

# Clean Amendments

## COMPREHENSIVE PLAN

### Comprehensive Plan Land Use Map

Updated to show two residential designations reflecting changes to zoning map per 19.107. (Attachment 1).

### Comprehensive Plan Residential Land Use Designations

Moderate Density Residential: Zone R-MD (5.0 – 34.8 units/acre)

- a. Permitted housing types include single detached dwellings on moderate to small lots, accessory dwelling units, duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
- b. Transportation routes are limited primarily to collectors and local streets.
- c. Sites with natural resource or natural hazard overlays may require a reduction in density.

High Density: Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)

- a. A wide variety of housing types are permitted including single detached dwellings on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
- b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
- c. Access to High Density areas should be primarily by major or minor arterials.
- d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

## Title 19 Zoning Ordinance

### CHAPTER 19.100 INTRODUCTORY PROVISIONS

#### 19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
<b>Base Zones</b>	
Residential	R-MD
Residential	R-3
Residential	R-2.5
Residential	R-2

Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
<b>Overlay Zones</b>	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

**19.107.2 Zoning Map**

Updated to show six residential designations reflecting changes to zoning map per 19.107.1 (Attachment 2).

**CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS**

**19.201 DEFINITIONS**

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to

the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

“Corner lot” means a lot abutting 2 or more streets, other than an alley, at their intersection.

“Interior lot” means a lot other than a corner lot.

“Legal lot” means a unit of land other than a tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Through lot” means an interior lot having frontage on 2 streets.

“Allowed By Right” means any land use permitted without land use approval by the City’s Planning Department or Planning Commission, such as is required by a Type I – V review process.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s written consent.

“Planning Manager” means the person who is the manager/supervisor of the city’s Planning Department, or the City Manager’s designee to fill this position. This position can also be described as the Planning Director.

“Street tree” means a tree shrub, or other woody vegetation on land within the right-of-way. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

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### **Residential Uses and Structures**

“Duplex” means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

“Cottage” means an individual dwelling unit that is part of a cottage cluster, per Subsection 19.505.4.

“Cottage Cluster” means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

“Cottage Cluster Project” means a development site with one or more cottage clusters constructed, or proposed to be constructed.

“Duplex” means two dwellings on a lot or parcel in any configuration. The units in a duplex may share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.

“Manufactured home” means a single detached residential structure, as defined in ORS 446.003(25)(a)(C), which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Section 5401 et seq.) as amended on August 22, 1981.

“Middle Housing” means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

“Mobile home” means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

“Multi-unit development” means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums.

“Quadplex” means four dwelling units on a lot or parcel in any configuration.

“Single detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.

“Townhouse” means a residential structure on its own lot that shares 1 or more common or abutting walls with at least 1 or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25% of the length of the side of the building. The shared or abutting wall may be the wall of an attached garage. A Townhouse does not share common floors/ceilings with other primary dwelling units.

“Townhouse development” means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.

“Triplex” means three dwelling units on a lot or parcel in any configuration.

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## 19.202 MEASUREMENTS

### 19.202.4 Density Calculations

Minimum required and maximum allowed dwelling unit density will be calculated as described below, except that residential cluster development on lands containing natural resource areas are subject to the density calculations in Subsection 19.402.14.C. The purpose of these calculations is to ensure that properties develop at densities consistent with the densities in the Comprehensive Plan. The area deductions for minimum required density allow properties to utilize land that can be built upon. The area deductions for maximum allowed density include sensitive lands where development should be avoided.

C. Discrepancy between Minimum Required and Maximum Allowed Density

If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.

## CHAPTER 19.300 BASE ZONES

### 19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-MD. This zone implements the Moderate Density residential land use designation in the Milwaukie Comprehensive Plan.

#### 19.301.1 Purpose

The moderate density residential zone is intended to create, maintain, and promote neighborhoods and allow a broad range of housing types. Some non-residential uses are allowed, but overall the character is one of residential neighborhoods.

#### 19.301.2 Allowed Uses in Moderate Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the moderate density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.301.2 Moderate Density Residential Uses Allowed</b>		
Use	R-MD	Standards/Additional Provisions
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage Cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing

Residential home	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Senior and retirement housing	CU	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
<b>Commercial Uses</b>		
Bed and breakfast or Vacation rental	CU	<b>Section 19.905</b> Conditional Uses
<b>Accessory and Other Uses</b>		
Accessory use	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	<b>Subsection 19.301.3</b> Use Limitations and Restrictions
Community service use	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

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

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

III = Type III review required.

**19.301.3 Use Limitations and Restrictions**

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in moderate density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.

2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

**19.301.4 Development Standards**

In the moderate density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

<b>Table 19.301.4 Moderate Density Residential Development Standards</b>					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999 <sup>2</sup>	7,000 and up	
<b>A. Permitted Dwelling Type</b>					
	Townhouse, Cottage <sup>1</sup>	Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster,	<b>Subsection 19.501.1</b> Lot Size Exceptions
<b>B. Lot Standards</b>					
1. Minimum lot width (ft)	20	30	50	60	
2. Minimum lot depth (ft)	70	80	80	80	
3. Minimum street frontage requirements (ft)					
a. Townhouse	20				
b. Standard lot	35	30	35	35	
c. Flag lot	NA <sup>3</sup>	25	25	25	<b>Subsection 19.504.7</b> Flag Lot and Back Lot Design and Development Standards
d. Double flag	NA <sup>3</sup>	25	25	25	

**Table 19.301.4  
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999 <sup>2</sup>	7,000 and up	
lot					
<b>C. Development Standards</b>					
1. Minimum yard requirements for primary structures (ft)					<b>Subsection 19.301.5.A</b> Yards <b>Subsection 19.501.2</b> Yard Exceptions <b>Subsection 19.504.7</b> Flag Lot and Back Lot Design and Development Standards <b>Subsection 19.505.4</b> Cottage Cluster Housing <b>Subsection 19.505.5</b> Townhouses
a. Front yard	20	20	20	20	
b. Side yard	5	5	5	5/10	
c. Street side yard	15	15	15	20	
d. Rear yard	15	20	20	20	
2. Maximum building height for primary structures	35 ft				<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit					<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)	20				
b. Slope of plane (degrees)	45				
4. Maximum lot coverage (percent of total lot area)	45%	35%	35%	30%	<b>Section 19.201</b> “Lot coverage” definition <b>Subsection 19.301.5.B</b> Lot Coverage
5. Minimum vegetation (percent of total lot area)	15%	25%	25%	30%	<b>Subsection 19.301.5.C</b> Front Yard Minimum Vegetation <b>Subsection 19.504.6</b> Minimum



**Table 19.301.4  
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999 <sup>2</sup>	7,000 and up	
					Vegetation
<b>C. Other Standards</b>					
1. Density requirements (dwelling units per acre)					<b>Subsection 19.301.5.D</b> Residential Densities <b>Subsection 19.501.4</b> Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
a. Minimum	25	7.0	7.0	5.0	
b. Maximum <sup>4</sup>	25	8.7	8.7	6.2	

<sup>1</sup> For a Cottage within a Cottage Cluster only

<sup>2</sup>Minimum lot size for single detached dwelling applies to lots created on or after May 19, 2022, the effective date of Ordinance #2216.

<sup>3</sup>Townhouses are not permitted on flag lots

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

**19.301.5 Additional Development Standards**

A. Yards

On lots greater than 7,000 sq ft in the R-MD Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-detached dwelling, duplex, or residential home on a lot that is more than 10,000 sq ft in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single Detached and Middle Housing Dwellings

a. The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single detached dwelling, or an addition to an existing single detached dwelling, provided that the portions of the structure that are in excess of 20 ft high are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

b. The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a middle housing dwelling (except for townhouses and cottage clusters), or an addition to an existing middle housing dwelling (except for townhouses and cottage clusters), provided that the portions of the structure that are in excess of 20 ft high are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.301.5.B.2  
Increased Lot Coverage for Single Detached Dwellings**

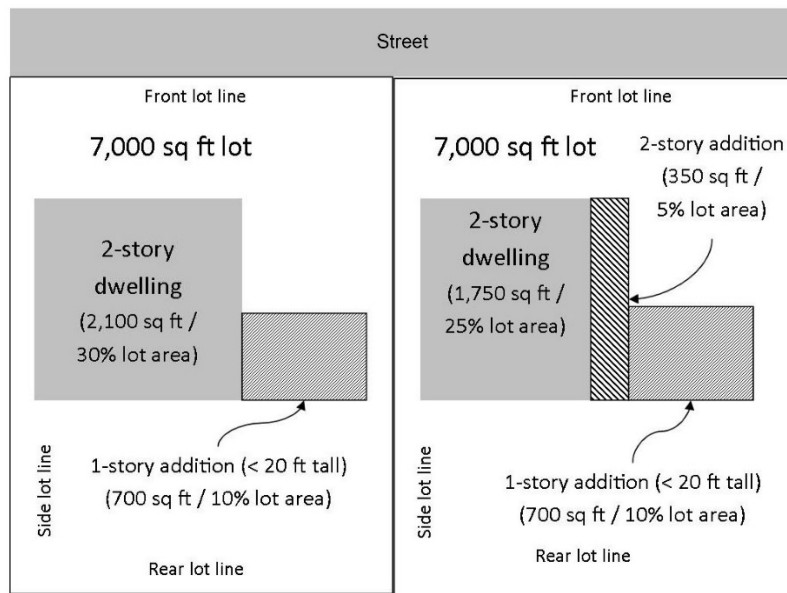


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD.

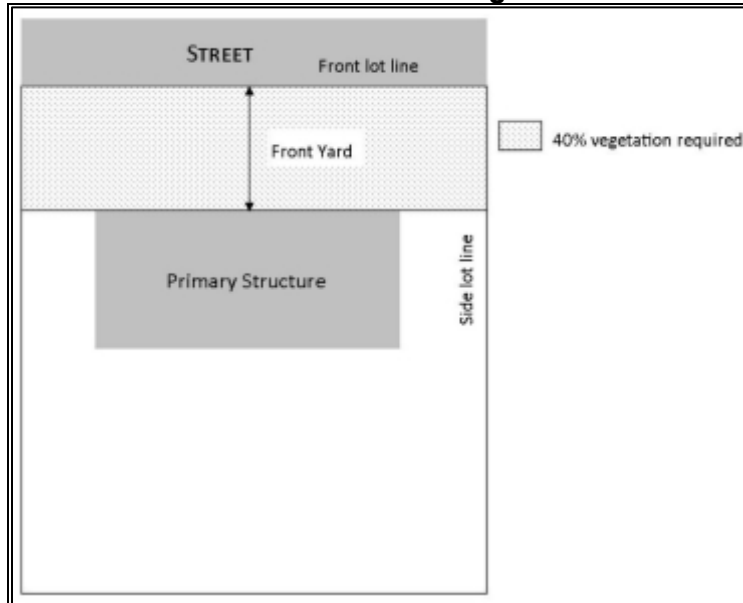
**3. Increased Lot Coverage for Detached Accessory Dwelling Units**

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.301.5.C  
Front Yard Minimum Vegetation**



D. Residential Densities

The minimum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density, except for townhouses.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

G. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

H. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2051 § 2, 2012)

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## **19.302 HIGH DENSITY RESIDENTIAL ZONES**

The high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the High Density residential land use designations in the Milwaukie Comprehensive Plan.

### **19.302.1 Purpose**

The high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

### **19.302.2 Allowed Uses in High Density Residential Zones**

Uses allowed, either allowed by right or conditionally, in the high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.302.2 High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>						
Single detached dwelling	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	P	P	P	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage cluster housing	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing

<b>Table 19.302.2 CONTINUED</b>						
<b>High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses CONTINUED</b>						
Multi-unit	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Congregate housing facility	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Commercial Uses</b>						
Office	CU	CU	CU	CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	<b>Section 19.905</b> Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Accessory and Other Uses</b>						
Accessory use	P	P	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

**19.302.3 Use Limitations and Restrictions**

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.

2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Office uses allowed in the high density zones are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

C. Marijuana production is not permitted in high density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

#### **19.302.4 Development Standards**

In the high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

In the high density residential zones the following housing types are permitted on lot sizes as follows:

Between 1,500 to 2,999 sq ft: Townhouse, Cottage, Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 3,000 to 4,999 sq ft: Duplex, Triplex, and Quadplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, and Quadplex.<sup>1</sup>

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, Quadplex, Cottage Cluster, Multi-Unit Housing.

Table 19.302.4 High Density Residential Development Standards						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>A. Lot Standards</b>						
1. Minimum lot size (sq ft)	1,500					<b>Subsection 19.501.1</b> Lot Size Exceptions <b>Subsection 19.505.4</b> Cottage Cluster Housing <b>Subsection 19.505.5</b> Rowhouses
2. Minimum lot width (ft)	20					
3. Minimum lot depth (ft)	70					
4. Minimum street frontage requirements (ft)						
a. Rowhouse	20					
b. Standard lot	35					
c. Flag lot	25					
d. Double flag lot	25					
<b>B. Development Standards</b>						
1. Minimum yard requirements for primary structures (ft)						<b>Subsection 19.302.5.A</b> Side Yards <b>Subsection 19.501.2</b> Yard Exceptions <b>Subsection 19.504.7</b> Flag Lot and Back Lot Design and Development Standards
a. Front yard	20					
b. Side yard	See Subsection 19.302.5.A					
c. Street side yard	15					
d. Rear yard	15					
2. Maximum building height for primary structures	35 ft,		45 ft,			<b>Subsection 19.302.5.E</b> Height Exceptions



**Proposed Code Amendments**

				<p><b>Subsection</b> <b>19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection</b> <b>19.302.5.I</b> Transition Measures</p>
3. Side yard height plane limit				<p><b>Subsection</b> <b>19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p>
a. Height above ground at minimum required side yard depth (ft)	20		25	
b. Slope of plane (degrees)	45		45	
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	<b>Section 19.201</b> "Lot coverage" definition
5. Minimum vegetation (percent of total lot area)	35%		15%	<p><b>Subsection</b> <b>19.504.6</b> Minimum Vegetation</p> <p><b>Subsection</b> <b>19.302.5.D</b> Front Yard Minimum Vegetation</p> <p><b>Subsection</b> <b>19.302.5.C</b> Minimum Vegetation</p>
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre)				<p><b>Subsection</b> <b>19.202.4</b> Density Calculations</p> <p><b>Subsection</b> <b>19.302.5.F</b> Residential Densities</p> <p><b>Subsection</b> <b>19.501.4</b> Density Exceptions</p>
a. Minimum	11.6	11.6	25.0	
b. Maximum <sup>2</sup>	14.5	17.4	32.0	

<sup>1</sup> Minimum lot size for single detached dwelling applies to lots created on or after May 19, 2022, the effective date of Ordinance #2216.

<sup>2</sup> Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

### 19.302.5 Additional Development Standards

#### A. Side Yards

In the high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a townhouse shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior townhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior townhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

#### B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

##### 1. Increased Lot Coverage for Single Detached Dwellings

The maximum lot coverage percentage in Subsection 19.302.4 is increased by 10 percentage points for development of an addition to an existing single detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

b. The maximum lot coverage percentage in Subsection 19.302.4 is increased by 10 percentage points for development of a middle housing dwelling (except for townhouses and cottage clusters), or an addition to an existing middle housing dwelling (except for townhouses and cottage clusters), provided that the portions of the structure that are in excess of 20 ft high are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.302.5.B.1**  
**Increased Lot Coverage for Single Detached Dwellings**

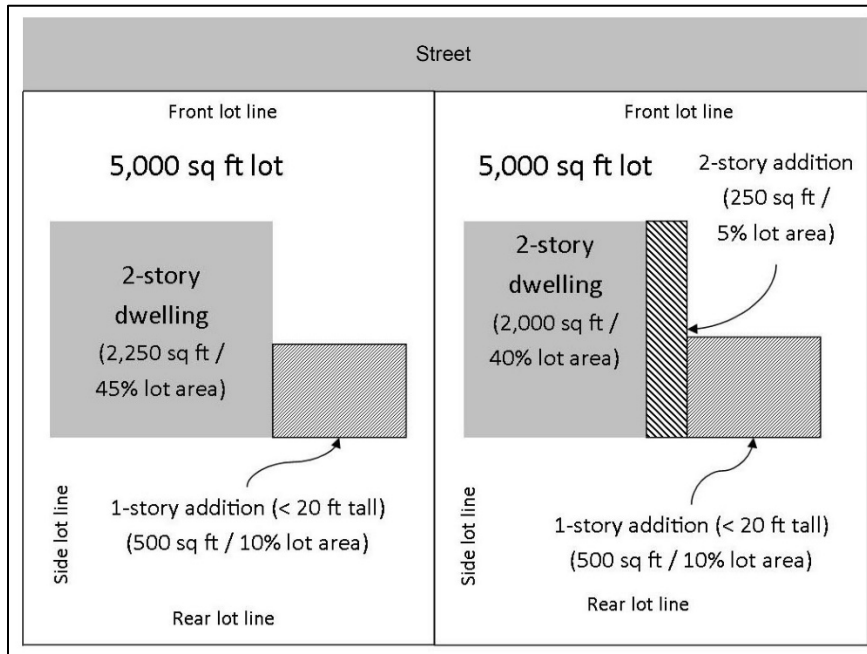


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

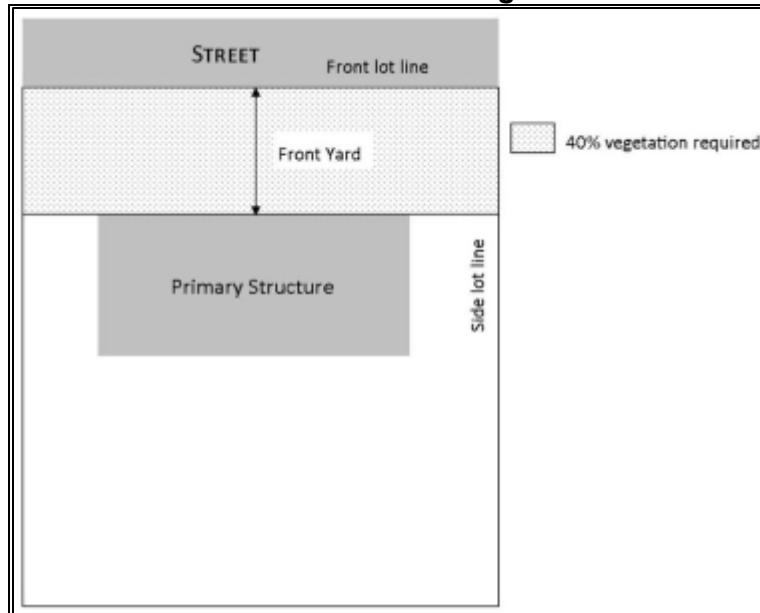
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.302.5.D  
Front Yard Minimum Vegetation**



**E. Height Exceptions**

An additional 10 ft of building height may be permitted in excess of the required maximum standard. For the additional 10 ft in building height, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

**F. Residential Densities**

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of a single detached dwelling or accessory dwelling units are exempt from the minimum and maximum density requirements. Middle housing, except for townhouses, is exempt from maximum density requirements.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multi-unit development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

<b>Table 19.302.5.F.2 Minimum Site Size for Multi-Unit Development in the R-2, R-1, and R-1-B Zones</b>		
<b>Units</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	1,500 sq ft per unit	1,400 sq ft per unit

**G. Accessory Structure Standards**

Standards specific to accessory structures are contained in Section 19.502.

**H. Building Limitations**

Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

**I. Off-Street Parking and Loading**

Off-street parking and loading is required as specified in Chapter 19.600.

**J. Public Facility Improvements**

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

**K. Additional Standards**

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.7 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.504.8 On-Site Walkways and Circulation
4. Subsection 19.504.9 Setbacks Adjacent to Transit
5. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multi-Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses
10. Subsection 19.505.8 Building Orientation to Transit
11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

**Table 19.303.3 - Commercial Mixed Use Zones—Summary of Development Standards**

6. Minimum vegetation	15%	15%	<b>Subsection 19.504.6</b> Minimum Vegetation
10. Transition measures	Yes	Yes	<b>Subsection 19.504.5</b> Transition Area Measures

**Table 19.304.4 CONTINUED - Downtown Zones—Summary of Development Standards**

<b>B. Development Standards CONTINUED</b>			
9. Transition measures	Yes, where applicable	No	<b>Subsection 19.304.5.I</b> Transition Measures <b>Subsection 19.504.5</b> Transition Area Measures

**19.304.5 Detailed Development Standards**

I. Transition Measures

1. Intent

To minimize impacts of commercial or mixed-use development on lower-density residential uses.

2. Standards

For properties north of Harrison St and located within 50 ft of a lower-density residential zone (R-10, R-7, or R-5), the transition area measures in Subsection 19.504.5 apply. In addition:

- a. Within 50 ft of the property line abutting lower-density residential zones, buildings shall provide a step back of at least 6 ft for any portion of the building above 35 ft.
- b. The height bonuses in Subsection 19.304.5.B.3 cannot be applied within 50 ft of a lower-density residential zone.

## CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

### 19.401 WILLAMETTE GREENWAY ZONE WG

#### 19.401.4 Definitions

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured at the lowest point of ground at the base of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Large trees” means trees with at least a 6-in diameter at breast height (DBH).

#### 19.401.5

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

#### 19.401.8 Vegetation Buffer Requirements

- A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.
- B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:
  - 1. Riverbank Stabilization

The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.
  - 2. Scenic View Protection (Screening)

The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.
  - 3. Retain Existing Native Vegetation and Large Trees

The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

- a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.
  - b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.
  - c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.
4. Restore Native Vegetation
- The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.
5. Enhance Vegetation Buffer Area
- The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.
6. Security that the Plan will be Carried Out
- The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.
- C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

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## 19.402 NATURAL RESOURCES NR

### 19.402.1 Intent

- E. It is not the intent of Section 19.402 to:
1. Impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed.
  2. Impose any unreasonable hardship against the continued maintenance of existing legal site conditions.
  3. Apply to activities that do not affect WQRs or HCAs.



4. Prohibit normal lawn and yard landscape planting and maintenance that does not involve removal and replacement of existing native vegetation. Normal lawn and yard planting and maintenance does not include the planting of invasive nonnative or noxious vegetation, including, but not limited to, plants listed as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List established in Subsection 19.402.2.G.

**19.402.2 Coordination with Other Regulations**

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

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

**19.402.4 Exempt Activities**

A. Outright Exemptions

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

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective

date of Ordinance #2036, which have already been approved through Water Quality Resource Review.

2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.

3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.

4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

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

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List no more than 3 such trees will be removed from 1 property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

7. Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a

nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

- a. Trails shall be confined to a single ownership or within a public trail easement.
- b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.
- c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.
- d. Trails shall be located at least 15 ft from the top of bank of all water bodies.
- e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.
- f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

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

**B. Limited Exemptions Within HCAs**

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

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

**19.402.5 Prohibited Activities**

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

- A. New structures, development, or landscaping activity other than those allowed by Section 19.402.

- B. Uncontained areas of hazardous materials, as defined by DEQ.
- C. Planting any vegetation listed as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List.

**19.402.6 Activities Requiring Type I Review**

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

A. Limited Tree Removal

1. The Planning Manager ~~Director~~ may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

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

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

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

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

3. The Planning Manager shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

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

**19.402.7 Activities Requiring Type II Review**

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

D. Other Uses and Activities with Minimal Impacts to WQRs

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

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

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

**19.402.8 Activities Requiring Type III Review**

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

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

**19.402.9 Construction Management Plans**

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

B. Construction management plans shall provide the following information:

- 1. Description of work to be done.

2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.
3. Location of site access and egress that construction equipment will use.
4. Equipment and material staging and stockpile areas.
5. Erosion and sediment control measures.
6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F.

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

#### **19.402.11 Development Standards**

##### **A. Protection of Natural Resources During Site Development**

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

##### **B. General Standards for Required Mitigation**

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

##### **2. Required Plants**

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

##### **4. Plant Spacing**

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Planting Standards in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the requirements in Table 16.32.042.C. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

**19.402.11.D. Nondiscretionary Standards for HCAs**

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

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

a. Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

**Figure 19.402.11.D.1.a  
Method for Calculating Allowable Disturbance within an HCA  
for Single Detached Dwellings and Middle Housing Residential Uses**

**X** = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

**Y** = The area of the lot or parcel outside the total resource area (WQR and HCA).

**Z** = The net amount of disturbance area allowed within the HCA ( $Z = X - Y$ )

**If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.**

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

**Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.**

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

**Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.**

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

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**19.402.12 General Discretionary Review**

B. Approval Criteria

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

c. Mitigate

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

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

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.



b. Approval of the request shall be based on consideration of the following:

- (1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.
- (2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.
- (3) Whether the applicable requirements in Chapter 16.32 will also be met.

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## **19.403 HISTORIC PRESERVATION OVERLAY ZONE HP**

### **19.403.8 Uses Permitted**

#### **A. Primary Uses**

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

#### **B. Conditional Uses**

Except within moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

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## **CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

### **19.501 GENERAL EXCEPTIONS**

#### **19.501.1 Lot Size Exceptions**

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, with the following limitations:

- A. The development conforms with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.
- B. Single-family detached dwellings require a minimum lot size of 5,000 sq ft. if the lot was created on or after May 19, 2022, the effective date of Ordinance #2216.

### 19.501.2 Yard Exceptions

C. A covered porch on a single detached dwelling or middle housing unit may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
  2. The surface of the porch does not exceed 18 in high above the average grade.
  3. The porch is at least 5 ft from the front lot line.
- 

### 19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
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### 19.504.4 Distance from Property Line

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### 19.504.5 Transition Area Measures

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

- A. All yards that abut, or are adjacent across a right-of-way from the R-MD zone shall be at least as wide as the required front yard width of the adjacent R-MD zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.
  - B. All yards that abut, or are adjacent across a right-of-way from the R-MD zone, shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen R-MD residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.
- 

### 19.504.6 Minimum Vegetation

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### 19.504.7 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

3. Variances

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911.

4. Frontage, Accessway, and Driveway Design

a. Flag lots shall have frontage or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

b. Abutting flag lots shall have a combined frontage and accessway of ~~35~~ 25 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

c. Driveway Design and Emergency Vehicle Access

(1) Driveways must be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) Driveways must be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

(3) A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

(4) The flag lot driveway must be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) Design standards for shared driveways serving 3 or more lots shall be specified by the City Engineer after consultation with the Fire Marshal.

(6) Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures on back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways must be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways must be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway must be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots must be specified by the City Engineer after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

D. Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing must conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping must be installed within 6 months thereafter or the bond will be foreclosed. The property owner must maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.
2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.7.E. and 19.504.7.F.
  - a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
  - b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting must be used to provide screening along the accessway in areas where fencing is not permitted.
  - c. All required screening and planting must be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.7.E  
Flag Lot Screening

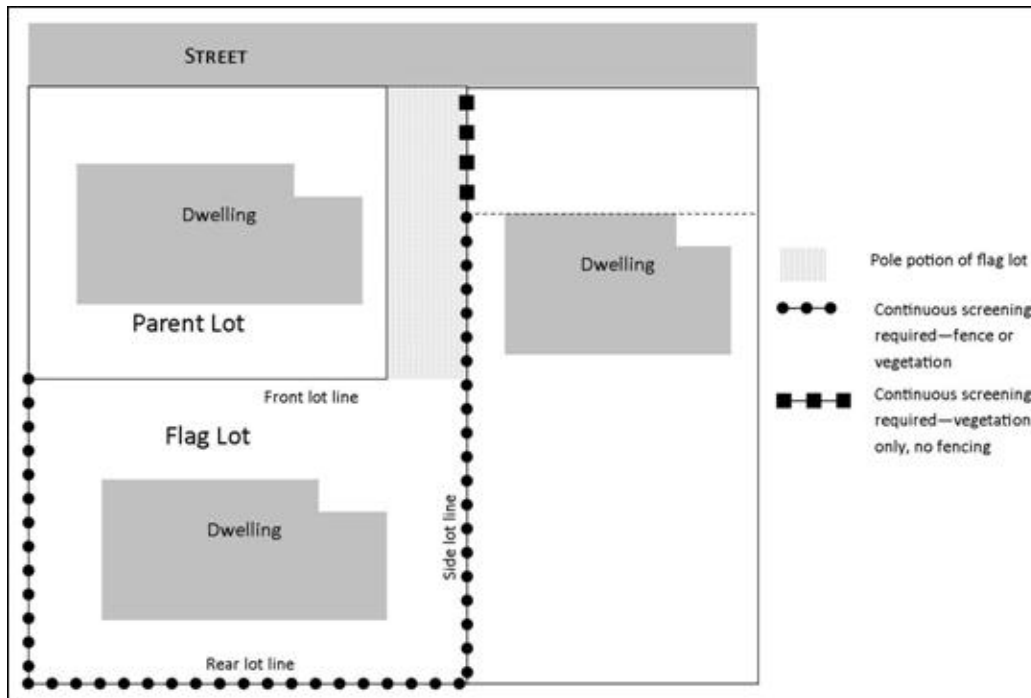
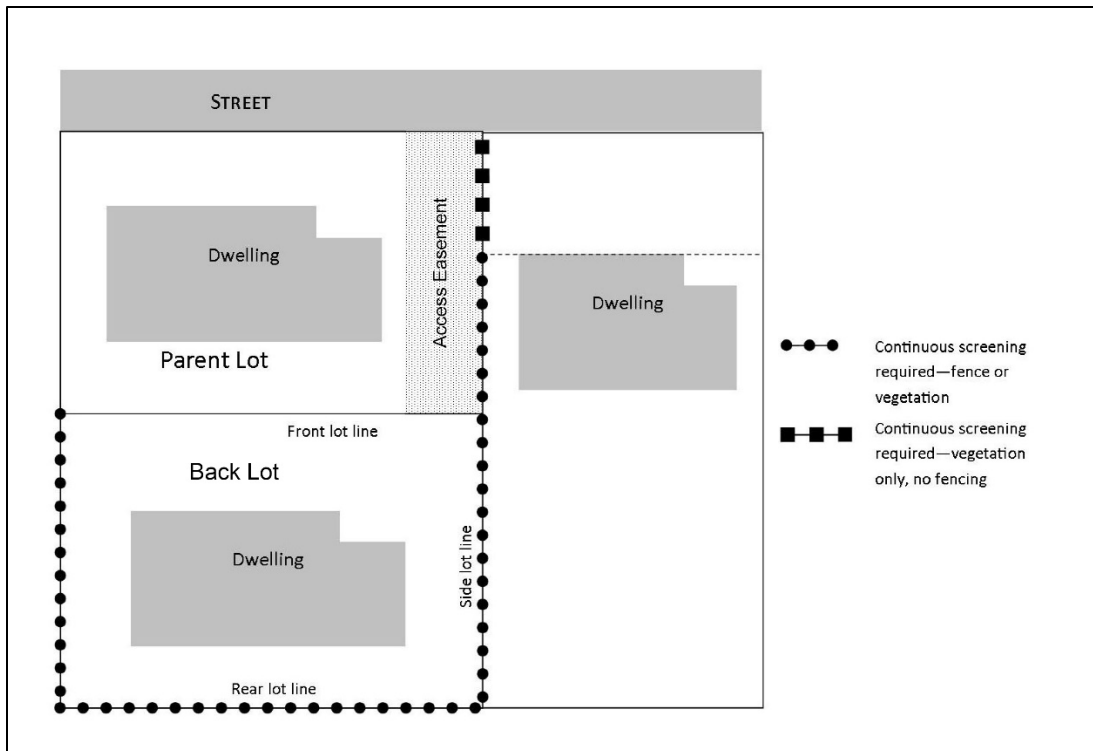


Figure 19.504.7.F  
Back Lot Screening



E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan must be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan must be drawn to scale and must accompany development permit applications. The plan must show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

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**19.504.8 On-Site Walkways and Circulation**

A. Requirement

All development subject to Chapter 19.700 (excluding single detached and multi-unit residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site.

Redevelopment projects that involve remodeling or changes in use must be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

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**19.504.9 Setbacks Adjacent to Transit**

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**19.504.10 Preliminary Circulation Plan**

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**19.505.1 Single Detached Dwellings and Middle Housing Residential Development**

A. Purpose

The design standards for one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Dwellings must address the following design objectives:

- a. Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- b. Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
- c. Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- d. Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design is intended to meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.



**B. Applicability**

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

**Table 19.505.1.B.1 Applicability by Housing Type**

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	
Privacy and screening	[1]	[1]	[1]
Recycling areas	[5]	[5]	[5]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
  2. Applicable to dwellings facing the street
  3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
  4. Applicable to clustered parking where parking spaces exceed 4
  5. Applicable only for additions or new buildings
  6. Applicable only for new buildings
- 
2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
    - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
    - b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.

- c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
    - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
    - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
    - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
  - d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
  - e. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
- a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
  - b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

### C. Dwelling Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

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

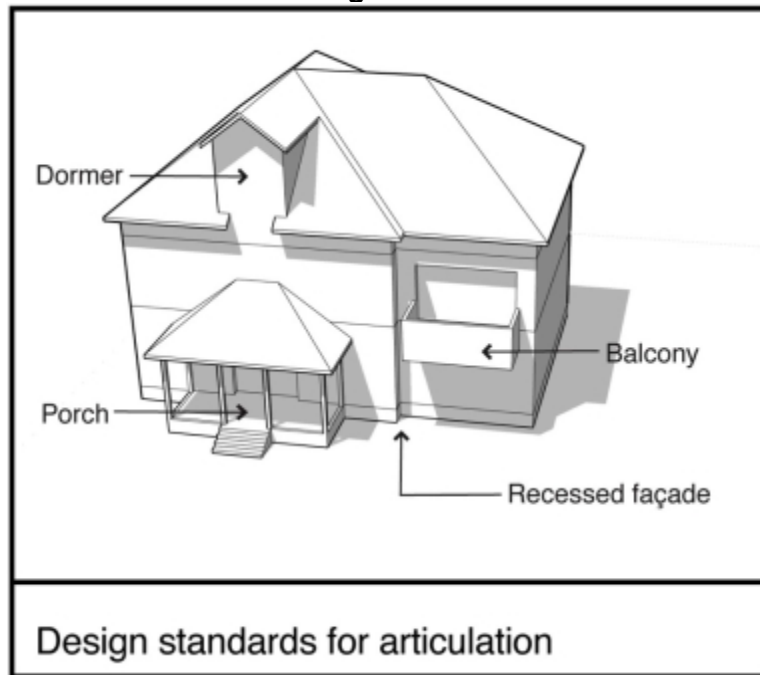
#### 1. Articulation

All buildings must incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements must be provided along the street-facing façades.

- (1) A porch at least 5 ft deep.
  - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.
  - (3) A bay window that extends at least 2 ft wide.
  - (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
  - (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above must be provided for every 30 ft of street frontage. Elements must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.
  - c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1  
Building Articulation**



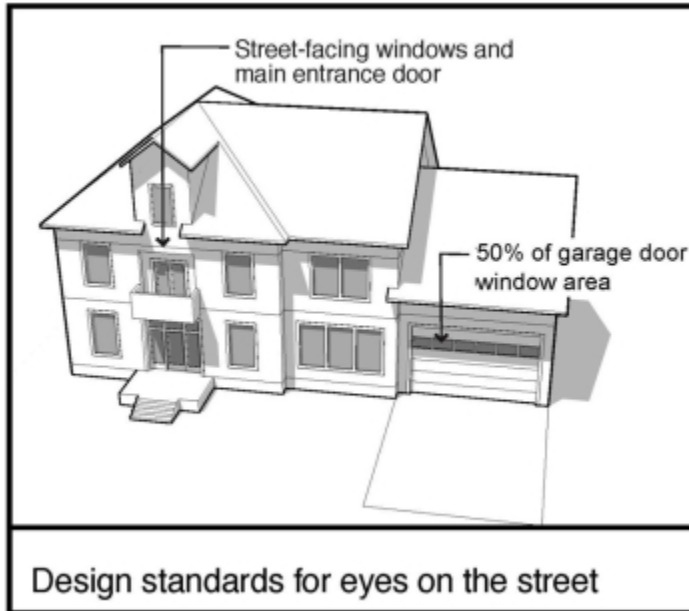
2. Eyes on the Street

At least 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.

- d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.
- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

**Figure 19.505.1.C.2  
Eyes on the Street**

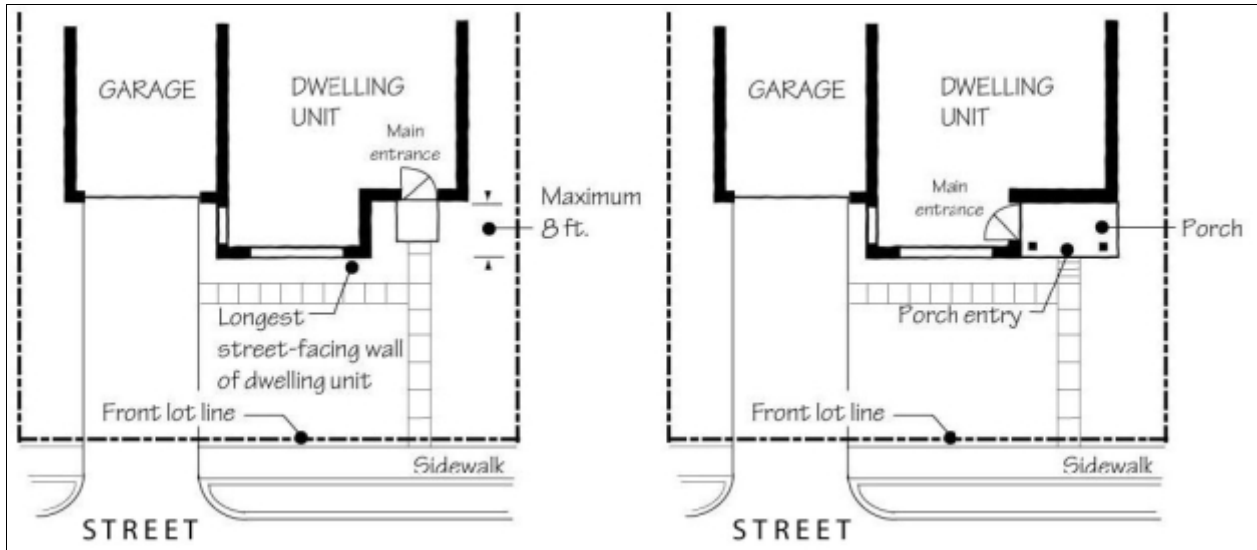


3. Main Entrance

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
  - (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
  - (2) Have at least 1 porch entry facing the street.
  - (3) Have a roof that is no more than 12 ft above the floor of the porch.
  - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3  
Main Entrances**



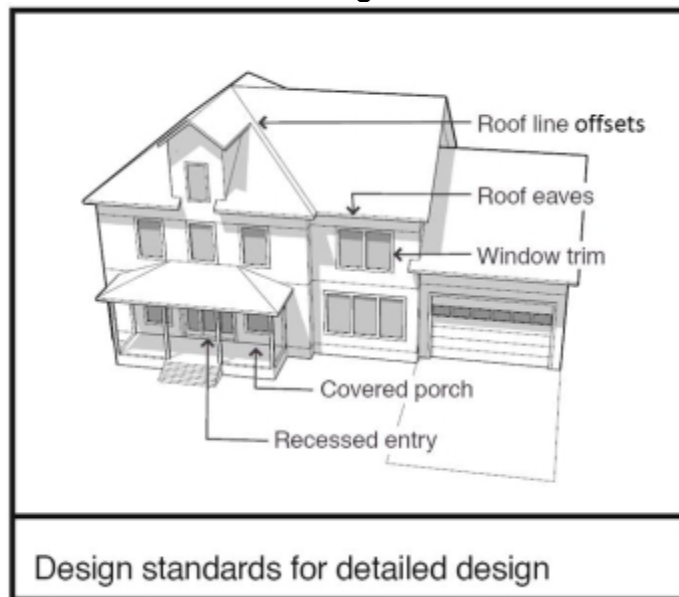
4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft wide.
- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade.
- q. The following design element counts as two (2) elements. Dwelling must be built to meet universal access as follows:
  - a) Dwelling must have a bedroom on the ground floor.
  - b) A ramp complying with R311.8 Oregon Residential Specialty Code (ORSC) must be provided to the main entrance of the dwelling.
  - c) Doors must have a minimum clear width of 32 inches.
  - d) Horizontal and vertical grab bars must be provided in one bathroom on the main floor at the toilet, bath and shower. (See ANSI A117-1 section 609 for size and location requirements.)

**Figure 19.505.1.C.4  
Detailed Design Elements**



**D. Site Design Standards**

Minimum separation between detached units is 6 feet.

**1. Common Open Space**

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

- a. The common courtyard must be a single, contiguous piece.

- b. Cottages must abut the common courtyard on at least two sides of the courtyard.
- c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).
- d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
- e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.
- f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks between cottages, and driveways do not qualify as part of a common courtyard.

## 2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

- a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.
- b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.
- c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.
- d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

## 3. Off-Street Parking

- a. Off-street parking may be arranged in clusters, subject to the following standards:
  - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
  - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
  - iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
  - iv. Clustered parking areas may be covered.
- 1. Off-street parking spaces and vehicle maneuvering areas must not be located:

- i. Within of 20 feet from any street property line, except alley property lines;
    - ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
    - iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
  2. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
  3. Garages and carports (whether shared or individual) must not abut common courtyards.
  4. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.
  5. Individual detached garages must not exceed 400 square feet in floor area.
  6. Garage doors for attached and detached individual garages must not exceed 20 feet in width.
4. Privacy and screening
1. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.
  2. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.
  3. All fences on the interior of the development must be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

- a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.
- b. Windows that are operable by building occupants.
- c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.



### 19.505.3 Multi-unit Housing

#### A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the city encourages for multi-unit development:

##### 1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

##### 2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukee.

##### 3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

##### 4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

#### B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit developments and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3.

1. All new multi-unit or congregate housing development is subject to the design elements in this subsection.

2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.

- a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
- b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
- c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.

- d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.
  - e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
  - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
  - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
  - h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.
  - i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.
  - j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.
3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.
4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

- 1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.
- 2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.
- 3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D Multi-unit Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	<p>Landscaping of multi-unit developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible.</p> <p>Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management</p>	<p>a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukee Native Plant List.</p> <p>b. Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</p> <p>c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</p> <p>d. For projects with more than 20 units:</p> <p>(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system.</p> <p>(2) To reduce the “heat island” effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.</p>
10. Recycling Areas	<p>Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.</p>	<p>A recycling area or recycling areas within a multi-unit development shall meet the following standards.</p> <p>a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.</p> <p>b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.</p> <p>c. Recycling containers must be covered by either a roof or weatherproof lids.</p> <p>d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof.</p> <p>e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00</p>

		<p>a.m. and 6:00 p.m.</p> <p>f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.</p> <p>g. Fire Department approval will be required for the recycling collection area.</p> <p>h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.</p>
<p>11. Sustainability</p>	<p>Multi-unit development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.</p>	<p>In order to promote more sustainable development, multi-unit developments shall incorporate the following elements.</p> <p>a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.</p> <p>b. Windows that are operable by building occupants.</p> <p>c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.</p> <p>d. Projects with more than 20 units shall incorporate at least 2 of the following elements:</p> <p>(1) A vegetated ecoroof for a minimum of 30% of the total roof surface.</p> <p>(2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12.</p> <p>(3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface.</p> <p>(4) An integrated solar panel system for a minimum of 30% of the total roof or building surface.</p> <p>(5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof.</p> <p>(6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.</p>

<p>12. Privacy Considerations</p>	<p>Multi-unit development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.</p>	<p>In order to protect the privacy of adjacent properties, multi-unit developments shall incorporate the following elements:</p> <ol style="list-style-type: none"> <li>a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties.</li> <li>b. Where windows on a multi-unit development are within 30 ft of windows on adjacent residences, windows on the multi-unit development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit family unit.</li> </ol>
<p>13. Safety</p>	<p>Multi-unit development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design:</p> <ul style="list-style-type: none"> <li>• Natural Surveillance: Areas where people and their activities can be readily observed.</li> <li>• Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting.</li> <li>• Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.</li> </ul>	<ol style="list-style-type: none"> <li>a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill.</li> <li>b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street.</li> <li>c. Uses on the site shall be illuminated as follows:             <ol style="list-style-type: none"> <li>(1) Parking and loading areas: 0.5 footcandle minimum.</li> <li>(2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles.</li> <li>(3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles.</li> </ol> </li> <li>d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way.</li> <li>e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.</li> </ol>

**19.505.4 Cottage Cluster Housing**

**A. Purpose**

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

**B. Applicability**

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

**C. Development Standards**

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

<b>Table 19.505.4.C.1 Cottage Cluster Development Standards</b>		
Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
<b>A. Home Types</b>		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 12 maximum dwelling units
<b>B. Home Size</b>		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	

<b>C. Height</b>		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot line	15 ft	
3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
<b>D. Setbacks, Separations, and Encroachments</b>		
1. Separation between structures (minimum)	6 ft	
2. Side and rear site setbacks	5 ft	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	20 ft	
5. Separation between clusters (minimum)	10 ft	
<b>E. Impervious Area, Vegetated Area</b>		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
<b>F. Community and Common Space</b>		
1. Community building footprint (maximum) <sup>1</sup>	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
<b>G. Parking (see also 19.505.1.D.3)</b>		
1. Automobile parking spaces per primary home (minimum)	0.5	0.5

2. Dry, secure bicycle parking spaces per home (minimum)	1.5
3. Guest bicycle parking spaces perhome (minimum)	0.5

<sup>1</sup> Use of an existing home, per Section 19.505.4.E.4, as the community building is exempt from this standard.

D. Cottage Standards

1. Size

The total footprint of a cottage unit must not exceed 900 sq ft, and the maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures must not exceed 25 feet or two (2) stories, whichever is greater.

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

- (1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
- (2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
  - (a) Have a main entrance facing the common courtyard;
  - (b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
  - (c) Be connected to the common courtyard by a pedestrian path.
- (3) Cottages within 20 feet of a street property line may have their entrances facing the street.
- (4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.



E. Site Design and Other Standards

1. Number of Cottages Allowed

A cottage cluster must include a minimum of 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

2. Off-Street Parking

- a. There must be at least 0.5 off-street parking spaces per dwelling unit per Table 19.505.4.B.1. The parking space must be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.
- b. A cottage cluster parking area must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
- c. If there are more than 8 units in a cottage cluster, there must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
- d. Parking spaces may be located within a garage, or a carport. Garages or carports in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage or carport shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.
- e. Parking spaces that are not in a garage or carport must be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats is not allowed as a screen.

3. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

4. Conversions

A preexisting single detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

- a. The preexisting single detached dwelling may be nonconforming with respect to the requirements of the applicable code;
- b. The preexisting single detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;
- c. The preexisting single detached dwelling may count as a unit in the Cottage Cluster or as the community building;

d. The floor area of the preexisting single detached dwelling does not count towards any Cottage Cluster average or Cottage Cluster project average or total unit or community building size limits.

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### 19.505.5 Townhouses

#### A. Purpose

Townhouses provide a type of housing that includes the benefits of a single detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. Townhouses are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, and the general design requirements are very similar to the design requirements for single- detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses.

#### B. Applicability

1. The standards of Subsection 19.505.5 apply to single dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse development may take place on existing lots that meet the lot standards for townhouse lots or on land that has been divided to create new townhouse lots.
2. Development standards for townhouses are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either single detached dwellings, middle housing, or multi-unit housing.
5. Creation of new lots or parcels as part of a townhouse development is subject to the applicable land division process in MMC Title 17.

#### C. Townhouse Design Standards

1. Townhouses are subject to the design standards for single detached dwelling housing in Subsection 19.505.1.
2. Townhouses must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
  - a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft from the front lot line.

- b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it must be at least 4 ft from the front lot line.

D. Number of Townhouses Allowed

In the High Density Zones, no more than 4 consecutive townhouses that share a common wall(s) are allowed. A set of 4 townhouses with common walls is allowed to be adjacent to a separate set of 4 townhouses with common walls.

In the R-MD zone, the maximum number of consecutive attached townhouses is 4.

E. Townhouse Lot Standards

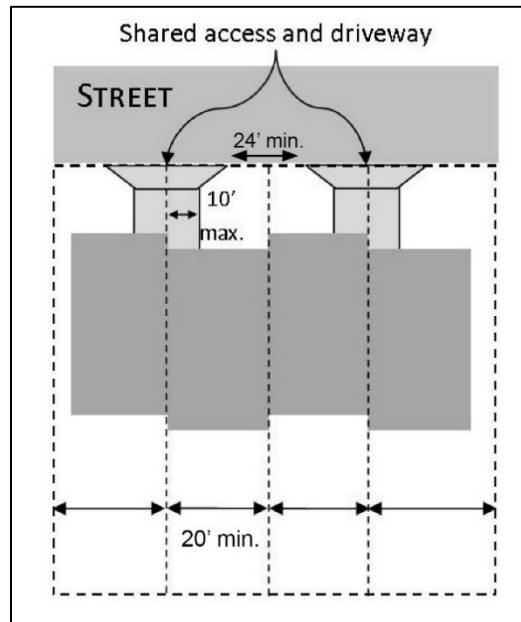
- 1. Townhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

- 2. Townhouse development must meet the minimum lot size of 1,500 sq ft.

F. Driveway Access and Parking

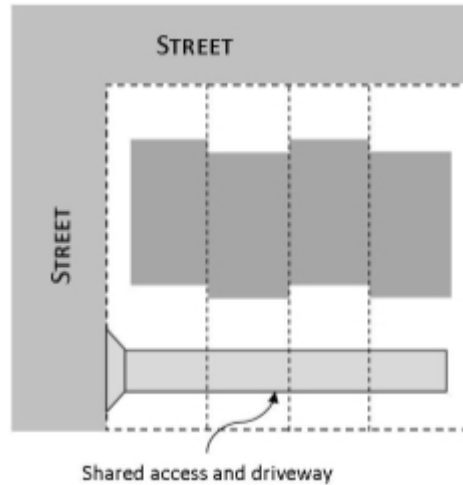
- 1. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.
  - b. Development of 2 or 3 townhouses has at least 1 shared access between the lots, and development of 4 townhouses-has 2 shared accesses.
  - c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
  - d. The garage width does not exceed 12 ft, as measured from the inside of the garage door frame.
  - e. Shared accesses are spaced a minimum of 24 feet apart.

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



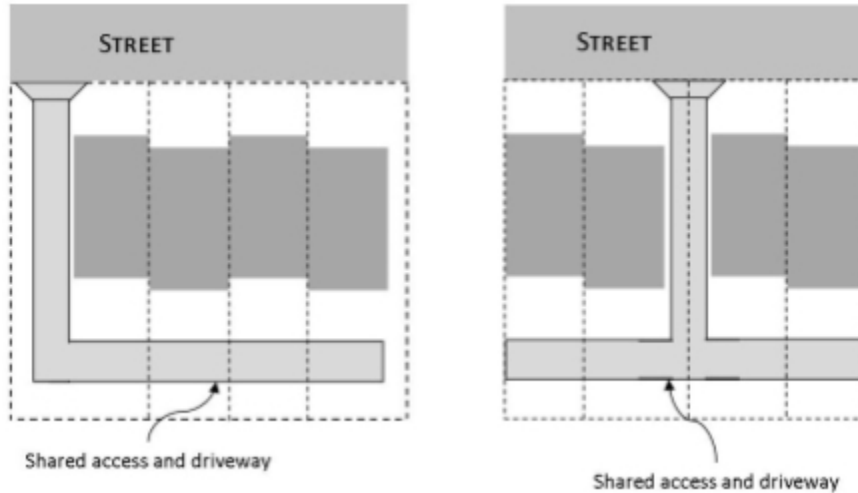
2. The following rules apply to driveways and parking areas for townhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
  - a. Off-street parking areas must be accessed on the back façade or located in the rear yard.
  - b. Townhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The City Engineer may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

**Figure 19.505.5.F.2.b  
Townhouse Development with Corner Lot Access**



- c. Townhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse. See Figure 19.505.5.F.2.c.

**Figure 19.505.5.F.2.c  
Townhouse Rowhouse Development with Consolidated Access**



- d. A townhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

**G. Accessory Structure Setbacks**

On townhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

## **19.506 Manufactured Dwelling Siting and Design Standards**

### **19.506.4 Siting Standards**

Manufactured homes are allowed by right in any zone that allows single detached dwellings by right. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

- A. The unit must be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.
- B. Bare metal is not allowed as a roofing material and is not allowed on more than 25% of any façade of the unit.

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## **CHAPTER 19.600 OFF-STREET PARKING AND LOADING**

### **19.601 PURPOSE**

Chapter 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; support efficient streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

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### **19.604.2 Parking Area Location**

Accessory parking shall be located in one or more of the following areas:

- A. On the same site as the primary use for which the parking is accessory.
  - B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.
  - C. Where parking is approved in conformance with Subsection 19.605.2
  - D. Where shared parking is approved in conformance with Subsection 19.605.4.
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**19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

**Table 19.605.1 Off-street Parking Requirements**

<b>Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements</b>		
<b>Use</b>	<b>Minimum Required</b>	<b>Maximum Allowed</b>
<b>A. Residential Uses</b>		
1. Single detached dwellings, including manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings	1 space per dwelling unit.	2 spaces per dwelling unit.
3. Middle Housing <sup>1</sup> a. Duplexes b. Triplexes c. Quadplexes d. Town Houses <sup>2</sup> e. Cottage Clusters	0 0 0 0 0.5 spaces per dwelling unit	1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit
4. Residential homes and similar facilities allowed by right in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
5. Accessory dwelling units (ADU)	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

<sup>1</sup> For middle housing developments located on streets classified as Arterials or Collectors in the Transportation System Plan, 0.5 off-street parking spaces per dwelling unit are required.

<sup>2</sup> For townhouse developments of 8 or more townhouses, 0.5 off-street parking spaces per dwelling unit are required. Successive or phased townhouse developments to avoid this requirement are not permitted.

**19.605.2 Quantity Modifications and Required Parking Determinations**

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with parking demands that are either lower than the minimum required or higher than the maximum allowed.

**A. Applicability**

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

**B. Application**

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
  - a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
  - b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
  - c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
  - d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within one block of the middle housing development.
  - e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

**C. Approval Criteria**

The Planning Manager must consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager, based on the applicant's materials and other data the Planning Manager deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.



1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.
2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
  - a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
  - b. The reduction of off-street parking will not adversely affect available on-street parking.
  - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
  - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
  - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
  - c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

### **19.605.3 Exemptions and By-Right Reductions to Quantity Requirements**

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

#### **A. Exemptions to Maximum Quantity Allowance**

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

- a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- b. Parking for multi-unit developments and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- c. Parking for all uses except single detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.
- d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager shall have the authority to determine when multiple uses exist on a site.

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.

- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for non-single detached residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing

Parking minimums in Table 19.605.1 may be reduced for the following:

- a. For any multiunit dwelling unit or middle housing dwelling unit that that meets the exemption standards as defined in MMC 3.60.050, the minimum parking requirement for that unit may be reduced by 25 percent.

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**19.606 PARKING AREA DESIGN AND LANDSCAPING**

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for middle housing, single-detached dwellings, and residential homes.

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## **19.606.2 Landscaping**

### **A. Purpose**

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

### **B. General Provisions**

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for middle housing and single, single detached dwellings. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.
5. Implementation of this section is in addition to, and must be coordinated with, Chapter 16.32 Tree Code.

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## **19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS**

### **19.607.1 Residential Driveways and Vehicle Parking Areas**

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

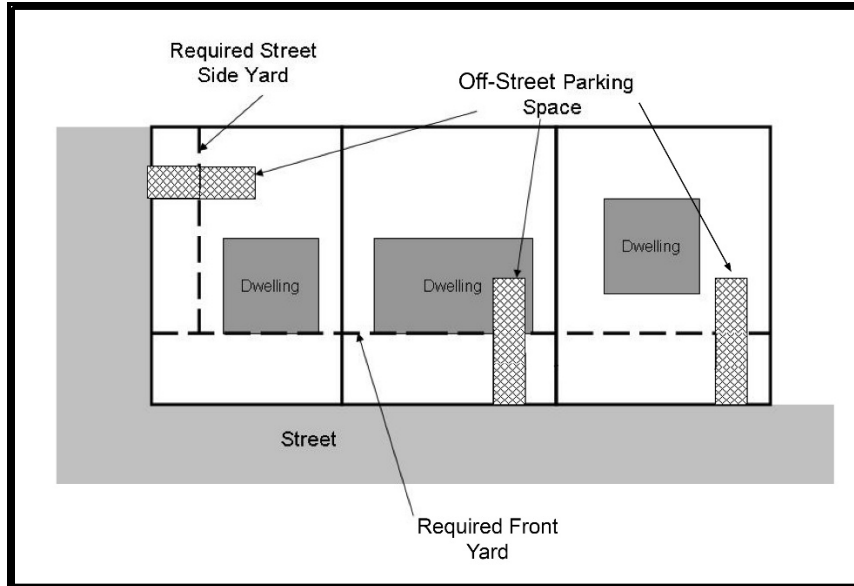
#### **A. Dimensions**

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

#### **B. Location**

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
  - a. Within an adjacent public street right-of-way or access easement.
  - b. Over a public sidewalk.

**Figure 19.607.1.B.2  
Required Parking Space Location**



**C. Parking Surface Materials**

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
  - a. Required parking space(s).
  - b. All vehicle parking spaces and maneuvering areas located within a required front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
  - c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

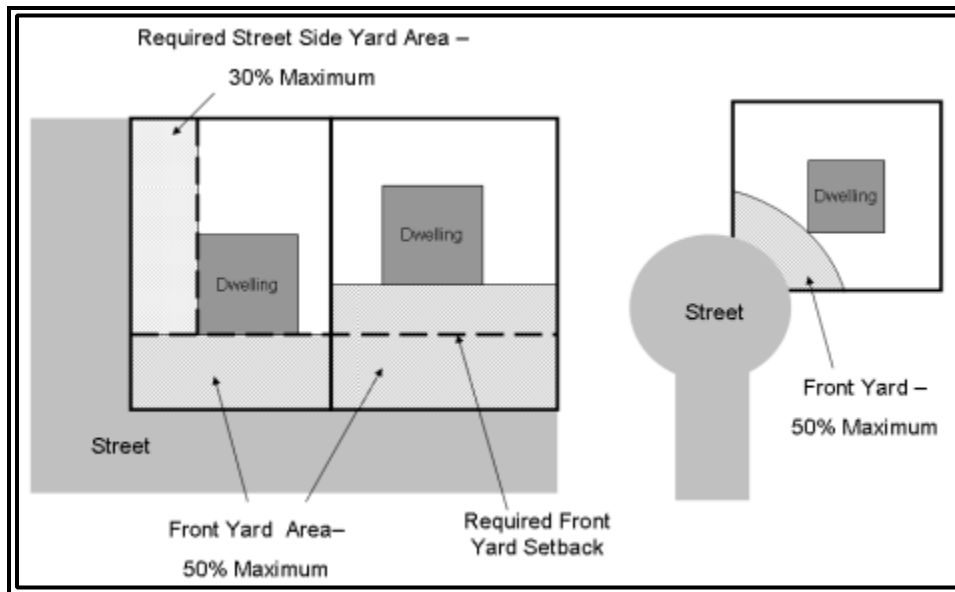
**D. Parking Area Limitations**

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses, which are subject to the standards in Subsection 19.505.5.

- a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
- b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
- c. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

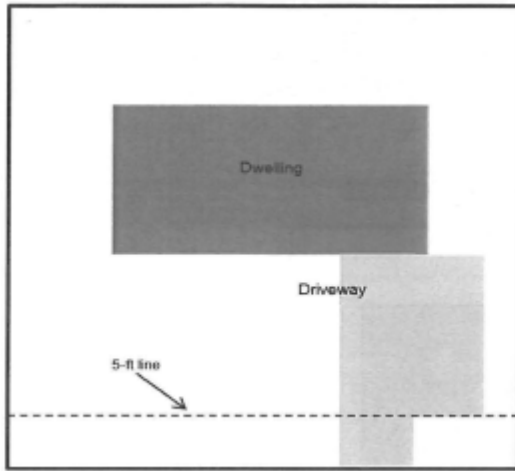
**Figure 19.607.1.D**  
**Front and Street Side Yard Parking Area Limits**



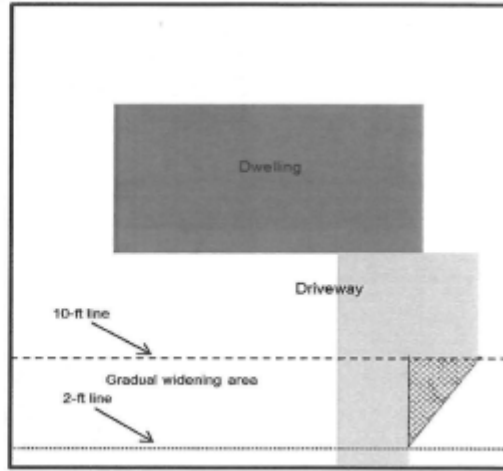
**E. Additional Driveway Standards**

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

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



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



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

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## 19.609 BICYCLE PARKING

### 19.609.1 Applicability

Bicycle parking shall be provided for all new commercial, industrial, community service use, middle housing, and multi-unit residential development. Temporary and seasonal uses (e.g., fireworks and Christmas tree stands) and storage units are exempt from Section 19.609. Bicycle parking shall be provided in the Downtown Mixed Use Zone and at transit centers.

### 19.609.2 Quantity of Spaces

- A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.
  1. Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.
  2. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.
  3. Multi-unit residential and middle housing development with 4 or more units must provide 1 space per unit. Parking for cottage cluster developments is specified in Table 19.505.4.C.1.
- B. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
  1. When 10% or more of vehicle parking is covered.
  2. If more than 10 bicycle parking spaces are required.
  3. Multifamily residential development with 4 or more units.

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## CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

### 19.702 APPLICABILITY

#### 19.702.1 General

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

- A. Partitions.
- B. Subdivisions.
- C. Replats.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-detached residential development and development in downtown zones.
  - 1. A new dwelling unit.
  - 2. Any increase in gross floor area.
  - 3. Any projected increase in vehicle trips, as determined by the City Engineer.

#### 19.702.2 Single-Detached and Duplex Residential Expansions

Chapter 19.700 applies to single detached and duplex residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single detached and duplex residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.
- B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 800 sq ft, none of Chapter 19.700 applies.
- D. Single detached and duplex residential expansions shall provide adequate public utilities as determined by the City Engineer pursuant to Section 19.709.
- E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.



#### **19.702.4 Exemptions**

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

- A. Modifications to existing single-detached and duplex residential structures that do not result in an increase in gross floor area.

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### **19.703 REVIEW PROCESS**

#### **19.703.4 Determinations**

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the City Engineer will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

- A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the City Engineer will also determine whether a Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there could be impacts to the transportation system if the proposed single detached residential expansion/conversion is greater than 800 sq ft.

- B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

- C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the City Engineer will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

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

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**19.704 TRANSPORTATION IMPACT EVALUATION**

**19.704.4 Mitigation**

A. Transportation impacts must be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The City Engineer or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

(Ord. 2025 § 2, 2011)

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**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

**19.708.2 Street Design Standards**

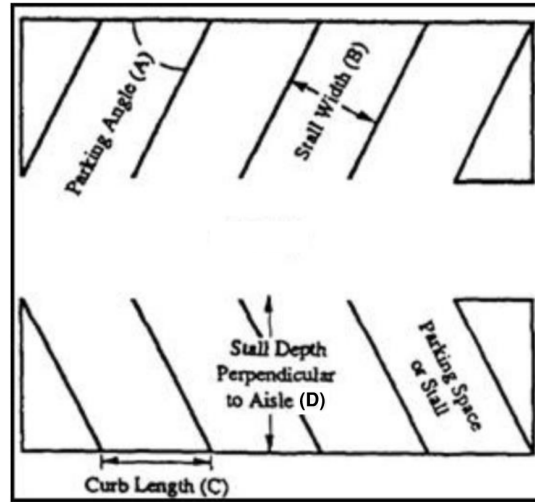
A. Additional Street Design Standards

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

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.
2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the City Engineer, and where such a reduction would not result in a safety hazard.
5. Where a curb is required by the City Engineer, it must be designed in accordance with the Public Works Standards.
6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.
7. On-street parking in industrial zones must have a minimum width of 8 ft.
8. On-street parking in commercial zones must have a minimum width of 7 ft.
9. On-street parking in residential zones must have a minimum width of 6 ft.
10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

<b>TABLE 19.708.3</b>			
<b>Full and Mid-Size Vehicles</b>			
<b>Angle (A)</b>	<b>Width (B)</b>	<b>Curb Length (C)</b>	<b>Depth (D)</b>
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpendicular)	8	8	18
<b>Compact Size Vehicles</b>			
<b>Angle (A)</b>	<b>Width (B)</b>	<b>Curb Length (C)</b>	<b>Depth (D)</b>
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpendicular)	7	7	16

Figure 19.708.1  
Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.
12. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.
13. Landscape strip widths shall be measured from back of curb to front of sidewalk.
14. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukee Street Tree List and Street Tree Planting Guidelines.
15. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.
16. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

**CHAPTER 19.900 LAND USE APPLICATIONS**

**19.901 INTRODUCTION**

<b>Table 19.901 CONTINUED Land Use Applications</b>		
<b>Application Type</b>	<b>Municipal Code Location</b>	<b>Review Types</b>
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Middle Housing Land Division	Title 17	II
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

## CHAPTER 19.900 LAND USE APPLICATIONS

### 19.906 DEVELOPMENT REVIEW

#### 19.906.2 Applicability

##### A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C.

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

##### C. Exemptions

The following development proposals are not required to submit a development review application and are exempt from the requirements of this section. Proposals that are exempt from this section must still comply with all applicable development and design standards. For proposals that require a development permit, compliance with standards will be reviewed during the permit review process.

1. New or expanded single detached dwelling or middle housing detached or attached residential dwellings.
2. Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.
5. Temporary events as allowed in Chapter 11.04.

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### 19.910 RESIDENTIAL DWELLINGS

#### 19.910.1 Accessory Dwelling Units

##### A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock.

##### B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be allowed by right. Accessory dwelling units are subject to the standards of Table 19.910.1.E.4.B.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided each of the following standards are met.
  - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
  - b. The primary use of property for the proposed accessory dwelling unit is a single detached dwelling.
  - c. Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
  - d. The development standards of Subsection 19.910.1.E are met.
  - e. The proposal complies with all other applicable standards of this title.

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property.

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

- (1) The façade of the structure that faces the front lot line shall have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

- (2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.
- (3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.
  - (a) The exterior finish on the addition must match the exterior finish material of the primary dwelling unit in type, size, and placement.
  - (b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.
  - (c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
  - (d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or ~~75%~~ of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with an ADU require Type II approval of a variance per Section 19.911.



<b>Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units</b>	
<b>Standard</b>	<b>ADU</b>
<b>Maximum Structure Footprint</b>	800 sq ft
<b>Maximum Structure Height</b>	25', limited to 2 stories
<b>Required Side and Rear Yard</b>	5 ft
<b>Required Front Yard</b>	Base zone requirement for front yard.
<b>Required Street Side Yard</b>	Base zone requirement for street side yard

c. Design Standards

- (1) A detached accessory structure must include at least two of the design details listed below. An architectural feature may be used to comply with more than one standard.
  - (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
  - (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
  - (c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
  - (d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
  - (e) Window trim around all windows at least 3 in wide and 5/8 in deep.
- (2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c (1) through a Type II variance review, pursuant to Subsection 19.911.3.B.
- (3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

d. Privacy Standards

- (1) Privacy standards are required for detached accessory dwelling units- Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.
  - (a) The wall is within 20 ft of a side or rear lot line.
  - (b) The wall is at an angle of 45 degrees or less to the lot line.

- (c) The wall faces an adjacent residential property.
- (2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.
  - (a) All windows on a wall must be placed in the upper third of the distance between a floor and ceiling.
  - (b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs must be no less than 5 ft above grade at time of planting, and they must reach a 6-ft height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established on or after May 19, 2022, the effective date of Ordinance #2216, is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established prior to May 19, 2022, the effective date of Ordinance #2216 is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c., the maximum structure footprint, and minimum setbacks. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. The conversion must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

- 1. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
- 2. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

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**19.910.3 Manufactured Dwelling Parks**

A. Purpose

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

B. Application

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

**19.911 VARIANCES**

**19.911.3 Review Process**

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
  2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
  3. A variance of up to 10% to lot coverage or minimum vegetation standards.
  4. A variance of up to 10% to lot width or depth standards.
  5. A variance of up to 10% to a lot frontage standard.
  6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
  7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.
  8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.
  9. A variance of up to a 25% increase in the size of an Accessory Dwelling Unit as identified in Subsection 19.910.1.E.4.
  10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.
  11. For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:
    - a. Front yard: 10 ft
    - b. Rear yard: 10 ft
    - c. Side yard: 5 ft
    - d. Street side yard: 10 ft
-

**19.911.4 Approval Criteria**

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
  2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.
  3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.
  4. Impacts from the proposed variance will be mitigated to the extent practicable.
  5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.
- 

**19.911.4 Approval Criteria**

B. Type III Variances

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

1. Discretionary Relief Criteria
  - a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
  - b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
    - (1) The proposed variance avoids or minimizes impacts to surrounding properties.
    - (2) The proposed variance has desirable public benefits.
    - (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
    - (4) The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

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

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### **19.911.8 Tree Preservation and Tree Canopy Standards Variance**

#### **A. Intent**

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

#### **B. Applicability**

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

#### **C. Review Process**

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

#### **D. Approval Criteria**

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

1. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
2. Use of techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
3. Use of techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
4. Use of techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

## CHAPTER 19.1000 REVIEW PROCEDURES

### 19.1001 GENERAL PROVISIONS

#### 19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

##### A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition, there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

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### 19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

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## CHAPTER 19.1200 SOLAR ACCESS PROTECTION

### 19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

#### 19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

#### 19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone, except to the extent the Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

#### 19.1203.4 Exemptions from Design Standard

A development is exempt from Subsection 19.1203.3 if the Director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from Subsection 19.1203.3 to the extent the Director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the

site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Subsection 19.1203.3.

**B. Off-Site Shade**

The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to, structures, topography, or nonexempt vegetation, which will remain after development occurs on the site from which the shade is originating.

1. Shade from an existing or approved off-site dwelling in the R-MD zone, and from topographic features, is assumed to remain after development of the site.
2. Shade from an off-site structure in a zone other than the R-MD zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

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## **Title 17 Land Division**

### **CHAPTER 17.28 DESIGN STANDARDS**

#### **17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS**

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

#### **17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS**

**A. Consistency with the Zoning Ordinance**

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

**B. More than 2 Flag Lots or Back Lots Prohibited**

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

#### **17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS LIMITATIONS**

Flag lots and back lots are permitted in new subdivisions.

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## Title 12 Streets, Sidewalks, and Public Places

### CHAPTER 12.16 ACCESS MANAGEMENT

#### 12.16.020 APPLICABILITY

- A. New accessways are subject to all access management requirements of Chapter 12.16.
- B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.
- C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the City Engineer. (Ord. 2004 § 1, 2009)

#### 12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

- A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.
- B. The access permit application shall include an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.
- C. The City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

#### 12.16.040 ACCESS REQUIREMENTS AND STANDARDS

- A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

- B. Access Spacing



Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity, and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

- a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.
- b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.
- c. For middle housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered Traffic Operations Engineer (PTOE) in the State of Oregon. The Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

- a. Review of site access spacing and design;
- b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;
- c. Review of all modes of transportation to the site;
- d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the City Engineer.

C. Accessway Location

1. Double Frontage

When a lot has frontage on two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations

Individual access to single- detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least five (5) feet from the side property line in residential districts and at least ten (10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

a. At least forty-five (45) feet for single-detached residential properties or middle housing developments of four or fewer units accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least one hundred (100) feet for multi-unit residential properties or middle housing developments of five or more units and all other uses accessing local and neighborhood streets.

c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single- Detached Residential and Middle Housing

One accessway per property is allowed for single-detached residential uses and middle housing developments up to four units.

- a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.
- b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by the City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.
- c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Detached Residential and Middle Housing

The number of accessways for uses other than single detached residential and middle housing developments up to four units is subject to the following provisions:

- a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;
- b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

- a. Cause or increase existing hazardous traffic conditions;
- b. Provide inadequate access for emergency vehicles; or
- c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.
2. Single attached and detached residential uses shall have a minimum driveway apron width of twelve (12) feet and a maximum width of twenty (20) feet.
3. Multi-unit residential or middle housing developments comprised of up to four (4) units, shall have a minimum driveway apron width of twelve (12) feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.
4. Multi-unit residential or middle housing developments with between five (5) and eight (8) units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.
5. Multi-unit residential or middle housing developments with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.
7. Industrial uses shall have a minimum driveway apron width of twenty-four (24) feet and a maximum width of forty-five (45) feet.
8. Maximum driveway apron widths for commercial and industrial uses may be increased if the City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

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## **CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS**

### **12.24.040 COMPUTATION**

- A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets.”
- B. Modification of this computation may be made by the City Engineer after considering the standards set forth in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets” and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)
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## **Title 13 Public Services**

### **CHAPTER 13.30 REIMBURSEMENT DISTRICTS**

#### **13.30.010 DEFINITIONS**

The following terms are definitions for the purposes of this chapter.

“Applicant” means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

“City” means the City of Milwaukie.

“City Engineer” means the person who is the manager/supervisor of the city’s Engineering Department, or the City Manager’s designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager.

“Front footage” means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner’s portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.