

## ~~Strikeout/Underline~~ Amendments

### COMPREHENSIVE PLAN

#### CHAPTER 3 — ENVIRONMENTAL AND NATURAL RESOURCES

##### OPEN SPACES, SCENIC AREAS, AND NATURAL RESOURCES ELEMENT

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

##### Background and Planning Concepts

The 1979 Comprehensive Plan designated several areas as “significant natural.” A comprehensive inventory of these areas had not been conducted at the time, however. ~~Part of the Periodic Review Process of the City's Comprehensive Plan requires the review of~~ In 1981, the State of Oregon adopted new Oregon Administrative Rules (OARS) regarding State Goal 5, Natural Resources, Open Space, Scenic and Historic Areas, and Open Spaces Resources, which was adopted in 1984. These rules require the City to inventory and evaluate resources, identify conflicts, prepare an Environmental, Social, Economic, and Energy (ESEE) analysis, and develop a program for resource protection.

~~Using the new administrative rules~~ In 1987, Milwaukie began completion of the a natural resources review process in October of 1987. At that time, a Natural Resources Task Force (NRTF) was organized to advise the Comprehensive Plan Review Committee (CPRC)-. An inventory was also completed, analyzing and rating 26 different natural resource sites either within or adjacent to the City. The City did an ESEE analysis for all sites inventoried. Some sites were dropped as designated natural areas because of other values (i.e., economic, social). This original Natural Resource Sites map is included in the Comprehensive Plan, within Appendix 2 Natural Resources Property List, solely for historical and informational purposes.

The natural resources inventory included areas with unique and diverse natural and vegetative features, areas important for wildlife habitat, and areas with soil and/or wetness constraints which may contribute to erosion control, aquifer recharge, or other natural values. The following resources or features are not present in Milwaukie: mineral and aggregate resources, energy sources, wilderness areas, and federal wild and scenic waterways.

The purpose of the Open Spaces, Scenic Areas, and Natural Resources Element is to protect areas that are necessary to the long-term health of the natural environment and community, such as fish and wildlife habitat areas, ecological areas, and open space. The intent of the policies is to protect these resources for their intrinsic value. However, there are other values associated with open space, in addition to provision of fish and wildlife habitat, which have been identified as important. Some of these values include groundwater recharge and discharge, air quality, community identity, education, recreation, property value enhancement, flood control, water quality, micro-climate control, sedimentation control, and noise attenuation. The City recognizes that natural resources are limited and is committed to restricting inappropriate land uses and associated impacts, such as erosion and resulting sedimentation that can irreparably damage wetland, riparian, and upland habitat areas. Therefore, in association with future development, conservation and restoration of the community's significant natural features will be encouraged for the enjoyment of City residents. The natural resource policies serve as

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constraints upon future development and define the parameters for determining where and how that development should occur.

Due to Milwaukie's physical setting and current level of development, few major natural resource features remain undisturbed and visible within the City. Areas along Kellogg Lake, parts of Kellogg Creek, some riparian areas along the Willamette River, the steep slopes south of Lake Road, small bands of riparian vegetation along Johnson Creek, parts of Spring Creek which flows through Milwaukie, and other scattered wetland and upland resources have sufficient natural vegetation to allow the natural processes of habitat development and vegetative successional stages to occur. In addition, Elk Rock Island, although not within Milwaukie, but owned by the City of Portland, offers good wildlife habitat due to its sufficient ground cover and its proximity to the Willamette River. ~~The general lack of adequate wildlife habitat in Milwaukie, therefore, limits wildlife residency. On the other hand,~~ Active fish habitat exists within the City in the Willamette River, Kellogg Creek, and Johnson Creek. These waterways contain anadromous fish species.

~~There are other values, however, associated with open space, in addition to provision of fish and wildlife habitat, which have been identified as important. Some of these values include groundwater recharge and discharge, air quality, community identity, education, recreation, property value enhancement, flood control, water quality, micro-climate control, sedimentation control, and noise attenuation. Designated natural areas are identified on Map 5. Publicly owned lands are identified on the Land Use Plan Map 7. There are currently approximately 65 acres of City owned parkland in Milwaukie. These areas, as well as 50 acres of public school grounds and 150 acres of privately owned natural areas, total 265 acres of open space remaining in the City. Some of this will diminish as property develops under City regulations. Typical public open space standards for a population of 20,000 suggest over 450 acres should be available: obviously an unrealistic expectation due to the extensive level of development which has already occurred within the City.~~

Milwaukie's future role as an urban community with a healthy mix of industrial, commercial, and residential uses, is compatible with the conservation of the City's remaining open spaces and natural resources. Policies in this element and the Willamette Greenway Element will allow certain types of development to occur providing natural resources, to the extent possible, are protected.

~~Therefore, although urban development will continue, conservation of the area's significant natural features will be encouraged for the enjoyment of City residents. The natural resource policies serve as constraints upon future development and define the parameters for determining where and how that development should occur.~~

### **OBJECTIVE #1 — OPEN SPACE**

To protect the open space resources of Milwaukie to improve the quality of the environment, ~~The purpose of open space will be to provide a diversity of natural visual character within the City, and to provide residents with ecological, educational, and recreational experiences in a variety of environmental settings.~~

Within this plan, the term "open space" is intended to define and designate vacant land which will remain undeveloped in accordance with the Willamette Greenway Program, natural area designation, or other land use requirements. Open space includes those areas designated as Public will be designated on the Land Use Plan Map (Map 7) as Public Lands and as "water quality resources" and "habitat conservation areas" on the Natural Resources Map (Map 5) as Natural Resources. Those areas designated Natural Resources include natural resource areas and State Recreational Trails. These areas will likely remain in private ownership, but the option

~~remains for dedicating easements for public access in areas listed in Policy 3. Placement and methods of development will be regulated in these areas. Public open spaces include existing City-owned parks and City-owned lands in natural areas. Development in these areas would be subject to the Zoning Ordinance requirements for natural resources, if in a natural area, and/or the Parks and Recreation Master Plan, which guides park development within the City. Within this plan, open space is intended to define and designate vacant land which will remain undeveloped in accordance with the Willamette Greenway Program, natural area designation, or other land use requirements. In most instances, open space will remain in private ownership.~~

Many of the designated natural resources are, and will likely remain, in private ownership; but the option remains for dedicating easements for public access in the significant natural areas listed in Policy 3, below, where the placement and methods of development will be regulated and within which ~~Within significant natural areas, however,~~ the right to public access or even full public ownership will be considered. Another Goal 5 resource, a State-designated recreational trail, the 40-Mile Loop, passes through two separate sections of North Milwaukie, following the right-of-way for the Portland Traction Corp. railroad. This will also be designated Open Space - Natural Resources. (See corresponding discussion within the Recreational Needs Element.)

### **Policies**

1. Open space will be provided within the City through implementation of parks and recreation policies, natural area policies, and the Willamette Greenway Program.
2. When economically feasible, the City will provide incentives to the private sector so open space can be conserved without undue hardships to private land owners.
3. The natural resources ~~areas~~ along Johnson Creek, Kellogg Creek, and Kellogg Lake, ~~as shown on Map 5 and defined under Objective #2,~~ will be considered open space of special importance to all City residents. Passive recreational public use of these areas for walking trails, nature parks, and the like will be encouraged.
4. The City will encourage the dedication of public easements to and through important Open Space - Natural Resource areas. Tax deferral program and/or density transfer (so that full development potential may be realized) will be utilized so that open space can be conserved and easements dedicated without undue hardships for private land owners.
5. The City will encourage property owners within designated open space areas and other appropriate areas to take advantage of Clackamas County's open space property tax deferral program.
6. The City will participate with the appropriate agencies in implementing the proposed 40-Mile Loop System, a State Recreational Trail.
7. The City will work with Clackamas County and local residents to establish a continuous pedestrian connection linking the Willamette River and the North Clackamas Park.
8. The City will utilize the Open Space - Natural Resources designation of the Comp Plan map as one of the guides for open space dedication, when feasible, during the development process.
9. The Parks and Recreation Master Plan will outline methods in detail for acquiring new Public Open Space. Specific methods used will be approved by the City Council. ~~The Natural Resource Overlay Zone (NR) within the Zoning Ordinance will outline methods for protecting privately owned lands designated as Open Space - Natural Resources.~~

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10. The City will consider the following for designation of lands as ~~n~~Natural ~~r~~Resources: flood plains, wetlands, water bodies and riparian areas, wooded or vegetated uplands, or other natural resources ~~areas~~ as determined by the Goal 5 process. Areas so designated will be identified on the Natural Resources Map, (Map 5). ~~The City will regulate the development and use of these lands so as to protect natural resource values and significant natural features in the community.~~
11. With the exception of the Kellogg Creek Sewage Treatment Plant and the land surrounding the plant, the City will designate as Public Lands those areas which are existing parks or publicly utilized areas, or City owned properties containing natural resources ~~areas~~, and will assure that these areas are managed according to open space policies, natural resource policies, and parks and recreation policies, as appropriate. Areas designated Public Lands shall be identified on the Land Use ~~Plan~~ Map, (Map 7).
12. The City will participate with the appropriate agencies in implementing the Elk Rock Island Natural Area Management Plan.

### **OBJECTIVE #2 — NATURAL RESOURCES ~~AREAS~~**

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

#### Planning Concepts

The character of Milwaukie is profoundly influenced by the natural resources and processes occurring in resource areas. The natural environment provides control of stormwater runoff, erosion prevention and enhanced water quality, better air quality, wildlife habitat, recreation, educational opportunities, flood reduction, ~~and~~ community identity. The wetlands, water bodies, riparian areas, drainageways, springs, ~~and~~ uplands identified in the inventory completed in 1987 may contain one of more of these resource values which need protection.

Between 1990 and 2002, natural resources were protected through Milwaukie Zoning Ordinance Section 19.322 Natural Resource Overlay Zone. In the fall of 2002, the City adopted revised regulations that strengthen wetland and riparian resource protections. In 2011, the City adopted revised regulations for natural resources that add protections for habitat conservation areas outside of the protected riparian and wetland areas. These regulations ~~Adopted to~~ implement Titles 3 and 13 of the Metro Urban Growth Functional Plan, the Water Quality Resource Regulations ~~and~~ compliment and support long held City policies for environmental protection. The Natural Resources Map (Map 5) shows the City's designated water quality resources and habitat conservation areas as indicators of lands that are regulated by State Goal 6 (Air, Water, and Land Resources Quality) and Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces), respectively.

The Natural Resource Overlay Zone was removed from the Zoning Mmap with adoption of the Water Quality Resource Regulations in 2002. ~~However, t~~The Natural Resource Sites Map (formerly Comp Plan Map 5) has been moved into Appendix 2-Natural Resource Inventory, where both the map and inventory list are ~~and Map 5-Natural Resources have been retained in the Comprehensive Plan solely~~ for historical and informational purposes.

## Policies

1. Protect designated natural resources ~~areas~~ and their associated values through preservation, intergovernmental coordination, conservation, mitigation, and acquisition of resources.
  - Notify and coordinate review of development proposals and plans within natural resources ~~areas~~ with affected State, local, and federal regulatory agencies.
  - Develop a review process for development within natural ~~resources areas~~, which requires mitigation or other means of preservation of natural resource values.
  - The City shall pursue funding for the acquisition, protection, or enhancement of natural resources ~~areas~~ through private environmental groups, federal or State agencies, or local groups.
  - Regulate activities within natural resources ~~areas~~ ~~which~~ that may be detrimental to the provision of food, water, and cover for wildlife.
2. Provide protection to important wetland and water body areas through designation of riparian area buffers between natural resources and other urban development activities. Restrict non-water dependent development within the riparian buffer area.
3. Maintain and improve water quality of wetlands and water bodies through regulating the placement and design of stormwater drainage facilities.
4. Protect existing upland areas and values related to wildlife habitat, groundwater recharge, and erosion control.
  - Encourage the development of open spaces and increased vegetation for wildlife habitats.
  - Protect steep slopes from erosion through the use of vegetation.
  - Provide protection between the resource and other urban development.
5. The City will continue to work with Metro and other jurisdictions to establish and implement drainage plans and policies for Johnson Creek, designated by Metro as an area of Significant Environmental Concern.
6. ~~Provide greater protection and more stringent development review to those sites deemed most valuable to the community.~~ Maintain and improve existing stormwater detention and treatment standards to ensure that the impact of new development does not degrade water quality and wildlife habitat.
7. Provide protection to inventoried natural resource sites currently outside the City limits as these sites are annexed.

**~~Strikeout~~/Underline Amendments**  
**MUNICIPAL CODE TITLE 19 ZONING**  
**CHAPTER 19.100**  
**INTRODUCTORY PROVISIONS**

**19.107 ZONING**

**19.107.1 Zone Classifications**

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

<b>Table 19.107.1 Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Base Zones</b>	
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Residential-Office-Commercial	R-O-C
Downtown Storefront	DS
Downtown Commercial	DC
Downtown Office	DO
Downtown Residential	DR
Downtown Open Space	DOS
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

<b>Table 19.107.1 CONTINUED Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Overlay Zones</b>	
Willamette Greenway	WG
<del>Water Quality Resource</del>	<del>WQR</del>
Historic Preservation	HP
Mixed Use	MU
Aircraft Landing Facility	L-F

**19.108 SPECIAL AREAS**

**19.108.1 Special Area Classifications**

For the purposes of this title, the following special areas are established in the City per Table 19.108.1:

<b><u>Table 19.108.1 Classification of Special Areas</u></b>	
<b><u>Special Area Description</u></b>	<b><u>Abbreviated Description</u></b>
<u>Natural Resources</u>	<u>NR</u>

**19.108.2 Special Area Maps**

The special areas described in Subsection 19.108.1 are not displayed on the City's Zoning Map. They are shown on specific administrative maps.

Natural resources are displayed on the Natural Resource (NR) Administrative Map, which is adopted by reference. Provisions for administering the NR Administrative Map are established in Subsection 19.402.15.

**19.108.3 Classification of Annexed Areas**

Land annexed to the City shall be assigned a special area designation consistent with the special area designations established by this title at the time of annexation. Annexations shall be adopted by ordinance pursuant to Chapter 19.1100.

Land annexed to the City shall be assigned a natural resource designation as applicable in accordance with the provisions established in Subsection 19.402.15.

**19.108.4 Classification of Public Rights-of-Way**

The special area designations applied to the public rights-of-way within the City boundaries, as shown on any specific administrative map, do not directly regulate the improvements or structures that are allowed in these rights-of-way. Improvements and structures in public rights-of-way are regulated by other rules, regulations, and ordinances maintained by the City and other road authorities, such as Chapter 19.700 Public Facility Improvements, the Public Works Standards, and the Transportation System Plan.

## CHAPTER 19.200

### DEFINITIONS AND MEASUREMENTS

#### 19.201 DEFINITIONS

“Bankful stage” means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent-recurrence interval flood elevation may be used to approximate the bankful stage. Also referred to as “top of bank.”

“Change in use” means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this chapter, or the City’s base zones and overlay zones or special areas, as a guide. A proposal to change or add new uses may require land use approval. See also “use.”

“Designated natural resource” means any “water quality resource” or “habitat conservation area” as defined in Section 19.201 and established in Section 19.402.

“Direct stormwater discharge” means stormwater that does not infiltrate before reaching a designated natural resource.

“Disturb” means to make changes, whether temporary or permanent, to the existing physical status of the land ~~that are made~~ in connection with development. The following changes are excluded from the definition: enhancement or restoration of the a wWater qQuality rResource Area or habitat conservation area and planting native cover identified in the Milwaukie Native Plant List, as established in Section 19.402.

“Downed Tree” means any tree that is no longer standing upright, as the result of natural forces, and that has come to rest, whether leaning or completely down, within a protected water feature, a water quality resource, or a habitat conservation area.

“Habitat conservation area (HCA)” means any significant Goal 5 wetland, riparian area, and fish and wildlife habitat, as established in Section 19.402.

“Invasive nonnative or noxious vegetation” means plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities. Includes vegetation categorized as a nuisance species on the Milwaukie Native Plant List.

“Major pruning” means removal of more than 20% of a tree’s canopy, or injury or cutting of over 10% of the root system, during any 12-month period.

“Native vegetation or native plant” means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List, provided that it is not categorized as a nuisance plant on the Milwaukie Native Plant List.

“Net acre” means an area measuring 43,560 sq ft excluding the following: rights-of-way; floodplains; protected water features and their associated vegetated corridors, as established in Section 19.402; natural resources ~~areas~~ protected under Statewide Planning Goal 5; slopes in excess of 25%; and publicly owned land designated for park, open space, and resource protection. These excluded areas do not include lands for which the Zoning Ordinance provides a density bonus or other mechanism that allows the transfer of the allowable density or use to another area or to development elsewhere on the same site.



"Practicable" means capable of being realized after considering cost, existing technology, logistics, and other relevant considerations; such as ecological functions, scenic views, natural features, existing infrastructure, and/or adjacent uses.

"Title 3 wetlands" means wetlands of metropolitan concern, as shown on the Metro Water Quality and Flood Management Resource Area map, and other wetlands added to the City's- or County-adopted Water Quality Natural Resource Area Administrative Maps, consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3, Section 3.07.340(E)(3).

"Tree" means a woody plant characterized by one main stem or trunk of at least 6-in diameter, according to the measurement standards established in Subsection 19.202.3.

"Vegetated corridor" means the area of setback between the top of the bank of a protected water feature, or the edge of a delineated wetland, and the delineated edge of the Water Quality Resource Area as defined in Tables 19.322.9.A and E 19.402.15.

~~"Water quality and floodplain management area" means the area that identifies where the Water Quality Resource Area and floodplain management area overlay zone is applied.~~

"Water Quality Resource (WQR) Areas" means a protected water feature(s) and the adjacent vegetated corridors, and the adjacent water feature as established in Section 19.402. The following definitions relate to WQRs and HCAs in particular:

"Mitigation" means the reduction of adverse effects ~~effrom~~ a proposed project on the natural environment by considering, in this order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; ~~(2)~~ minimizing impacts by limiting the degree or magnitude of the action and its implementation; ~~(23)~~ rectifying the impact by repairing, rehabilitating, or restoring the affected environment; ~~(34)~~ reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and/or ~~(45)~~ compensating for the impact by replacing or providing comparable substitute WQRs ~~Water Quality Resource Areas~~ or HCAs.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the WQR ~~Water Quality Resource Area~~ and/or HCA, to the point where the existing ~~water quality~~ functions and values of water quality and/or fish and wildlife habitat are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake, or wetland.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances ~~that~~ do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers *Wetland Delineation Manual*.

## **19.202 MEASUREMENTS**

### **19.202.3 Measuring Tree Diameter**

#### **A. Existing Trees**

Existing trees are measured at a height 4.5 ft above the mean ground level at the base of the tree, also sometimes referred to as "diameter at breast height." Trees on slopes are measured from the ground level on the lower side of the tree. If a tree splits into

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multiple trunks below 4.5 ft above ground level, the diameter is measured at its most narrow point below the split.

### B. New Trees

New trees are measured in caliper inches, which is the diameter of the trunk 6 in above the mean ground level at the base of the tree.

## CHAPTER 19.400

### OVERLAY ZONES AND SPECIAL AREAS

#### SECTIONS:

**19.401 Willamette Greenway Zone WG**

**19.402 ~~Water Quality Regulations~~ Natural Resources NR**

**19.402 Historic Preservation Overlay Zone HP**

**19.404 Mixed Use Overlay Zone MU**

**19.405 Aircraft Landing Facility L-F**

#### **19.402 ~~WATER QUALITY RESOURCE REGULATIONS~~ NATURAL RESOURCES**

*(Repeal entire section and replace with new section per Exhibit B, Proposed Section 19.402.)*

#### **19.404 MIXED USE OVERLAY ZONE MU**

##### **19.404.10 Consistency with Underlying Zones**

The MU Overlay Zone is anticipated to overlay a number of different zones. The following subsection addresses areas where the MU overlay will control development.

##### C. NR Zone Natural Resources

The requirements established in Section 19.402 for of the nNatural rResources Areas Overlay Zone and those of the MU Overlay Zone both apply to a property which is subject to both overlay zones designations. Any required Natural Resource Review application must be processed prior to, or concurrent with, a development proposal under the MU Overlay Zone. If a project is determined not to be subject to requirements of the MU Overlay Zone but is also on a property that includes natural resources regulated by Section 19.402 an NR Zone property, a separate determination of the applicability of the NR Zone Section 19.402 must be made.

## CHAPTER 19.600

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

#### **19.606 PARKING AREA DESIGN AND LANDSCAPING**

##### **19.606.3 Additional Design Standards**

##### F. Lighting

4. Where practicable, lights shall be placed so they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.

**CHAPTER 19.900**  
**LAND USE APPLICATIONS**

**19.901 INTRODUCTION**

<b>Table 19.901 Land Use Applications</b>		
<b>Application Type</b>	<b>Municipal Code Location</b>	<b>Review Types</b>
Water Quality <del>Natural Resource</del> Review	Section 19.402	I, II, III, IV

**19.905 CONDITIONAL USES**

**19.905.2 Applicability**

- A. This section applies to the establishment of a use identified as a conditional use in the base zone in Chapter 19.300 and any overlay zones or special areas in Chapter 19.400 that are applicable to the property on which the use is proposed.
- B. This section applies to the major or minor modification of existing conditional uses.
- C. This section does not apply to modification of uses that received conditional use approval at one time but are currently allowed outright by the property’s base zone and any overlay zones or special areas.

**19.905.4 Approval Criteria**

- A. Establishment of a new conditional use, or major modification of an existing conditional use, shall be approved if the following criteria are met:
  - 5. The proposed use will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.
- B. Minor modification of an existing conditional use shall be approved if the following criteria
  - 2. The proposed modification will comply with all applicable development standards and requirements of the base zone, any overlay zones or special areas, and the standards in Section 19.905.

**19.905.9 Standards Governing Conditional Uses**

A conditional use shall comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

**19.906 DEVELOPMENT REVIEW**

**19.906.4 Approval Criteria**

The criteria in this subsection are the approval criteria for Type I and Type II development review applications. The criteria are based on a review of development standards throughout Title 19 Zoning. Not all of the standards within the chapters listed below are applicable to a

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proposal, and the City will identify the applicable standards through the development review process. Though the criteria are the same for Type I and Type II development review, the standards evaluated in a Type I review will be clear and objective or require limited professional judgment, while the Type II review will involve discretionary standards and/or criteria.

An application for Type I or Type II development review shall be approved when all of the following criteria have been met:

- A. The proposal complies with all applicable base zone standards in Chapter 19.300.
- B. The proposal complies with all applicable overlay zone and special area standards in Chapter 19.400.

### 19.908 EXTENSIONS TO EXPIRING APPROVALS

#### 19.908.4 Approval Criteria

An extension shall be approved when all of the following criteria have been met:

- A. There have been no significant changes on the subject property, in the vicinity of the subject property, or to any relevant regulations since the original application was approved.
- B. No modifications are proposed to the approved application or to the conditions of approval.
- C. If the previously approved application included a transportation impact study or a ~~water~~ quality natural resource report, an updated report was provided with the extension application that shows no significant changes on the subject property or in the vicinity of the subject property. A letter from a recognized professional will also satisfy this criterion if it states that conditions have not changed since the original approval and that no new analysis is warranted.

### 19.911 VARIANCES

#### 19.911.5 Use Exceptions

- A. Applicability

A use exception is a type of variance intended to allow uses that are not allowed outright or conditionally by a property's base zone, ~~or overlay zones~~, or special areas. Use exceptions shall not be granted to allow uses that are specifically prohibited by a property's base zone, ~~or overlay zones~~, or special areas.

## CHAPTER 19.1000

### REVIEW PROCEDURES

#### 19.1001 GENERAL PROVISIONS

##### 19.1001.7 Decisions

- E. Expiration of Approved Decisions
  - 3. The following land use approvals are exempt from expiration:
    - a. Amendments to Comprehensive Plan maps or text; amendments to Titles 14, 17, or 19; or any other amendment to a land use regulation per Section 19.902.
    - b. Code interpretations and Director determinations per Section 19.903.

- c. Annexations per Chapter 19.1100.
- d. Boundary verification of designated natural resources per Subsection 19.402.

## CHAPTER 19.1100

### ANNEXATIONS AND BOUNDARY CHANGES

#### 19.1104 EXPEDITED PROCESS

##### 19.1104.1 Administration and Approval Process

F. For an expedited annexation request, the City's special area designations shall be applied consistently with the applicable sections of Title 19 Zoning.

Natural resource designations shall be applied consistently with the provisions established in Subsection 19.402.15 for administering the NR Administrative Map.

FG. An expedited process cannot be used if a necessary party gives written notice to contest the decision, pursuant to Metro Code Subsection 3.09.045(b) or, in the case of an annexation petition, if the requested zoning designation does not comply with the automatic Comprehensive Plan designation listed above in Table 19.1104.1.E.

## MUNICIPAL CODE (non-Planning titles)

### REFERENCE UPDATES

The following amendments are also proposed to update references:

#### 13.14.025.B:

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

#### 16.28.020.C:

3. For any lot ~~designated a Natural Resource Overlay Zone pursuant to Milwaukie Zoning Ordinance Section 322~~ that includes natural resources regulated by Milwaukie Zoning Ordinance Section 19.402 Natural Resources, an erosion control permit shall be required prior to placement of fill, site clearing, or land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which has the potential for, or results in visible and measurable erosion, regardless of the area of disturbance.

#### 16.28.020:

- D. An erosion control permit shall not be issued for activities on lots ~~zoned Natural Resource Overlay that include natural resources regulated by Section 19.402~~, where the site activity has not been authorized, or is not exempt under the provisions of Milwaukie Zoning Ordinance ~~Section 322~~ 19.402 Natural Resources Overlay Zone, as determined by the Planning Director. This provision does not apply where the erosion control permit is associated with correction of a violation of the City Code or as necessary for public safety, or the protection of property or water quality.

#### 18.04.150.F.2.d:

- (2) The proposed excavation is authorized under applicable municipal code provisions including ~~Section 19.402 Water Quality Resource Regulations~~ Natural Resources; and