

AMENDMENTS: DELETIONS ARE SHOWN IN ~~STRIKEOUT~~, ADDITIONS ARE UNDERLINED

CHAPTER 19.200

DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

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

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

“Abandonment” means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of 6 months.

“Access” means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

“Accessory parking” means off-street parking that serves the parking demand of a specific use(s). Accessory parking is distinct from a “parking facility,” as defined in this chapter.

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including accessory parking.

“Accessway” means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

“Accidental destruction” means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

“Adult entertainment business” means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. “Adult entertainment business” includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

“Airport” or “aircraft landing facility” means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars, and other necessary buildings and open spaces.

“Alley” means a right-of-way that provides access to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

“Alteration” means any change, addition, or modification to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic

resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include “routine maintenance and repair.” See also “improvements.”

“Antenna” means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel, or dish that transmit or receive radio waves or microwaves for wireless communications.

“Antenna support structure” means a structure on which a wireless antenna is or may be placed.

“Alternative support structure” means an existing building, water tower, utility pole in the right-of-way, or an antenna support structure that meets stealth design criteria.

“Existing support structure” means any support structure existing at the time of the application.

“Application” means all forms, materials, and information required for submittal for action authorized under this title.

“Arbor” means an unroofed and unenclosed structure of vines, branches, or latticework typically used to support climbing vines or shrubs.

“Automobile service station” means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

“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 2-year recurrent flood elevation may be used to approximate the bankful stage.

“Basement” means a portion of a building, not deemed a story, which has more than half its interior height (but not more than 6 ft) above the adjoining ground-level grade.

“Belfry” means an ornamental or functional roof-mounted structure for enclosing a bell.

“Belvedere” means an architectural feature of a building designed to create views from the building.

“Bicycle facility” means any street or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

“Bike lane” means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

“Shared lane” means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

“Bike boulevard” means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher priority to through bicyclists, with secondary priority assigned to motorists. A

bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

“Bike path” means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, pedestrians, and other nonmotorized modes of travel.

“Boarding, lodging, or rooming house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

“Buffer area” means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

“Building” means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding 18 in. in height above the average grade of the adjoining ground.

“Building height” means the exterior vertical measurement of a building.

“Building line” means a line that coincides with the front side of the main building.

“Build-to line” means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

“Cellar” means a room or group of rooms, usually under a building, which has more than half its interior height below the average grade of the adjoining ground.

“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 and overlay zones as a guide. A proposal to change or add new uses may require land use approval. See also “use.”

“City” means the City of Milwaukie, Oregon.

“Colocation” means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

“Commercial recreation” means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

“Commercial vehicle” means a vehicle designed or used primarily for commercial purposes, and which is either 9 ft tall or taller as measured from ground height, or has an enclosed storage area greater than 6 ft in height and 9 ft in length. Recreational vehicles that are not used for profit are not considered commercial vehicles.

“Congregate housing facility” means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premises supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all residential zones that permit multifamily apartments, and they require conditional use approval

in those residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

“Contract purchaser” means the party identified as the buyer in a land contract that is in force and is recorded with Clackamas County.

“Constructed wetlands” means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

“Corridor design plan” means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the Comprehensive Plan and is implemented through overlay zones.

“Cupola” means an ornamental or functional structure placed on a roof or dome mimicking or functioning as a lantern, belfry, or belvedere.

“Curb return” means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

“Day-care center” means any facility, institution, establishment, or place not a part of a school as defined in this chapter and not meeting the definition of family day care, that provides day care to children not of common parentage, including day nurseries, nursery schools, preschools, day-care facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

“Debris” means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic, or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees, or trees which have fallen into protected water features.

“Department of Environmental Quality (DEQ) Water Quality Standards” means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

“Developer’s agreement” means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer’s agreement is not a Development Agreement as defined by ORS 95.504.

“Development” means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: mining, dredging, filling, or grading in amounts greater than 10 cu yd. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (1) stream enhancement or restoration projects approved by cities and counties; (2) farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except

that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; (3) construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

“Development permit” means any permit, such as a building permit, issued by the City’s Building Department for action authorized under this title. Land use approval by the City’s Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

“Discontinued or abandoned use” means a use that is no longer in operation. A use shall be considered discontinued or abandoned upon the first day that any of the following events has occurred: (1) the use physically vacates the site, (2) the use ceases to be actively involved in the activity, (3) any lease or contract under which the use has occupied the land is terminated, or (4) a request for final reading of water and power meters is made to the applicable utility districts.

“Disturb” means to make changes 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 Water Quality Resource Area and planting native cover identified in the Milwaukie Native Plant List.

“Dormer” means a projecting structure built out from a sloping roof usually containing a window.

~~“Dormitory” means a room which is rented for sleeping purposes for more than 4 persons.~~

“Downtown zones” means the 5 zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan—Downtown Storefront (DS), Downtown Commercial (DC), Downtown Office (DO), Downtown Residential (DR), and Downtown Open Space (DOS).

“Drinking establishment” means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

“Drive-through facility” means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands, and service bays for vehicular use.

“Driveway” means the portion of the accessway located on private property or public lands outside of the public right-of-way.

“Driveway approach” means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

~~“Dwelling” means a structure containing 1 or more dwelling units used, intended, or designed to be built, used, rented, let, or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this chapter.~~

~~“Dwelling unit” means 1 or more rooms designed for occupancy by 1 family, but excluding a recreational vehicle.~~

~~“Single-family attached” means 2 dwelling units, each occupied as a housekeeping unit, sharing common structural walls.~~

~~“Single-family detached” means a house or a manufactured home normally occupied by 1 family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.~~

~~“Multifamily apartment” means a single structure containing 3 or more dwelling units, usually for rent, and sharing common structural walls.~~

~~“Multifamily condominium” means a single structure containing 3 or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.~~

~~“Interior single-family attached, interior multifamily condominium” means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.~~

~~“Accessory dwelling” means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than 1 cooking facility. For the purpose of this definition “cooking facility” means an oven, stove, range, or other device used or intended for the preparation or heating of food.~~

~~“Type 1 accessory dwelling” means an accessory dwelling unit not less than 225 sq ft net floor area and not more than 600 sq ft net floor area and meeting the requirements of Subsection 19.910.1. For the purpose of this chapter, net floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells, and rooms.~~

~~“Type 2 accessory dwelling” means an accessory dwelling unit other than a Type 1 accessory dwelling unit, as permitted by Subsection 19.910.2.~~

~~“Eating establishment” means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.~~

~~“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.~~

~~“Enhancement” means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a predisturbance condition but create/recreate processes and features that occur naturally.~~

~~“Equipment cabinets” means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.~~

~~“FAA approval” means demonstration of compliance with all applicable rules and regulations under the FAA’s jurisdiction.~~

~~“Façade” means all the wall planes of a structure as seen from one side or view. For example, the front façade of a building would include all of the wall area that would be shown on the front elevation of the building plans.~~

~~“Family” means any person or group of persons living within a single housekeeping unit as defined in this chapter.~~

“Family day care” means a private residence occupied by the family day care provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than 13 children, including children of the provider, regardless of full-time or part-time care status.

“Fence” means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

“Sight-obscuring fence” means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least 80%.

“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.

“Flood management areas” means all lands contained within the 100-year floodplain, flood area, and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

“Floodway” means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a 100-year flood, as defined by the Corps of Engineers.

“Floodway fringe” means that land area which is outside of the stream floodway but is subject to periodic inundation by a 100-year flood, as defined by the Corps of Engineers.

“Floor area” means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating 2 buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 ft 6 in, regardless of their use or finished state. Floor area does not include the following:

- Uncovered steps or fire escapes.
- Private garages, carports, or unenclosed porches.
- Accessory water towers or cooling towers.
- Accessory off-street parking or loading spaces.

“Floor area ratio” means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means 2 sq ft of floor area for every 1 sq ft of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

“Foster home” means any home maintained by a person licensed by the State to provide care, food, and lodging in such home for not more than 10 children, including his or her own children, under the age of 18 years and unaccompanied by a parent or guardian.

“Frontage” means the portion of a property that abuts a public or private street.

“Frontage improvements” means transportation facility improvements occurring along a property’s frontage. See also “improvements.”

“Garage” means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

“Carport” means a stationary structure consisting of a roof, its supports, and not more than 1 wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:

“Ground-level grade” means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within 5 ft of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

“Green street” means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

“Greenway areas” means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the Zoning Map as the Willamette Greenway Overlay.

“Ground floor” means any floor with direct access to grade. A building or facility always has at least 1 ground floor, and may have more than 1 ground floor where a split-level entry has been provided or where a building is built into a hillside.

“Guyed tower” means a tower which is supported by the use of cables (guy wires).

“Half street” means transportation facility improvements equal to half of a street design cross section plus enough additional roadway pavement for at least 2 travel lanes.

“Hazardous materials” means materials defined by the Oregon Department of Environmental Quality as hazardous.

“High-impact commercial businesses” means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

“High-impact nonconforming use” means any use that is a nonconforming high-impact commercial business in any zone or any use that is a nonconforming industrial use in any zone. Nonconforming use, as defined below, means a lawful existing use that does not conform to the City’s current land use ordinances, either because it was established prior to the enactment of City ordinances governing the use, or because the use conformed at the time it was established but applicable City ordinances have since changed.

“Home occupation” means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Horticulture” means the cultivation of plants, garden crops, trees, or nursery stock.

“Hotel” means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Housekeeping unit” means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

“Off-site improvements” means all public facility improvements occurring off the site and not along the site’s frontage.

“On-site improvements” means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also “frontage improvements.”

Institution:

“Institutional campus” means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential, and other uses.

“Higher educational institution” means a college or university, accredited by the State.

“Interior landscaping” means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

“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.

“Junkyard” means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; junked, dismantled, wrecked, scrapped, or ruined motor vehicles; or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials; and the term includes automobile graveyards, garbage dumps, and scrap metal processing facilities.

“Kennel” means any lot or premises on which 4 or more dogs, more than 4 months of age, are kept.

“Kitchen facility” means an area in which something is built, installed, or established to prepare food for eating by a heating process.

“Landscape strip” means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

“Landscaping” means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds, and bark dust.

“Lantern” means a superstructure crowning a roof or dome having open or windowed walls to let in light and air.

“Lattice tower” means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

“Lease area” means the area of a parcel on which wireless communication facilities, antennas, and equipment buildings are located.

“Limited use” means a use that is permitted subject to specific limitations as described in the Zoning Ordinance.

“Livestock” means domestic animals, such as cattle, horses, sheep, hogs, or goats, raised for home use or for profit.

“Loading space” means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

“Lot” means a plot, parcel, or area of land owned by, or under the lawful control and in the lawful possession of, one distinct ownership.

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

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

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

“Lot coverage” means the footprint of a building(s) on a lot, ~~measured from the outermost projection of the building(s)~~, expressed as a percentage of the total lot area. Lot coverage includes open structures, such as pole barns, and building features such as patio covers, roofed porches, and decks with a surface height of more than 18 in above average grade. Lot coverage does not include eaves that extend 3 feet or less from the outside wall of a building or past the support posts or beams of an open structure. Where such features do extend past 3 feet, the entire area of the feature is counted toward the lot coverage.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line.

“Lot line” means the property line bounding a lot.

“Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

“Rear lot line” means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular, or other-shaped lot, a line 10 ft in length within the lot parallel to and at the maximum distance from the front lot line.

“Side lot line” means any lot line not a front or rear lot line.

“Lot width” means the horizontal distance between side lot lines measured at the building line.

“Low-impact nonconforming use” means any use that is a nonconforming residential use in any zone.

“Maneuvering area” means an area on a site over which vehicles travel between a parking space and the street.

~~“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, and that is being used for residential purposes.~~

“Manufactured dwelling park” means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of 2 acres and a minimum of 4 manufactured dwellings.

~~“Manufactured home” means a single-family 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 Sections 5401 et seq.) as amended on August 22, 1981.~~

“Minimum vegetation” means the area of a lot that supports vegetation, including planting areas under roof eaves, expressed as a percentage of the total lot area.

~~“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.~~

“Monopole” means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

“Motel or tourist court” means 1 or more buildings designed or used as temporary living quarters for transients.

“Native vegetation” means any vegetation native to the Portland metropolitan area or listed 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; natural resource areas protected under Statewide Planning Goal 5; slopes in excess of 25%; and publicly owned land designated for park, open space, and resource protection.

“New construction” means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction can also occur on sites with existing structures. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

“Nonconforming development” means a lawful structure or site improvement, such as an off-street parking facility, landscaping, or accessway, that does not conform to the City’s current development ordinances either because it was established prior to the enactment of City ordinances governing the structure or improvement or because the structure or improvement conformed at the time it was established but applicable City ordinances have since changed.

“Nonconforming use” means a lawful existing use that does not conform to the City’s current land use ordinances, either because it was established prior to the enactment of City ordinances governing the use, or because the use conformed at the time it was established but applicable City ordinances have since changed.

Office:

“Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for

professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

“Off-street parking” means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

“Open space” means any parcel of land or portion of a parcel without a structure, except as used and defined in the Planned Development Zone.

“Ordinary mean high water line” means the elevation on the bank or shore to which water ordinarily rises in season.

“Ordinary mean low water line” means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

“Owner” includes an authorized agent of the owner.

“Parking facility” means any off-street parking area that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking. Accessory parking areas that occasionally charge the public to park for nearby events are not considered parking facilities.

“Parking space” means an area meeting the dimensions of Chapter 19.600 that is available for the parking of an automobile.

“Perennial streams” means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

“Pergola” means an unenclosed and unroofed structure of parallel columns supporting an open roof of beams and crossing rafters or trelliswork.

“Perimeter landscaping” means an area around the edge of a lot that is devoted to a buffer area with plantings.

“Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

“Personal/business services” means the provision of services to individuals or businesses. Typical uses include laundromats/dry cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services, and blueprint services.

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill, and embankments.

“Planning Director’s interpretation” means a ruling of the Planning Director regarding the applicability, scope, or effect of any provision of Titles 14, 17, and this title.

“Plaza” means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

“Pleasure craft” means a motorized or nonmotorized boat, canoe, kayak, or other similar vessel that is used for private aquatic recreational uses.

“Postconstruction erosion control” means reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

“Poultry” means domestic fowl, such as chickens, turkeys, ducks, or geese, raised for flesh or eggs.

“Preapplication conference” means a meeting between Planning Department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of City codes, makes available technical assistance which will aid in the development of an application, and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

“Prefabricated construction” (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

“Primary entrance” means the entrance to a building that most pedestrians are expected to use. Generally, each building has 1 primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building’s lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant’s outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

“Protected water feature” means the following:

“Primary protected water feature” means and includes any of the following:

- Title 3 wetlands.
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow).
- Streams carrying year-round flow.
- Springs which feed streams and wetlands and have year-round flow.
- Natural lakes.

“Secondary protected water features” means and includes intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

“Public area requirements” means specific standards for streets, sidewalks, and public spaces adopted to implement the Downtown and Riverfront Land Use Framework Plan.

“Public facilities” means transportation and public utility improvements as described below.

“Transportation facilities” means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

“Public utilities” means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also “utility facilities.”

“Public park” means a park, playground, swimming pool, reservoir, or athletic field within the City which is under the control, operation, or management of the Milwaukie Community Services Department.

“Railroad facilities” means railroad switching yards, terminal structure, railroad tracks, or any other facilities connected with railroads which generate substantial noise or nuisance.

“Recreational vehicle” means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers, and recreational vans.

“Religious institution” means a structure used by a religious organization having a tax-exempt status.

Residential Uses and Structures:

“Accessory dwelling unit” means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to and smaller than the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot, or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people, independent of the primary dwelling unit.

“Duplex” means a structure on one lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling.

“Dwelling” means a structure containing 1 or more dwelling units used, intended, or designed to be built, used, rented, let, or hired out to be occupied, or which are occupied for living purposes.

“Dwelling unit” means a building or portion of a building that includes its own independent living facilities including provision for sleeping, cooking, and sanitation, and is designed for residential occupancy by one or more people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facility is clearly accessory, and the property owner has signed a covenant that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this Title.

“Cooking facility” means

“Cottage” means a structure containing one dwelling unit on one lot within an area that was divided to create a cottage cluster development.

“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, and that is being used for residential purposes.

“Manufactured home” means a single-family 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 Sections 5401 et seq.) as amended on August 22, 1981.

“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.

“Multifamily development” means 3 or more dwelling units on one lot. Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in one or more structures on the lot. The dwelling units may be arranged with one dwelling unit per structure or with multiple dwelling units within a structure that are separated vertically and/or horizontally. Multifamily development includes the forms of housing that are typically called garden apartments, apartments, and condominiums. Multifamily developments may include structures that appear similar in form to rowhouses, cottage clusters, duplexes, or single-family dwellings.

“Rowhouse” or “Townhouse” means a residential structure on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 25 percent of the length of the side of the building. The shared or abutting walls may be any wall of the buildings, including the walls of attached garages. A rowhouse or townhouse does not share common floor/ceilings with other dwelling units.

“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped, or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

“Residential trailer” means a manufactured dwelling that was constructed prior to January 1, 1962.

“Single-family detached dwelling” means a structure or manufactured home containing one dwelling unit that has no structural connection to adjacent units.

~~“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped, or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.~~

~~“Residential trailer” means a manufactured dwelling that was constructed prior to January 1, 1962.~~

“Restoration” means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

“Retail trade” means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

“Right-of-way” means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also “street.”

“Riparian” means those areas associated with streams, lakes, and wetlands where vegetation communities are predominately influenced by their association with water.

“Roadway” means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

“Routine repair and maintenance” means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also “alteration.”

School:

“Commercial school” means a place where instruction is given to pupils in arts, crafts, trades, or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

“Primary, elementary, junior high, or high school” means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

“Second-floor housing” means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

“Senior and retirement housing” means a multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium. The dwelling units shall not have more than 1 bedroom per unit and shall not have more than 800 sq ft per dwelling unit.

“Shared parking” means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

“Sidewalk” means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

“Specified anatomical areas” means and includes any of the following:

- Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola.
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified sexual activities” means and includes any of the following:

- The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- Masturbation, actual or simulated.
- Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points of this definition.

“Stealth Design” means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

“Steep slopes” means slopes that are equal to or greater than 25%.

“Stormwater facility” or “stormwater pretreatment facility” means any structure or drainageway that is designed, constructed, and maintained to collect, filter, and retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

“Story” means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than 6 ft above grade for more than 50% of the total perimeter or is more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a story.

“Half-story” means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 ft above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 ft above grade, for more than 50% of the total perimeter and is not more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

“Stream” means a body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet, or river, that flows at least part of the year, including perennial and intermittent streams.

“Street” means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “alley,” and other similar designations.

“Street classification” or “functional street classification” means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the provision for federal, State, and regional transportation funding. The City’s functional street classification system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City’s Transportation System Plan.

“Street network” means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

“Closed-end street system” means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than 1 existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

“Through street” means a street that connects to other streets on both ends.

“Street stub” means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

“Street tree” means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

“Structure” means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

“Structured parking” means a structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, is entirely covered, and has a parking surface at least 8 ft below grade. Structured parking does not include garages or carports.

“Temporary or transitional facility” means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.

“Title 3 Wetlands” means wetlands as shown on the Water Quality Resource Area map and other wetlands added to City- or County-adopted Water Quality Resource Area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3, Section 3.

“Tower” means a structure with the sole purpose of serving as an antenna support structure.

“Tower” includes guyed towers, lattice towers, and monopoles, but does not include any alternative antenna support structure.

~~“Townhouse” means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.~~

“Traffic management” means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

“Transit stop” means a site designated by TriMet as the location at which a TriMet bus or light rail train will accept or discharge passengers.

“Transit street” means a street with existing transit service operating at 20-minute-or-less peak hour frequency.

“Transition area” means an area where new multifamily projects in R-3, R-2, and R-1 Zones that are adjacent to areas designated for lower densities have required transition measures.

“Trellis” means an unenclosed and unroofed vertical frame supporting open latticework used as a screen or support for growing vines or other plants.

“Turnaround” means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

“Use” means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also “change in use.”

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

“Vegetated corridor” means the area of setback between the top of the bank of a protected water feature and the delineated edge of the Water Quality Resource Area as defined in Tables 19.402.9.A and E.

“Vegetation” means plantings or natural growth including trees, grass, shrubs, and other similar vegetated groundcover.

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks.

“Walkway” means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

“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 Areas” means vegetated corridors and the adjacent water feature as established in Section 19.402.

“Mitigation” means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (3) 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 (4) compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.

“Significant negative impact” means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.

“Watershed” means a geographic unit defined by the flows of rainwater or snowmelt.

“Wetlands” means those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and 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.

“Wireless communication facility (WCF)” means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

- Antennas
- An antenna support structure
- An equipment cabinet

“Yard” means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

“Front yard” means a yard between side lot lines, measured horizontally and at right angles to the front lot line from the front lot line to the nearest point of the building.

“Rear yard” means a yard between side lot lines or between a street side yard and opposite side lot line, measured horizontally and at right angles to the rear lot line from the rear lot line to the nearest point of the building.

“Side yard” means a yard between the front and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

“Street side yard” means a yard adjacent to a street between the front and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

19.202 MEASUREMENTS

19.202.1 Horizontal Measurements

All horizontal distances for yard widths and lot and building dimensions shall be measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances shall not be measured by following the topography of the land.

19.202.2 Vertical Measurements

A. Interior Height

Floor-to-ceiling height shall be measured from the top of the floor finish to the bottom of the ceiling joists or, where there is no ceiling, to the bottom of the roof rafters.

B. Exterior Height

Except where otherwise specified in Title 19, building height shall be measured from the adjoining street centerline grade, as established by the City, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the mean height between the eaves and the ridge for a gable, hip, or gambrel roof. Where the building is set back from the street, building height may be measured from the average elevation of the finished grade at the front of the building.