of State Lands almost 20 years ago.</p>	<p>Conform Chapter 16.32 and 19.400 with regard to vegetation.</p>
			<p>In 19.401.8.B.3 Vegetation Buffer Requirements – Retain Existing Native Vegetation and Large Trees, the code could be revised to better conform with updated tree code. The definition of small trees should be added. Integration tree and vegetation removal, as well as inclusion of an</p>	<p>Update Chapter 19.400 to integrate new terminology and revised 16.32 language. Revise Chapter 19.401.</p>
<p>19.402 Natural Resource Overlay Zone</p>	<p>19.401</p>	<p>The Natural Resources code applies within 100 feet of a WQR (water quality resource) and/or HCA (habitat conservation area). Limited tree removals and pruning is exempt for nuisance trees (less than 3), emergencies, and clearance from structures. Limited tree removal in non-development situations may be permitted for dead, dying, diseased, and hazardous trees, more than 3 nuisance trees, up to 3 non-native/non-nuisance trees, and tree removal that requires more than 150 square feet of ground disturbance. Replacement of removed trees is required when possible. Additional tree removal is permitted with approved development through a clear and objective track or a discretionary track. Discretionary development standards require the strategies to maintain existing and plant future tree canopy, and to maintain contiguous vegetated corridors. Approved development is required to protect trees through a construction management plan. Mitigation is required for tree removal through either a clear and objective formula or through a discretionary proposal. The main issue is the City’s need to improve comfort/defensibility of balance between nondiscretionary and discretionary accounting/method/criteria/process so that acceptable levels of ecologic metrics and function are fostered and the staff feels comfortable managing submission/review process. Goal 5 requires clear and objective standards for regulations related to conflicting uses of a site/resource (OAR660-023-0050(2)). However, OAR 660-023-0050(3) provides for an alternative approval process that are not clear and objective (i.e., discretionary), as long as the level of protection meets or exceeds the clear and objective standards. The City’s Title 19.402.1.C.2 provides a list of ecological functions and values to be assessed, but it does not include clear direction on the exact methods for assessment. This subtitle is referenced in 19.402.12.A.1 as part of the discretionary review process. While Title 19.402.11.A-C provide for clear and objective standard, Title 19.402.11.D discusses the nondiscretionary standards, which appears to be in accordance with OAR 660-023-0050(3). Overall, the majority of current standards under 19.402 appears to meet the requirements of OAR 660-023, but land use attorneys could always argue otherwise, and have been successful in requiring updates to the code of other area jurisdictions. Other than a more robust implementation of an accounting method to address function and processes, the remaining nondiscretionary standards appear to provide clear and objective criteria. If an applicant cannot meet those standards, a discretionary process appears to be in place. However, devising a robust method for assessing functions and processes is a lot easier said than done, as many different jurisdictions have tried and there is no accepted standard yet for the region</p>	<p>Investigate a more robust implementation of an accounting method to address function and processes. Potentially revise the code to remove the assessment of functions and processes in favor of other metrics (e.g., tree canopy, vegetation cover extent, soil permeability, etc.) that are more quantitative and can be assessed by the general public.</p>	
			<p>In 19.402.2.G, there is a reference to the Milwaukie Native Plant List. There is a native tree list, but it could be updated to included other vegetation types (shrubs, forbs, etc) and nuisance/prohibited plants. This same list should be identified in Chapter 16.</p>	<p>Revise Chapter 19.402 and update City native plant list. Revise Chapter 19.402 to include arborist certification and for trees to be on the native plant list. Update City native plant list to include native, non-native, and nuisance plants.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			19.402.6 Activities Requiring Type I Review discusses limited tree removal or major pruning in WQRs or HCAs. An arborist is required to certify if major pruning is required, but not for removal. In 19.402.6.3.d, replacement trees do not have to be native but can't be a nuisance tree as defined in the native tree list. This native tree list does not appear to have nuisance trees identified.	
19.403 Historic Preservation Overlay			I assume the city complied with the latest FEMA-required amendments in 2018, and they are not eligible for amendment. Otherwise, nothing more to add to Todd's analysis.	Should evaluate if the HP requirements have a meaningful impact on the middle housing discussion.
19.500 Supplementary Development Regulations				
19.501.1			Requires a minimum 3,000 sf for a detached single family home. The general exceptions note that a legal lot of record must be a minimum of 3,000 sf for a detached SFR. HB 2001 requires that a duplex be permitted on any lot that allows a detached SFR.	Consider including duplexes under the provisions of 19.501.1.B.
19.501.4			Density Exceptions allows for increased density in exchange to dedicating parkland.	additional actions could be made eligible for density increases, including preserving trees on-site
19.502.2			Specific Provisions for Accessory Structures appears not to apply to ADUs.	Confirm that 19.502.2 doesn't apply to ADUs
19.504.4				
19.504.8		Flag Lot Design and Development Standards	25' wide pole required, 30 foot front and rear setbacks required.	Evaluate 19.504.8 to ensure that infill development isn't unnecessarily impeded by the standards. According to staff's presentation at CPIC meeting they do preclude flag lot development.
19.505		Building Design Standards	Cottage cluster maximum floor are of 1,000 feet is too prescriptive.	Evaluate 19.505 for potential amendments to support this project, such as additional standards for 3&4-unit residential units. Cottage cluster standards should be re-evaluated for consistency with HB 2001 (19.505.4).
		19.505.4 Parking Spaces Location	4 parking spaces may be located within a garage. Garages in a cottage cluster therefore may not contain more than 4 parking spaces, must be at least 10 feet from any cottage dwelling, and must match materials, trim, and roof pitch of cottages. The interior height of a garage shall not exceed 8 feet high.	What if stalls were provided in a garage with stacker technology? Height of 8 feet might not allow.
19.506.4			A minimum structure size for manufactured homes of 1,000 square feet that doesn't apply to traditional detached houses.	Evaluate the provisions in 19.506.4.A for equity as noted in the staff audit. Not sure if this is a building code or manufactured home code issue but manufactured homes should be treated the same as other SFR's.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.600 Off-Street Parking and Loading				
		Purpose	The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; avoid parking-related congestion on the streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas (page 1 of 26).	Looks like a typical statement of purpose. Any need to add language related to trees? The sentence "Avoid parking-related congestion on the streets" may need discussion, since it assumes that on-street parking causes congestion, and also assumes auto congestion is the issue. Is auto congestion on low-speed local streets a concern? On-street parking can reduce auto speeds and make streets safer. Also, this language may preclude some of the non-car-centric ideas about reprioritizing and rethinking local streets that have been brought up by the community.
19.602	19.602.3	Applicability for Development and Change in Use Activity	Vacant sites required to comply with Chapter 19.600 but so are sites developed with an increase of 100% or more of existing floor area and/or structure footprint on a site. Any existing off-street parking areas required to be brought closer into conformance with development in an increase of less than 100%. of existing floor area and/or structure footprint and/or change in use. Required to submit parking plan. Disincentive to conversions and development of smaller projects.	
19.604.2	19.607	Parking Area Location	Does not permit on-street parking to count toward meeting requirement.	These sections will have to be changed if on-street parking can be used to meet "accessory" parking requirements.
19.604.3		Use of Parking Area	Precludes unbundling parking from housing - can't be rented or sold.	
19.605		Table 19.605.1 Residential Units -Single Family Dwelling		Lower minimums to be in compliance with HB 2001. Rework table to include middle housing types.
		Table 19.605.1 Residential Unit - Multi-Family Dwelling	1.25 space minimum for multi-family units over 800 sf while single family units have a minimum of 1 space.	Lower minimums to be in compliance with HB 2001 (1/unit). Lower the maximum. Evaluate the rationale for a higher minimum for multi-family and potentially reduce to be the same as other residential units.
		19.605.C (2) Approval Criteria	A request for "reducing" a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed.	The approval criteria for either lowering a minimum requirement or locating parking off-site will likely need a lot more thought and a possible re-write.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		19.605.3 Exemptions and By-Right Reductions to Quantity Rqmts	Let's talk more about how this section fits into the desire for more flexibility in reducing minimum requirements. How can some of these exemptions be built into existing neighborhoods and made requirements rather than exemptions. For instance, which neighborhoods by right are already 500ft from a transit stop (automatic 20% reduction).	The code already allows a reduction of 1 vehicle parking space for every 6 additional bicycle parking spaces installed (see 19.605.3 B 5) up to 10% reduction. Make this a requirement and adjust the current minimum down from there (page 10 of 26). Changes here would also affect 19.609.2 (page 24 of 26). Basically, suggesting we eliminate process and use requirements of the TDM side to lower minimums. If the code already makes provisions for these as an option for developers, why not just build them in and lower the minimums. Should create less public push back as, technically, we are not changing anything in the code that is not already allowed.
		19.605.3.B.5	Allows up to a 10% reduction in vehicle parking in exchange for "covered and secured bicycle parking in addition to what is required."	Evaluate the potential for allowing a larger bike parking credit in areas that are proximate to transit (Subsection B.2.). This perhaps could apply in conjunction categories in this section.
		19.605.4 Shared Parking	Is this where on-street use might go?	
19.606		19.606.2	Landscaping provides the requirements for parking lot landscaping	Tree Board consider potential amendments to the landscaping standards for opportunities to require more trees or tree species that would provide greater canopy cover at maturity. For landscaping also consider how to maintain trees in retail parking lots. Businesses often see trees as a hindrance to their visibility and bottom line. Identify and codify ways trees can be planted to improve chances for long term survival including appropriate soil volume and adequate buffer.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.607		19.607.1.B.	Requires that off-street spaces are located outside of the front setback. Do we want to continue to require that off-street parking spaces be located entirely outside of the front yard setback? Or just make sure there is a 18' x 9' driveway or other parking area on private property, since people use their driveways anyways? Reduces area on lot for middle housing types. Does not apply to cottage cluster housing type.	Consider more flexible on-site parking requirements. Allow parking areas within setback as long as they don't extend into ROW.
19.611		Parking Structures	Need more understanding of underground parking for row houses and/or multi-family dwellings. Not sure how this section applies to our goal of maximizing site area.	
19.700 Public Facility Improvements				
19.702			Title 700 is triggered by the development of a new dwelling unit - increases the cost of development	Requires frontage improvements for ADUs and conversions of SFR into duplex. Consider exempting conversions and ADUS?
				Consider more flexible options including more rural-character street designs, like in Island Station
			Raises a housing-related issue related to frontage improvements for ADUs and single family conversions to a duplex.	Consider exempting ADUs and conversions from frontage improvement requirements. Perhaps needed right-of-way could be required, but not improvement.
19.800 Non-Conforming Uses and Development				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.900 Land Use Applications				
19.906		Development Review	The city uses a common Type I through V review system. Type I is administrative and Type II is a Planning Director decision with notice.	The project should re-evaluate the review process required for different types of residential units in the residential zones (especially 19.301 and 19.302) to reduce or eliminate any procedural “discrimination” for certain housing types. For example, should duplexes and ADUs be subject to Type II review in the R-10 and R-7 zones when single family detached homes are a Type I review (Table 19.301.2)?
19.910		Residential Dwellings Review and Approval	19.910.1 ADU approval standards in Subsection E.b. may be more subjective than state requirements will allow.	Review 19.910.1 E for consistency with state ADU rules.
			19.910.2 Duplex review process and approval criteria (Subsections C and D). Tri and quadplexes are not included	Review 19.910.2 for compliance with HB 2001, including subjective criteria for duplexes in zones that permit single detached dwellings. Consider adding procedural and approval provisions for 3&4-unit residences to comply with HB 2001. All new housing types added only subject to clear and objective standards, conditions, and procedures.
			Code uses structure footprint to establish review type, both for new construction and for conversion of an existing structure (even if only part of the existing structure will be used for the living space). This has resulted in Type III variances because of the size of an existing accessory structure.	Acknowledge the size of an existing structure - still limit ADU SQ if needed, and include standards for how the extra space needs to be separated from the living space. It's more efficient to convert a building than build a new one.
			Take another look at the review type, especially for conversion of existing structures. 640 sq ft existing structure = Type II review?	There is a difference between new construction and conversion of an existing structure. Type I review for conversion of an existing structure? We should encourage conversions over new construction. The impact of the structure is not new.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			States that yurts may be used as an ADU, but a yurt will not meet building code.	Consider removing yurts from the code given the conflict with building code.
			19.910.4 which uses structure footprint to determine review type.	Evaluate ways to assign review process so as to not penalize provision of new or converted housing as noted in the staff audit.
19.1000 Review Procedures				
19.1002		Pre-Application Conference		Review the need for preapplication conferences for housing along with the recommendation for 19.906 above.
19.1003		Application Submittal Requirements		Review the submittal requirements in 19.1003 against what's normally required for other construction allowed outright (e.g., single family detached home) to ensure equal accommodation
19.1100 Annexations and Boundary Changes				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.1200 Solar Access Protection				
			<p>The solar access provisions apply to land divisions in single dwelling residential zones so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and "non-exempt" trees. "Exempt trees" are "solar-friendly" trees identified as part of a plat or solar access permit as exempt. "Solar-friendly trees" are defined by the City as trees that do not cause significant winter shade due to foliar period and branch structure. A "solar access permit" is a document issued by the City that describes the maximum height that nonexempt vegetation is allowed to grow. Adjustments and exemptions from solar access standards are permitted if there is shade from offsite trees or if there is shade from a high percentage of onsite trees and at least half of the trees that cause the shade will be retained.</p>	<p>A policy discussion is recommended on this items with City staff, residents, and the development community to identify potential conflicts with the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. Native tree species are generally prioritized in these policies, yet several would not likely be considered solar friendly trees. Also, it will be important to better understand how solar access provisions are enforced over time, especially regarding tree planting, growth, and future shading.</p>
			<p>Trees and other vegetation might hamper solar electricity generation.</p>	<p>Provide/publish solar-friendly trees on City website. Lake Oswego's list appears to be rather old (ca. 1987). It contains numerous native trees that are on the City native tree list. Compare trees on both lists to update for preferred vegetation and solar generation.</p>
				<p>it may be beneficial to evaluate how effective the solar access regulations are in actually creating more solar-efficient homes. The regulations are based upon model solar access regulations created in the late 1980s when subdivisions generally consisted of 5,000+ sf lots. Today, lot sizes are considerably smaller and developments are more compact, which often makes the current solar access requirements unworkable. Staff should be asked about the ratio between solar implementation and granted exemptions.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Draft Tree Amendments				
			There are two sets of draft Tree Board amendments. The first is for street/City trees and private trees in non-development situations. The second is an outline for trees in development situations.	These draft amendments generally appear consistent with and supportive of the policies of the Comprehensive Plan and Urban Forest Management Plan. Additional consideration should be given to native trees and other priority species, as well as measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies. Also, flexible standards for preservation, especially as it relates to middle housing development, should be further explored.
			The non-development regulations create permit requirements for tree pruning and removals for street/City trees and private trees. Criteria for removals are based on tree size, species, condition, risk, location, number of trees, Heritage tree status, percentage of root or crown pruning, replacement of removed trees, and payment of tree removal fees into the tree fund. Trees that are part of a development project are exempt.	In addition, the interplay between non-development and development regulations should be carefully considered including:
			Can non-development tree removal be used to avoid development tree regulations?	
			The outline of development regulations applies to land divisions and development on lots of records and right of way improvements. The regulations appear to be based on City of Portland code requirements.	Define "development" clearly so something like a small addition be used to clear two-thirds of the trees on a site
			Do non-development mitigation fees burden property owners that meet tree removal criteria?	
			For land divisions, there are minimum percent preservation standards for individual trees (smaller sites) or tree canopy (larger sites). There are additional standards for percent preservation of larger trees such as those over 20-inch DBH. Approval criteria for preservation factor in the health, suitability for preservation, balance of preservation and intensity of development, and proposed mitigation when percent preservation standards are not met. Flexible standards to increase tree preservation include allowing cottage development and reduction in minimum density.	Gear mitigation fees more towards development projects
			What is the policy basis or rationale for creating separate preservation standards for land divisions versus development on lots of record?	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			<p>For other development on lots of record and in the right of way, the proposed preservation requirement is 33 percent of trees over 12-inch DBH. Native species over 6-inch DBH may be used to satisfy preservation requirements. Mitigation fees would be required if percent preservation requirements could not be met. Mitigation fees would also be required for the removal of trees over 30-inch DBH regardless of whether minimum percent preservation requirements are met. Lots less than 5000 square feet, dead, dying, diseased, and invasive trees, and affordable housing projects may be exempt from preservation and/or mitigation fees. In addition, tree density requirements for new development and higher value exterior remodels are required to achieve a certain level of tree canopy after development based on zoning. Lower density zoning would require more tree canopy. Exemptions would apply to land uses such as agricultural, and certain projects such as septic and plumbing would be exempt. How will enforcement of tree planting and preservation requirements occur after development is completed? Will there be special protections for trees that were required with development to ensure they become established and are not removed by new owners?</p>	
			<p>How will tree regulations apply within Willamette River Greenway and Natural Resources overlay zones?</p>	
			<p>Street tree planting would be required for all new development based on linear feet of public right of way and spacing requirements of trees. Existing street trees can be used to meet street tree requirements. Street tree planting would be exempt for development projects that are below a certain cost threshold, demolitions, and situations where there are utility conflicts.</p>	
			<p>Submittal requirements would include a site plan showing existing trees and proposed impacts, tree protection measures, tree health assessments from a certified arborist, and proposed tree planting.</p>	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Other considerations include:			-Should there be a discretionary track for tree preservation if meeting the clear and objective standards are not practicable?	
			-Larger trees are typically less tolerant of construction impacts and need more space for preservation. This should be carefully considered in concert with the intensity of permitted development.	
			-Tree species, including native species, vary on construction tolerance. This should also be factored into standards and incentives for tree preservation.	
			-Should there be certain exemptions for mitigation fees for large tree removal? Examples could include: 1) lower value or shorter lived species such as red alder or black cottonwood, 2) trees where preservation alternatives were considered and there is no practicable alternative to preservation, and 3) discretionary mitigation is proposed that is beyond the minimum requirements such as habitat enhancement, creation of conservation easements, increased tree preservation, trail connections, green streets, green roofs, and other stormwater enhancements, etc.	
			-Consider how City staff and applicants can take a collaborative approach to tree preservation with development. Are there staff resources that would allow for the City arborist to meet with the applicant or applicant's arborist to identify high priority trees that may be reasonably incorporated into the development?	
			-Consider the context of the proposed development such predominant right of way character and improvements, existing tree cover and species mix, and neighborhood vision for the future. Tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into the larger patterns of the area.	
			-When planting new site and street trees, it will be critical to ensure there are adequate soil volumes and space above ground for trunks, branches, and crown growth. Well placed trees with adequate growing space will be more likely to be preserved and become amenities over the long term.	
			-Will arborists be required to create tree assessments and develop preservation and planting plans? The code outline specifies arborist for tree health exemption assessments only.	
			-What are funding and staffing resources required for enforcement of regulations?	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
5.0030 Street Design Standards				
			The standards provided on 5.0030 (page 90 of 168) seem fine. My curiosity is how the new tree ordinance will be applied to new developments in existing rights-of-way where parking is in place, creating a conflict between wanting trees and a possible approach that would allow street parking to be used against a minimum parking requirement.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0070 Bikeways				
			Same concern as above, lacking a priority for use of the right of way, particularly in existing rights of way, how do elements like parking, bikeways, etc., match up to tree goal.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0080 Accessways				
			Approach that allows on-street for meeting minimum requirements will support minimizing accessways in new development.	
5.0093 Street Planting				
			These standards establish the authority of Public Works to regulate tree removal, replacement, and planting in the public right-of-way. It establishes street tree size, species, placement, and spacing standards.	These standards should be reviewed and updated as needed to ensure they support the policies of the Comprehensive Plan and Urban Forest Management Plan. Specific items for consideration include: -Do street tree species support the priority species identified in policy documents? -Do spacing standards support the long term growth of priority species? -Are placement and setback standards appropriate and how do they impact planting opportunities? -Are the standards consistent with Public Works standards found within the Municipal Code? -Are soil volume needs for trees accounted for in the standards? -How do street design standards (Section 5.0030), including but not limited to planter strip width, influence street tree planting and preservation options?
5.0100 Dead-end Streets and Cul-de-sacs				
5.0110 Private Streets/Alleys				
			Where alleys are in place, they can be beneficial.	

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT B: MILWAUKIE RESIDENTIAL ZONES – SUMMARY TABLES

Title 17 – Land Division

Boundary Change Actions (Table 17.12.020)

Boundary Change Action	Type I	Type II	Type III
1. Lot Consolidation Other Than Replat			
Legal lots created by deed	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with ORS and this title	X		
b. Any adjustment that modifies a plat restriction		X	
3. Partition Replat			
a. Any modification to a plat that was decided by Planning Commission			X
b. Parcel consolidation	X		
c. Actions not described in 3 (a) or (b)		X	
4. Subdivision Replat			
a. Any modification to a plat affecting 4 or more lots ¹			X

¹ An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds three.

Title 19 - Zoning

Use Comparison Summary Table (19.301.2 / 19.302.2)

permitted (P) | Not permitted (N) | conditional (C) | permitted with Community Service Use approval (CSU) | II (Type II review) | III (Type III review)

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	P/II	P/II	P	P	P	P	P	P
Residential Home	P	P	P	P	P	P	P	P
ADU	P/II	P/II	P/II	P/II	P/II	P/II	P/II	P/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse	N	N	N	P	P	P	P	P
Cottage Cluster Housing	N	N	N	P	P	P	P	P
Multi-Unit	N	N	N	C	C	P	P	P
Congregate Housing Facility	N	N	N	C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House	N	N	N	C	C	C	C	C
Commercial Uses								

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Office ²	N	N	N	C	C	C	C	P
Drinking Establishment	N	N	N	N	N	N	N	N
Eating Establishments	N	N	N	N	N	N	N	N
Indoor Recreation	N	N	N	N	N	N	N	N
Retail Oriented Sales	N	N	N	N	N	N	N	N
Marijuana Retail	N	N	N	N	N	N	N	N
Vehicle Sales and Rentals	N	N	N	N	N	N	N	N
Personal/Business Services	N	N	N	N	N	N	N	N
Repair Oriented	N	N	N	N	N	N	N	N
Day Care	N	N	N	N	N	N	N	N
Hotel or Motel	N	N	N	N	N	N	N	C
BnB/Vacation Rental	C	C	C	C	C	C	C	C
Parking Facility	N	N	N	N	N	N	N	N
Manufacturing and Production								
Manufacturing and Production	N	N	N	N	N	N	N	N
Institutional								

² Office uses permitted in medium- and high-density zones include offices, studios, clinics, and other similar professional offices.

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Community Service Use	CSU	CSU	CSU	CSU	CSU	CSU	CSU	CSU
Accessory and Other Uses								
Accessory Use	P	P	P	P	P	P	P	P
Agricultural or Horticultural Use ³	P	P	P	P	P	P	P	P
Home Occupation	P	P	P	P	P	P	P	P
Short- Term Rental	P	P	P	P	P	P	P	P

³ Additional use limitations on agricultural and horticultural uses including on retail and wholesale sales, livestock.

Development Standards Summary Table (19.301.4 / 19.302.4)

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
A. Lot Standards								
1. Minimum lot size (sq ft)								
a. Single-family detached	10,000	7,000	5,000					
b. Duplex	14,000	14,000	10,000	6,000	5,000	7,000		6,400
c. Rowhouse				3,000	2,500	2,500		1,400
d. All other lots				5,000	5,000	5,000		5,000
2. Minimum lot width (ft)								
a. Rowhouse				30		25		20
b. All other lots	70	60	50	50		50		50
3. Minimum lot depth (ft)								
a. Rowhouse				80	75	80		70
b. All other lots	100		80	80	75	80		80
4. Minimum street frontage requirements (ft)								
a. Standard lot		35		35		35		35
b. Flag lot		25		25		25		25
c. Double flag lot		35		35		35		35
d. Rowhouse				30		25		20

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
B. Development Standards								
1. Minimum yard requirements for primary structures (ft)								
a. Front yard	20	20	20	15				
b. Side yard	10	5/10 ⁴	5	See Subsection 19.302.5.A				
c. Street side yard	20	20	15	15				
d. Rear yard	20	20	20	15				
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less			2.5 stories or 35 feet, whichever is less		3 stories or 45 feet, whichever is less		
3. Side yard height plane limit								
a. Height above ground at min. required side yard depth (ft)	20			20 ⁵		25 ⁵		
b. Slope of plane (degrees)	45			45		45		
4. Maximum lot coverage (% of total lot area) ⁶	30%		35%	40%		45%		50%

⁴ In R-7, one side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on a corner lot the street side yard shall be 20 feet.

⁵ One additional story may be permitted in excess of required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to retain vegetation.

⁶ Lot coverage standards are modified for specific uses and lot sizes. 1. Decreased lot coverage for large lots – reduced by 10 percentage points for a single-family detached dwelling, duplex or residential home on a lot that is more than 2.5 times larger than minimum lot size; 2. Increase lot coverage for single-family detached dwellings – increased by 10 percentage points for development of a single-family detached dwelling or addition to existing single-family detached dwelling, provided that portions of structure are in excess of 20 feet high, in excess or one story, or are limited to lot coverage standard; 3. Increased lot coverage for duplexes – by 20 percentage points; 4. Increased lot coverage for detached accessory dwelling units – increased by 5 percentage points for development of new detached accessory dwelling unit (applies only to detached accessory structure). 5. Increased lot coverage for duplexes and rowhouses – in medium and high density zones increased by 20 percentage points.

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
5. Minimum vegetation (% of total lot area) ⁷	35%	30%	25%	35%			15%	
C. Other Standards								
1. Density Requirements (dwelling units/acre) ⁸								
a. Minimum	3.5	5.0	7.0	11.6	11.6		25.0	
b. Maximum	4.4	6.2	8.7	14.5	17.4		32.0	
Residential Densities (square feet per unit)								
a. First dwelling unit						5,000	5,000	
b. Additional dwelling units						2,500	1,400	
Building Limitations								
Buildings on the Same Lot ⁹	1	1	1	1 ¹⁰	Multi-family buildings shall not an overall horizontal distance exceeding 150 linear feet as measured from end wall to end wall			

⁷ At least 40% of front yard shall be vegetated, counts toward minimum required vegetation for the lot. Property may provide less than 40% of front yard vegetation requirement if necessary, to provide turnaround area so vehicles can enter collector or arterial street in forward motion. In medium and high-density zones at least half of the minimum vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

⁸ Minimum and maximum densities applicable for land divisions and replats that change number of lots. If a proposal is not able to meet minimum density requirement – due to dimensional requirements for lot width, lot depth, or lot frontage – the minimum density requirement shall instead be equal to the minimum number of lots that can be obtained from site given its dimensional constraints.

⁹ In low-density residential zones, one primary building design for dwelling purposes shall be permitted per lot, a detached accessory dwelling unit may be permitted.

¹⁰ Multi-family housing with multiple structures designed for dwelling purposes may be permitted as a conditional use.

Other Applicable Development Standards

19.502 Accessory Structure Standards			
	Type A	Type B	Type C
Maximum Building Height (feet)	10	15	Lesser of 25 OR not taller than highest point of primary structure ¹¹
Maximum Building Footprint (square feet)	200	600	Less of 75% of primary structure OR 1,500 ¹² On lots < 1 acre, max. 800 if any portion of structure is in front yard
Required Rear Yard (feet)	3	5	Base zone required
Required Side Yard (feet)	3	5	Base zone required
Required Front Yard (feet)	Not allowed in front yard unless structure is at least 40 from front lot line		
Other Development Standards			
	Maximum accessory structure footprint subject to lot coverage and minimum vegetation standards of base zone. Minimum of 5 feet required between exterior wall of accessory structure and exterior wall of any other structure on site, excluding fence		
	Exceptions for lots larger than 1 acre to height limitation and footprint size. Allowed base zone height limit or 25 feet (whichever is greater). Allowed maximum footprint of 1,500 square feet.		

19.504 Site Design Standards	
Clear Vision Areas	A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and railroad according to provisions of Section 12.24.
Maintenance of Minimum Ordinance Requirements	No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use
Dual Use of Required Open Space	No lot area, yard, or other open space or off-street parking or loading area which is required for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided for by shared parking.
Distance from the Property Line	Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

¹¹ Allowed at least 15 feet height regardless of primary structure height.

¹² Allowed at least 850 square feet if lot area is > 10,000 square feet

19.505.4 Cottage Cluster Housing Development and Design Standards¹³	
a. Size (square feet)	The total footprint of a cottage unit shall not exceed 700 The total floor area of each cottage unit shall not exceed 1,000
b. Max. Height (feet)	For all structures – 18 ¹⁴
c. Orientation	(1) The front of a cottage is the façade with the main entry door and front porch, shall be oriented toward either a common open space or public street. If not contiguous to either of these, shall be oriented toward internal pedestrian circulation path. (2) At least ½ of cottages in cluster shall be oriented toward a common open space
d. Required Yards	
1) Yard Depth (feet) ¹⁵	At least 10.5, front porch may encroach into yard
2) Rear Yard Depth (feet)	At least 7.5
3) All Other Yards Depth (feet)	5
4) Min. Spacing Between Cottages (ft)	10 ¹⁶
5) Perimeter Setbacks	All structures in cottage cluster required to comply with perimeter setback areas in Subsection 19.505.4.D.2.f ¹⁷
e. Design Standards	
1) Cottages fronting a street shall avoid blank walls, include at least one of the following:	a) changes in exterior siding materials b) bay windows with min. depth of 2 feet, min. width of 5 feet c) wall offsets of at least 1 feet deep
2) Trim dimensions (windows/doors)	Min. 3 inches wide, 5/8 inches deep
3) Minimum roof pitch	4/12
4) Transparency of façade	Windows and doors account for at least 15% of façade area ¹⁸
5) Horizontal siding material	At least 60% on each wall shall be either horizontal lap siding (between 3-7 inches wide) or shake siding
f. Front Porches¹⁹	
1) Min. porch depth (feet)	6.5
2) Width of porch	At least 60% of width of overall length of front façade
3) Front door	Must open onto the porch
4) Weather protection	Entire area of front porch must be covered
5) Height from ground (inches)	Surface may not exceed 24 above grade, as measured from average ground level at front of porch
Site Design Standards	
a. No. of Cottages	Not to exceed dwelling unit max. of base zone, min. of 4, max. of 12
b. Common Open Space (square feet)	1) At least 100 of area for each cottage in development 2) Min. dimension is 20 on one side
c. Private Open Space (square feet)	Each cottage shall have on same lot as cottage, at least 100 with no dimension less than 10 feet on one side

¹³ These standards apply to cottage cluster wherever allowed by base zones. They apply to both new development and modifications to existing cottage clusters. The base zone development standards for height, yards, lot coverage, and minimum vegetation and design standards in 19.505.1 are not applicable. Cottage cluster development in R-2, R-1, or R-1-B zones also subject to the site size standards in 19.302.5.

¹⁴ Cottages or amenity buildings having pitched roofs with a min. slope of 6/12 may extend up to 25 feet at the ridge of the roof.

¹⁵ Between cottage dwelling structure and either public street, common open space, or internal pedestrian circulation path.

¹⁶ Architectural features/minor building projections (eaves, overhangs, or chimneys) may project into required separation by 18 ins.

¹⁷ This requirement may increase the required yard depths listed.

¹⁸ Applies to facades oriented toward a public street or common open space.

¹⁹ Each cottage shall have a porch on the front, intended to function as an outdoor room that extends living space of cottage into semipublic area between cottage and open space.

d. Max. Lot Coverage / Impervious Area	Total footprint of all structures not to exceed 40% of site area. Impervious surfaces (including all structures), not to exceed 60% of site area
e. Internal Pedestrian Circulation (feet)	Include pedestrian paths on-site, min. width 6 ²⁰
f. Perimeter Setback Areas (feet)	All structures located at least 15 front rear lot lines, at least 5 from side lot lines
g. Off-Street Parking	
1) Min.	1/dwelling unit ²¹
2) Setback from street (feet)	If axis of longest dimension of parking area has angle of 45 degrees or more to lot line, narrowest dimension may be within 5 of street. If angle is less than 45 degrees, parking area may be at least 20 from street.
3) No. of parking areas	If there are more than 8 units in a cluster, there shall be at least 2 separate parking areas with a min. of 4 spaces in each area. ²²
4) Garages	Spaces may be located within garage, may not contain more than 4 spaces, at least 10 feet from any cottage dwelling, and match materials, trim, and roof pitch of cottages. Interior height max. 8 feet.
5) Screening	Parking spaces not in garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen such as fence
h. Fences (feet)	Max. height 3, 6 along perimeter

²⁰ Paths must provide continuous connection between front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within development.

²¹ Shall be located together with parking spaces for other cottage in common area and not on same lot as individual cottage unit.

²² A drive aisle is permitted connecting the 2 areas if a separate driveway access for each area is not permitted by 12.16 Access Management.

19.505.5 Rowhouse Design Standards	
B. Applicability	Apply to single-detached dwellings on their own lot where dwelling shares common wall across side lot line with > 1 other dwelling. ²³
C. Design Standards ²⁴	
2) Transition Area (feet)	<p>Shall include area of transition between public realm of right-of-way and entry to private dwelling. May be either horizontal or vertical.</p> <p>a) Vertical transition: uncovered flight of stairs, must rise at least 3, not more than 8 from grade²⁵</p> <p>b) Horizontal transition: covered porch with depth of at least 6²⁶</p>
D. Number Allowed	<p>No more than 4 consecutive rowhouses that share a common wall.</p> <p>A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.</p>
E. Rowhouse Lot Standards	
1) Max. lot width (feet)	Rowhouse development not allowed on lots > 35
2) Lot number/standards	Allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.
3) Min. lot size (a)	Rowhouses in R-3 and R-2.5 Zones must meet min. lot size standards in Subsection 19.302.4.A.1.
4) Min. lot size (b)	Rowhouses in R-2, R-1 and R-1-B Zones must meet min. lot size standards in Subsection 19.302.4.A.1. Must also meet requirements of Table 19.505.5.E.4 ²⁷
F. Driveway Access and Parking	
1) Garages, off-street parking in front yard, and driveway accesses standards	<p>Prohibited unless the following standards are met:</p> <p>a) Each rowhouse has at least 30 feet of frontage on a neighborhood route or local street</p> <p>b) 2 or 3 rowhouses have at least one shared access between lots; 4 rowhouses have 2 shared accesses</p> <p>c) Parking and maneuvering areas do not exceed 10 feet wide</p> <p>d) Garage width does not exceed 10 feet</p>
2) Alternative standards	<p>The following rules apply to driveways and parking areas when developments do not meet all the standards listed above:</p> <p>a) Off-street parking shall be accessed on the back façade or located in rear yard</p> <p>b) Corner lots shall take access from single driveway on side of corner lot</p> <p>c) When not corner lot, access shall be consolidated for all lots into single driveway, not permitted between front façade and front lot line</p> <p>d) Consolidated access/shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access</p>
G. Accessory Structure Setbacks (feet)	On rowhouse lots with a lot width of 25 ft or <, there is no required side yard between an accessory structure and side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

²³ Lots must meet the standards for rowhouse lot in both Section 19.302 and 19.505.5.E. May take place on existing lots that meet the lot standards for rowhouse lots on land that has been divided to create new rowhouse lots. Dwelling units that share common side wall and are not on separate lots, subject to standards for duplexes or multi-unit housing.

²⁴ Subject to design standards for single-family housing 19.505.1 - 2.

²⁵ Flight of stairs must lead to front door or front porch, may encroach into required front yard, bottom step must be at least 5 feet from front lot line.

²⁶ Front porch may encroach into required front yard but shall be at least 7 feet from the front lot line.

²⁷ 2 rowhouses: R2 = 7,500 sf, R-1 and R-1-B=6,400 sf; 3 rowhouses: R2 = 10,000 sf, R-1 and R-1-B=7,800 sf; 4 rowhouses: R2 = 12,500 sf, R-1 and R-1-B=9,200 sf.

19.600 Off-Street Parking Standards		
Residential Use²⁸	Minimum	Maximum
Single Family Dwellings (including rowhouses and manufactured homes)	1/primary dwelling unit	-
Multifamily Dwellings ²⁹		
a. Units < 800 SF located in Downtown Mixed Use zone (DMU)	1/unit	2/unit
b. Units > 800 SF	1.25/unit	2/unit
Residential homes and similar facilities allowed outright in residential zones	1/unit + 1/employee on largest shift	Min. + 1 space/bedroom
ADUs	None, unless vacation rental 1/unit	-
19.607 Additional Design Standards		
Minimum Dimensions of Off-Street Space (feet)	9 wide x 18 deep	
Location	1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved 2. No portion of the required parking space is allowed within the following areas. ³⁰ <ol style="list-style-type: none"> a. Within the required front yard or within 15 ft of the front lot line, whichever is greater. b. Within a required street side yard. 	
Parking Surface Material	1. Required parking spaces, vehicle parking spaces and maneuvering areas located with required front or side yard required to have durable and dust-free hard surface. 2. Maneuvering areas and unrequired parking areas outside of a required front or side yard allowed to have gravel surface.	

²⁸ Development of a vacant site or that results in an increase of 100% or more of existing floor area and/or structure footprint on a site must conform to parking standards of 19.600. When development results in an increase of less than 100% of existing floor area and/or structure footprint or represents a change of use, existing off-street parking and loading areas shall be brought closer into conformance with standards of 19.600. There are limitations to improvements not to exceed 10% of development permit value and/or tenant improvements associated with change in use. Required to submit parking plan to Planning Director who evaluates with prioritized list.

²⁹ Dwellings containing 3 or more dwelling units (includes senior and retirement housing)

³⁰ These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

19.700 Public Facility Improvements			
Single Family Residential Expansion	Applies	Does not apply	
A. Expansions/conversions that increase combined gross floor area of all structures by 1,500 SF or more ³²	X		Must demonstrate compliance with: <ul style="list-style-type: none"> A. Procedures, requirements, and standards of Public Works Standards B. Provide transportation improvements and mitigation in rough proportion to potential impacts of developments per 19.705 C. Demonstrate adequate street drainage, safe access and clear vision at intersections, access onto public street with min. paved widths, adequate frontage improvements, and compliance with LOS D for all intersections impacted by development.³¹
B. Expansions/conversions that increase combined gross floor area of all structures between 200 SF – 1,499 SF Error! Bookmark not defined.	X Only ROW dedication		
C. Expansions/conversions that increase combined gross floor area < 200 SF Error! Bookmark not defined.		X	
D. Single-family residential expansions shall provide adequate public utilities		X	
E. Construction/expansion of garage/carport ³³		X	

³¹ For local streets a minimum paved width of 16 feet along the site’s frontage. For nonlocal streets, a minimum paved width of 20 feet along the site’s frontage. For all streets, a minimum horizontal ROW clearance of 20 feet along the site’s frontage.

³² Calculations exclude noninhabitable accessory structures and garages.

³³ Must comply with Chapter 12.16 Access Management and existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.910.1 Accessory Dwelling Units Approval Standards and Criteria	
B. Applicability	Apply to establishment of any ADU
C. Procedures	Application subject to Type I review, properties adjoining received mailed notice, including site plan, building elevations
D. Approval Standards and Criteria	
1) ADU Type I review subject to following standards	<ul style="list-style-type: none"> a) Is an allowed use in base zone, overlay zones, or special areas b) Primary use of property is single-family detached dwelling c) One ADU per single family home or lot allowed d) Development standards of 19.9810.1 E met e) Proposal complies with all other applicable standards of this title
2) ADU Type II subject to following review criteria	<ul style="list-style-type: none"> a) Standards above in Section 1 are met b) ADU not incompatible with existing development on the site, and on adjacent lot (architectural style, materials, colors) c) Massing of ADU and its placement on site maximizes privacy for, and minimizes impacts to, adjacent properties d) Appropriate level of screening for nearby yards and dwellings provided by design of ADU and existing/proposed vegetation and other screening
E. Standards	
1) Creation	ADU may be created by conversion of existing structure, addition to existing structure, or new construction, or both addition/conversion
2) Coordination of Standards	More restrictive provisions applicable in event of conflict between standards in this section and other portions of this title
3) Attached ADU Development and Design Standards ³⁴	<ul style="list-style-type: none"> a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less b) Design Standards: <ul style="list-style-type: none"> (1) Façade of structure that faces front lot line shall have only one entrance, secondary entrance for ADU allowed on any other façade. (2) Stairs, decks, landings, or other unenclosed portions of structure leading to entrance of ADU not allowed on façade that faces front lot line (3) Proposals for ADUs that would increase floor area through new construction subject to additional design standards³⁵
4) Detached ADU Development and Design Standards	<ul style="list-style-type: none"> a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less b) Max. structure footprint, height, and yard regulations listed in Table 19.910.1.E.b.³⁶ Structures that exceed any of maximums associated with Type I review require Type II review. Structures not allowed to exceed any of maximums associated with Type II review without variance. c) Design Standards: <ul style="list-style-type: none"> (1) Shall include at least 2 of design details listed. An architectural feature may be used to comply with more than one standard. <ul style="list-style-type: none"> · Covered porch at least 5 feet deep and 5 feet wide · Recessed entry area at least 2 feet deep and 5 feet wide · Roof eaves with min. project of 12 inches from intersection of roof and exterior walls · Horizontal lap siding between 3 – 7 inches wide

³⁴ Reviewed through Type I review.

³⁵ Exterior finish on addition shall match exterior finish material of primary dwelling unit in type, size and placement. Trim must be same in type, size, and location as trim used on primary dwelling unit. Windows on street facing facades must match those in primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical). Eaves must project from building walls at same proportion as eaves on primary dwelling unit.

³⁶ Type I review – Max. footprint 600 square feet; Max. height 15' limited to 1 story; base zone requirements for side, rear, and street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line. Type II review – Max. footprint 800 square feet; Max. height 25 feet limited to 2 stories; Required 5 foot side and rear yard; Base zone requirements for street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line.

	<ul style="list-style-type: none"> · Window trim around all windows at least 3" wide, 5/8" deep (2) May request a variance to design standards through Type II review (3) ADU with floor-to-ceiling height of 9 feet or >, required to have roof pitch of at least 4/12 (4) Yurt may be used as detached ADU and is exempt from design standards
	<p>d) Privacy Standards³⁷</p> <p>(1) Required on or along wall(s) of detached ADU, or portions thereof, that meet following criteria:</p> <ul style="list-style-type: none"> (a) Wall is within 20 feet of side or rear lot line (b) Wall is at an angle of 45 degree or less to lot line (c) The wall faces an adjacent residential property <p>(2) Meets privacy standards if either of following standards met:</p> <ul style="list-style-type: none"> (a) Wall windows on a wall shall be placed in upper third of distance between floor and ceiling (b) Visual screening is in place along portion of property line next to wall of ADU, plus an additional 10 lineal feet beyond corner of wall. Screening shall be opaque, at least 6 feet high; may consist of fence, wall, or evergreen shrub.³⁸
	<p>e) Conversion of Existing Structures</p> <p>Creation of detached ADU through conversion of accessory structure established on or after Dec. 1, 2012 is required to meet all applicable standards for new detached ADU.</p> <p>Creation of detached ADU through conversion of an existing accessory structure that was legally established prior to Dec. 1, 2012 is allowed. Conversion must meet all standards that apply to creation of new detached ADU, except for design standards in 19.910.1.E.4.c.</p>
	<p>f) Additional Provisions</p> <ul style="list-style-type: none"> (1) ADUs not counted in calculation of min. or max. density requirements (2) Additional home occupations allowed for property with ADU.

³⁷ Privacy standards required for detached accessory dwelling units processed through Type I review. Detached ADUs permitted through Type II review may be required to include privacy elements to meet approval criteria.

³⁸ Newly planted shrubs shall be no less than 5 feet above grade at time of planting. They shall reach 6 feet high within one year. Existing features on site can be used to comply with this standard.

19.910.2 Duplex Approval Standards and Criteria	
B. Applicability	Regulations apply to new construction, conversion/add on to existing structure to create duplex, also apply to additions and modifications to existing duplexes
C. Review Process The following review process required for duplexes (either through new structure or conversion/addition to existing structure)	<p>a) In R-5, R-3, R-2, R-1, R-1-B, R-O-C zones, duplex allowed outright, subject to lot size requirements for base zone, review of applicable development and design standards occurs during review of development permit</p> <p>b) In R-10 and R-7 duplex allowed outright³⁹, subject to lot size requirements for zone, , review of applicable development and design standards occurs during review of development permit</p> <p>c) In R-10 or R-7 zone, if not eligible outright, allowed through Type II review.</p>
D. Approval Criteria	<p>If duplex is not an outright allowed use, must meet following criteria:</p> <p>a) The location of duplex at proposed site will not have substantial impact on existing pattern of single-family detached dwellings within the general vicinity of the site.</p> <p>b) Design of proposed duplex is generally consistent with surrounding development</p> <p>c) Proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling</p>

³⁹ Property must have frontage on collector or arterial street (as identified in TSP) or be on a corner lot.

Approval Types

Review Type	Review Authority	Appeal Authority	Public Hearing	Notes
19.1000 Review Types/Procedures				
Type I	Planning Director	Planning Commission		Applies to permitted uses or development governed by clear and objective approval criteria and/or development standards that may require the exercise of professional judgement about technical issues
Type II	Planning Director	Planning Commission		Applies to uses or development governed by subjective approval criteria and/or development standards that require the exercise of limited discretion.
Type III	Planning Commission	City Council	X	Quasi-judicial and subject to approval criteria that require exercise of discretion and judgment and about which there may be broad public interest. Impacts may be significant and development issues complex. Conditions of approval may be extensive.
Type IV	City Council, initial hearing/recommendation from Planning Commission	None	X	Involve amendments to zoning or land use maps. Require great deal of professional analysis, reviewed against subjective approval criteria.
Type V	City Council, initial hearing/recommendation from Planning Commission	None	X	Legislative in nature, involve creation, revision, or large-scale implementation of public policy. Requires broad public notification/hearings.

permitted out right – Type I procedure (P) | permitted out right, require Type II procedure (II) | conditional (C) | Type III review (III)

	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	II	II	P	P	P	P	P	P

	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Home	P	P	P	P	P	P	P	P
ADU	I/II	I/II	I/II	I/II	I/II	I/II	I/II	I/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse				P	P	P	P	P
Cottage Cluster Housing				P	P	P	P	P
Multi-Unit				C	C	P	P	P
Congregate Housing Facility				C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House				C	C	C	C	C

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInnelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT C: SUMMARY OF HB 2001 COMPLIANCE PATHS

This memo summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46. The OAR provides the regulations that enact the mandate of House Bill 2001. The proposed rules can be found at this link:

<http://records.sos.state.or.us/ORSOSWebDrawer/Recordpdf/7606963>

House Bill 2001 overview

The intent of HB 2001 is to increase the amount and types of housing available statewide to alleviate housing shortages and provide more choice. Recognizing the different scale of cities in Oregon, the legislation defines two types of cities (medium and large). Large cities have until June 30, 2022 to comply. For large cities, like Milwaukie:

- Duplexes must be allowed on all lots or parcels that allow single detached dwellings
- Middle Housing (Triplexes, Quadplexes, Townhouses, and Cottage Clusters) must be allowed in areas that permit single detached dwellings

Cities may regulate or limit areas where Middle Housing is permitted to comply with statewide planning goals such as:

- Goal-protected lands (Goals 5, 6, 7, and 9)
- Infrastructure constrained lands
- Master planned communities

Different pathways to compliance

There are four different ways to comply with HB2001. Draft rules detailing how to comply are under consideration by DLCDC and expected to be adopted by December 2020. Any revisions are expected to be minor and not change the pathways to compliance. The four pathways include:

1. Meet the **minimum compliance standards** per the proposed Oregon Administrative Rule (OAR) 660-046
2. Adopt the **model code**
3. Adopt standards (about lot size and density) that meet specific **performance metric standards**
4. Adopt **alternative standards** (about siting and design) and demonstrate more housing is created using production standards

A city can use multiple pathways to compliance for different housing types, per the proposed rules. For example:

- "[A] sample city could choose to regulate the minimum lot size of cottage clusters in conjunction with the allowable minimum compliance standards but could choose to regulate the minimum lot size for quadplexes differently subject to the Performance Metric Approach. In this case, the sample city would be choosing to utilize the Performance Metric Approach only for quadplexes and not for cottage clusters."

Below is a summary of the minimum compliance, performance metric, and production standards pathways to compliance.

Overview of Minimum Compliance Approach

The minimum compliance rules outline reasonable siting and design standards and important process and enforcement rules that ensure Large Cities do not cause “unreasonable cost or delay” to the development of middle housing. Siting standards relate to the position, bulk, scale or form of a structure, e.g. “where is it on the land.” Design standards relate to the arrangement, orientation, appearance, or articulation of features. Following is a more detailed overview of this pathway.

Siting Standards

The draft rules set separate siting standards for each housing type. Siting standards include minimum lot size, density, setbacks, height, parking, and lot coverage.

- Minimum lot sizes by housing type:
 - Triplex: 5,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Quadplex: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Townhouse: Average may not be greater than 1,500 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Cottage Cluster: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
- Setbacks: Generally, can't be greater than for single detached dwellings in the same zone
- Maximum height: Generally, can't be lower than the maximum height allowed for single detached dwellings in the same zone
- Parking (off street minimum required):
 - Duplexes: Not more than 2 off-street spaces, may allow on-street parking to meet requirements
 - Triplexes: 1-3 spaces depending on lot size
 - Quadplexes: 1-4 spaces depending on lot size
 - Townhouses: 1 space per Townhouse, may allow on-street parking to meet requirements
 - Cottage Cluster: 1 space per unit, may allow on-street parking to meet requirements
- Density: Density maximums may not be applied to Duplexes, Triplexes, Quadplexes, and Cottage Clusters. Townhouses may be permitted 4x the maximum density of single dwellings in the same zone or 25 dwelling units per acre, whichever is less.

Design Standards

Design standards are not required. If, however, design standards are applied, only the following may be used:

- Design standards defined in the Model Code
- Design standards that are less restrictive than those defined in the Model Code
- Same design standards as applied to single dwellings

No design standards may be required for middle housing created through conversion of an existing building.

Overview of Performance Metric Approach

If cities want the flexibility to determine where Middle Housing will go and chose to adopt standards for minimum lot size or maximum density, they will be required to conduct a performance analysis. This analysis must demonstrate there is an equitable distribution of Middle Housing on lots throughout the city.

At a minimum, a local government must allow Middle Housing types other than duplexes on the following proportion of lots or parcels:

- Triplexes must be allowed on 80% of lots or parcels in a Large City
- Quadplexes must be allowed on 70% of lots or parcels in a Large City
- Townhouses must be allowed on 60% of lots or parcels in a Large City
- Cottage Cluster must be allowed on 70% (TBD) of lots or parcels in a Large City

Overview of Alternative Design Standards Approach

In recognition that some cities have already been actively encouraging the development of Middle Housing, this pathway seeks to allow cities to continue to use existing development standards as long as they can prove they are producing a substantial amount of Middle Housing. They may not apply these standards citywide but only in areas where they previously existed; new areas must meet the minimum compliance.

Cities seeking to use alternative design standards for siting and design must demonstrate:

- They do not cause unreasonable cost or delay
- Alternative standards will produce *more* Middle Housing (must demonstrate an annualized fraction of 3% production of Middle Housing based on the length of time the particular standard has been effective)
- Routinely check-in to make sure substantial production is being met (through Housing Needs Assessment update process)