



MILWAUKIE
Dogwood City of the West

Milwaukie Zoning Code Proposed Housekeeping Amendments

November 10, 2016

File No. ZA-2016-002

Municipal Code - Title 14 Sign Ordinance

Chapter 14.16 Sign Districts

Municipal Code - Title 19 Zoning Ordinance

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Municipal Code - Updates for Section References Only

Please contact Vera Kolias, Associate Planner with the City of Milwaukie Planning Department, at 503-786-7653 or koliasv@milwaukieoregon.gov with questions or comments about the proposed code amendments and/or the code adoption process.

Reader Guide

Commentary

A commentary section precedes each section of code amendments. The commentary provides a non-technical summary of the proposed amendments and highlights proposed policy changes. The commentary section is labeled as commentary and presented in Comic Sans font (the same font of this sentence).

Amendments

Unless otherwise noted in the document, underlined text is proposed text, and ~~striketrough~~ text is existing code language proposed for deletion. Standards shown in [brackets] are those that still require Planning Commission discussion and direction.

Context/Surrounding Code

The chapter, section, and subsection for the proposed code amendments are listed for reference in this document. Line breaks, like the one below, between subsequent amendments indicate that there is intervening text within the section or subsection that is not included in this document.

Please be advised that this document shows only sections of code for which amendments are proposed, along with limited surrounding sections for context. It does not include all sections of the Milwaukie Municipal Code.

COMMENTARY

TITLE 14, SIGN ORDINANCE

The proposed amendments to Title 14 will add the Tacoma Station Area Manufacturing (M-TSA) zone to the MMC 14.16.050 list of manufacturing-type zones for signage purposes, as per the code interpretation established by land use file #CI-14-01. The amendments will also: codify the recent decisions of the Planning Commission regarding the issue of multi-frontage properties in manufacturing zones; clarify that (a) allowable freestanding signs can be distributed at any of a property's frontages and (b) roof signs can utilize the total length of all a property's frontages to calculate maximum allowed sign area; and clarify that the number of allowed roof signs for a given property is 1.

Underline/Strikeout Amendments

Title 14 Signs

CHAPTER 14.16 SIGN DISTRICTS

14.16.050 MANUFACTURING ZONE

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

Table 14.16.050 Standards for Signs in Manufacturing Zones M₁-or BI , <u>or M-TSA</u>					
Sign Type	Area	Height	Location	Number	Illumination ¹
Roof signs	Max. 1 SF per lineal ft. of street frontage. ⁵	Max. 8 ft. above highest point of building. ⁵⁶	Pending approval by fire marshal ⁶² ; may not project over parapet wall.	<u>1 multifaced sign</u> Permitted instead of, not in addition to, <u>any projecting or freestanding signs on a site.</u>	Permitted
Awning signs	Max. display surface is 25% of awning surface. ⁷⁸	No higher than the point where the roofline intersects the exterior wall. ⁸⁹	NA.	1 per frontage per occupancy.	Permitted
Daily display signs	Max. 12 SF per display surface and 24 SF overall.	Max. 6 ft. above ground level.	Not permitted within required landscaped areas or public right-of-way. ⁹¹⁰	1 per occupancy.	Permitted

Proposed Code Amendment with Commentary

- ³ Where a property's total frontage exceeds 300 feet in length, one additional freestanding sign is permitted ~~for such frontage~~ and may be located on any of the property's frontages. No freestanding sign shall be permitted on the same premises where there is a roof sign.
- ⁴ Includes signs painted directly on the building surface. In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.
- ⁵ For properties with multiple frontages, the total frontage length of all frontages may be used to calculate the maximum allowed sign area for all display surfaces of a roof sign. Not to exceed [XX] square feet of sign area per display surface.
- ⁶⁻⁶ All roof signs shall be installed in such a manner that there shall be no visible angle iron or similar sign support structure.
- ⁶⁻⁷ Only approved by the fire marshal after a finding that the site, type, and location of the sign will not substantially interfere with firefighting.
- ⁷⁻⁸ Measured in vertical distance times length.
- ⁸⁻⁹ Regardless of the existence of a parapet wall
- ⁹⁻¹⁰ A daily display sign may be allowed within the public right-of-way subject to the standards of Section 14.20.040.

COMMENTARY

TITLE 19 ZONING

CHAPTER 19.100

INTRODUCTORY PROVISIONS

Table 19.201 Definitions

The definition of "utility facility" requires clarification with respect to stream culverts and pipes. The proposed amendment adjusts the definition of "utility facility" to include pipes or culverts that convey streams and other protected water features, so that repair/replacement of such infrastructure can be subject to the same exemptions or review as other utility facilities in Section 19.402 Natural Resources.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

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

COMMENTARY
TITLE 19 ZONING
CHAPTER 19.300 BASE ZONES

CHAPTER 19.303 COMMERCIAL MIXED-USE ZONES

19.303.2 Uses

The table of *Uses Allowed in Commercial Mixed-use Zones* does not include *Accessory and Other uses*, which was an oversight during an earlier code amendment process. The proposed amendment includes *Accessory Uses* and *Home Occupations* as allowed uses in the *General Mixed Use Zone GMU* and the *Neighborhood Mixed Use Zone NMU* subject to applicable standards and additional provisions.

CHAPTER 19.306 LIMITED COMMERCIAL ZONE C-L

19.306.1 Uses Permitted Outright

The proposal would amend the list of outright permitted uses in the *C-L* zone to include eating establishments (restaurants) less than 3,250 sf in floor area as an outright permitted use in the entire *C-L* zone, and those that exceed 3,250 sf in floor area as a conditionally permitted use. The proposed amendment would also delete Figure 19.306.1.E, as the figure is no longer accurate or relevant, and the properties in the figure are no longer within the *C-L* zone (they were included in the 2015 code amendment to be rezoned to *Neighborhood Mixed Use NMU*).

Eating establishments were added as outright permitted uses for those properties identified in Figure 19.306.1.E as an interim solution to permit eating establishments at several existing businesses along SE 32nd Ave while the *Moving Forward Milwaukie* project was in process and the *Neighborhood Mixed Use* zone was being created. Now that the area along SE 32nd Ave is no longer zoned *C-L*, staff is proposing that MMC Sections 19.306.1 and 19.306.2 as well as Figure 19.306.1.E be amended to reflect this fact.

In reviewing the *Comprehensive Plan's Land Use Element* (Chapter 4), there is support for allowing small eating establishments as an outright permitted use in the *C-L* zone.

CHAPTER 19.310 BUSINESS INDUSTRIAL ZONE

19.310.2 Uses Permitted Outright

The proposed amendment adds language to include construction, contractors, and related businesses, as a permitted use in the BI zone, consistent with a recent Code Interpretation decision (land use file #CI-2015-001).

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.300

BASE ZONES

19.303.2 Uses

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

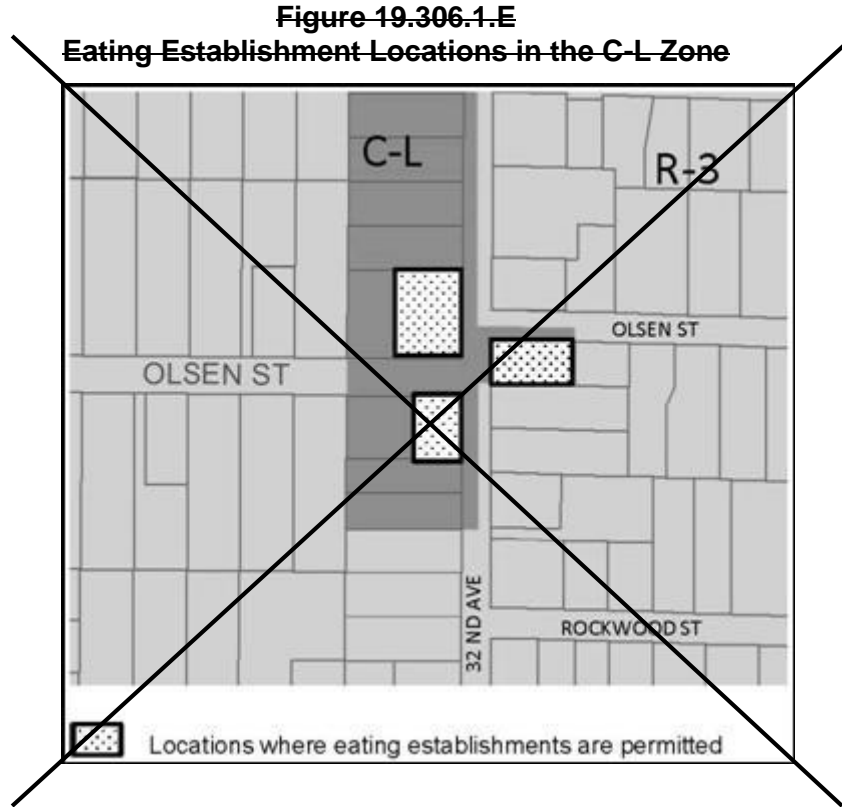
19.306 LIMITED COMMERCIAL ZONE C-L

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

19.306.1 Uses Permitted Outright

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

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



19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

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

19.310 BUSINESS INDUSTRIAL ZONE BI

19.310.2 Uses Permitted Outright

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
 - 1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site;
 - 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
 - 3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing;
 - 4. Trade schools primarily serving the business community within the area.
- B. Business and professional offices, including product design, sales, service, packaging; corporate headquarters or regional offices.

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

COMMENTARY

CHAPTER 19.400

OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

The proposed amendments are intended to provide clarity as to the applicability of the code to projects on properties within the WG overlay. The first amendment involves additional language within the definitions of "change of use" and "intensification". The new language is taken from Goal 15 of the Statewide Planning Goals to provide consistency and include language clarifying projects that are not considered change of use or intensification.

The second amendment adds a list of projects that would be exempt from Willamette Greenway review. This list is intended to include smaller projects that are not significant in scope, do not impact the Willamette Greenway, and do not warrant a Type III review and public hearing before the Planning Commission.

19.402 NATURAL RESOURCES

The proposed amendments are a lengthy collection of minor clarifications and adjustments to language within the Natural Resources section of the zoning code. The amendments include the following:

- Take Construction Management Plans off the list of Type I applications and specify that they are reviewable like building permits and erosion control permits.
- Add language to MMC 19.402.4.A to specify that installation of City-approved erosion control measures is not considered disturbance and is exempt from NR review.
- Remove the discrepancy between the definition of "major pruning" established in MMC 19.201 (which only addresses trees) and the list of outright exempt activities in MMC 19.402.4.A. The inclusion of "and shrubs" in Subsection A-6-e suggests that

shrubs are also subject to the limitations of "major pruning" and might need additional review for pruning or removal, which is not the intent.

- Provide a correction to Type I tree removal language by revising the language in MMC 19.402.6.B.1 to clarify that this section applies except where Subsection B-2 says it does not. Revise the text of Subsection B-2 to clarify its applicability.
- Revise the "replacement tree" language in this section dealing with mitigation plantings. In Type I tree removal situations (MMC 19.402.6.B), the code already provides sizing standards for "replacement" trees, so MMC 19.402.11.B.3 should be more clear in addressing other general mitigation planting situations.
- Clarify that the Type II and Type III review provisions related to routine repair and maintenance of existing structures allow up to 150 sq ft of new WQR disturbance (taking into account any existing disturbance).
- Add language to MMC 19.402.11.D.1.b to clarify that 10% of the HCA on a non-residential site is the maximum area that can be disturbed using the Type I review process.
- Add language to the Applicability section (MMC 19.402.3) to clarify that, where WQRs and HCAs overlap, the WQR overlap area is effectively not considered HCA, is not available for HCA-only exemptions, and is not included in HCA calculations for allowable disturbance.
- Where protected water features are underground and not subject to the provisions of Section 19.402 (as per Subsection 19.402.3.I), clarify that the associated WQR and HCA designations shown above ground for those features are not in effect.
- Clarify that HCA disturbance that triggers Type III review can be mitigated using the options presented in MMC 19.402.11.D as a guide, as an alternative to coming up with a completely independent formula/ratio.
- Loosen the requirement to allow only a professional engineer to submit a hydrology report for map verification of drainages. Other hydrology-related professionals should also be capable of providing credible reports to verify drainages.
- Clarify that large-scale changes to the NR Administrative Map, such as changes that the City initiates that involve multiple properties and for which the City may not be able to obtain all the necessary property owner authorizations, should be handled in a similar manner to regular zoning map amendments. Adjust Table 19.901 to show Type V review as an option instead of Type IV, which was an error that already needed correction.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.400

OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

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

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

19.401.5 Procedures

- A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.B and Subsection 19.401.5.D.
- B. Willamette Greenway review is not required for any of the activities listed below:
- a) Changes to the interior of a building or alterations of buildings or accessory structures that do not increase the size or alter the configuration of the building or accessory structure footprint;
 - b) Normal maintenance and repair as necessary for an existing development;
 - c) Removal of plants listed as nuisance species on the Milwaukie Native Plan List;
 - d) Addition or modification of existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors by public or municipal utilities;
 - e) Flood emergency procedures, and maintenance and repair of existing flood control facilities;
 - f) Placement of signs, markers, aids, etc., by a public agency to serve the public;
 - g) Establishment of residential accessory uses, such as lawns, gardens, and play areas-, subject to the vegetation buffer requirements of Subsection 19.401.8;

Proposed Code Amendment with Commentary

- h) Ordinary maintenance and repair of existing buildings, structures, parking lots, or other site improvements;
- i) Minor repairs or alterations to existing structures for which no building permit is required;
- j) A change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated;
- k) Construction of driveways;
- l) Reasonable emergency procedures as necessary for the safety or protection of property; and
- m) Other activities similar to those listed in "a," through "l," above. Other activities similar to those listed in "a," through "l," above. Such Director determinations, including a finding of consistency with Goal 15, shall be made in accordance with Section 19.903.

- ~~B. C. The Oregon Department of Transportation~~ The Oregon Department of Parks and Recreation shall be notified of a hearing on a conditional use in the WG Zone. The notice shall be sent via "certified mail, return receipt requested."
- ~~C. The provisions of the WG Zone in Section 19.401 shall apply until adoption of the Willamette Greenway Design Plan.~~

19.402 NATURAL RESOURCES NR

19.402.3 Applicability

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

Table 19.402.3.K Types of Process Review for Various Activities			
Activity (and applicable code sections)	Type of Review Process		
	Type I (19.1004)	Type II (19.1005)	Type III (19.1006)
Construction management plans (Subsection 19.402.9)	✓		

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

19.402.4 Exempt Activities

A. Outright Exemptions

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

- 6. Major pruning of trees and shrubs within 10 ft of existing structures.
- 18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

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

A. ~~Construction Management Plans~~

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

B.A. Limited Tree Removal

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

19.402.7 Activities Requiring Type II Review

D. Other Uses and Activities with Minimal Impacts to WQRs

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

19.402.8 Activities Requiring Type III Review

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

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

19.402.9 Construction Management Plans

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

19.402.11 Development Standards

B. General Standards for Required Mitigation

3. Plant Size

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

D. Nondiscretionary Standards for HCAs

1. Disturbance Area Limitations in HCAs

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

b. All Other Uses

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

19.402.12 General Discretionary Review

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

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

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

19.402.15 Boundary Verification and Map Administration

A. Boundary Verification

3. Type III or V Boundary Verification

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

COMMENTARY

CHAPTER 19.500

SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

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

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.500

SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

19.502.2 Specific Provisions for Accessory Structures

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

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

1. Development Standards

b. Other Development Standards

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

of 36 in) between the primary structure and the new structure. Alternately, if a new structure shares a wall with the primary structure for a minimum length of 48 in then it is not considered an accessory structure.

Figure 19.502.2.1

Primary Structure with Addition

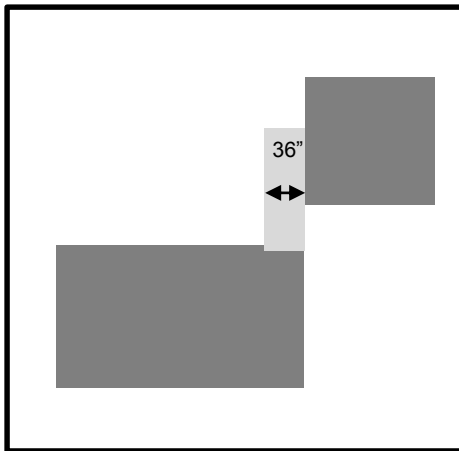


Figure 19.502.2.2

Primary Structure with Addition

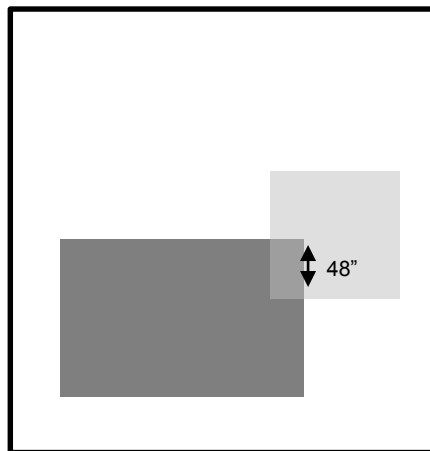
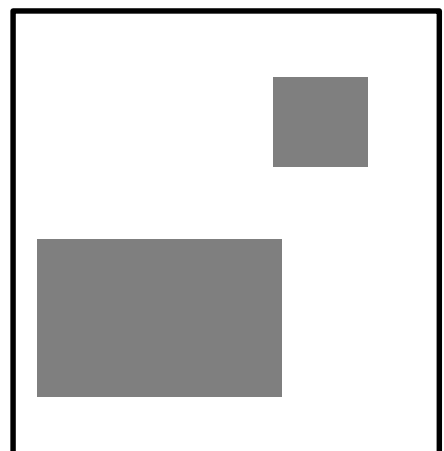


Figure 19.502.2.3

Primary Structure with Accessory Structure



COMMENTARY

CHAPTER 19.600

OFF-STREET PARKING AND LOADING

CHAPTER 19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

This amendment adjusts the requirement that residential driveways may not be wider than the driveway approach for the first 10 ft from the front property line. The amendment

provides 2 options for a property-owner: 1) to simply reduce the 10-ft minimum distance to 5 ft or; 2) allows a gradual widening of the driveway width from the front property line.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

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

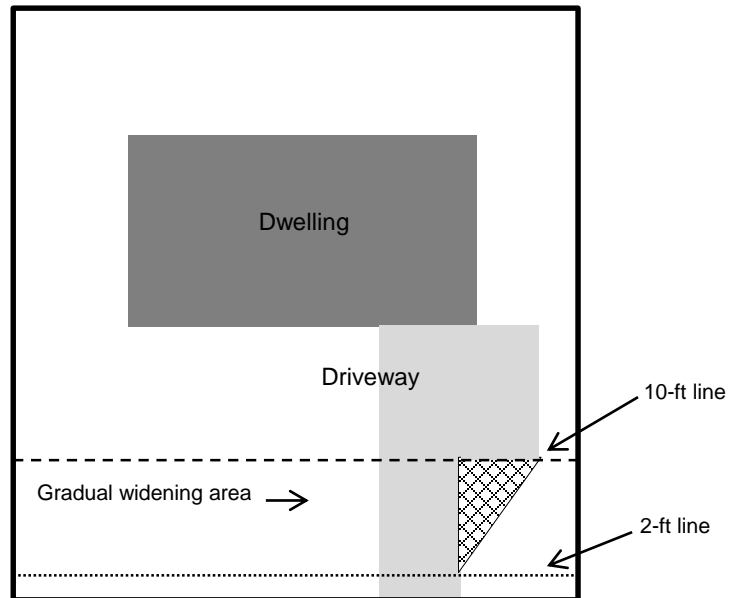
E. Additional Driveway Standards

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

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



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



COMMENTARY

CHAPTER 19.700

PUBLIC FACILITY IMPROVEMENTS

CHAPTER 19.702 APPLICABILITY

19.702.1 General

19.702.4 Exemptions

This amendment revises the list of the types of development to which Chapter 19.700 applies and includes all applications for a replat, whether or not the total number of lots is reduced.

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

19.703.4 Determinations

19.706 FEE IN LIEU OF CONSTRUCTION

These amendments have to do with Fee in Lieu of Construction. The municipal code was recently amended to include a new section, Section 13.32 Fee in Lieu of Construction (Ordinance 2122). These proposed amendments reflect this new section and remove Section 19.706 so that all references to Fee in Lieu of Construction are made to the new section 13.32.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.700

PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

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

- A. Partitions.
- B. Subdivisions.

- C. ~~Replats that increase the number of lots.~~

19.702.4 Exemptions

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

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

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

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

~~G.F.~~ G.F. Public capital improvement projects. (Ord. 2059 § 2, 2013; Ord. 2025 § 2, 2011)

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

- B. Transportation Facility Improvements

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

19.703.4 Determinations

- D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the

criteria for making FILOC determinations found in Section 13.32 Fee in Lieu of Construction, Subsection 19.706.1.

19.706 RESERVED FEE IN LIEU OF CONSTRUCTION

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

19.706.1 FILOC Criteria

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

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

19.706.2 FILOC Findings

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

19.706.3 FILOC Fees

~~If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.~~

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

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

19.706.4— FILOC Administration

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

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

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

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

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

C.— Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.706.4.A and that can be constructed within the 10-year time period per Subsection 19.706.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood. (Ord. 2025 § 2, 2011)

COMMENTARY

CHAPTER 19.900

LAND USE APPLICATIONS

CHAPTER 19.901 INTRODUCTION

This amendment reflects an amendment to Section 19.402.15 noted above and is an adjustment to Table 19.901 to show Type V review as an option instead of Type IV, which was an error that already needed correction.

CHAPTER 19.904 COMMUNITY SERVICE USES

19.904.11 Standards For Wireless Communication Facilities

This amendment reflects a 2014 Federal Communications Commission (FCC) ruling and establishes a Type I review process for modifications to existing WCF that are not significant (it uses language from the FCC rules to clarify). The amendment also revises Table 19.904.11.C to reflect the revisions and clarify the permitting process.

CHAPTER 19.907 DOWNTOWN DESIGN REVIEW

19.907.2.A Exemptions

This amendment would add to the list of exemptions in MMC Subsection 19.907.2.A. a few specific activities related to basic site improvements. The current exemptions list focuses largely on buildings and only addresses site changes related to ADA requirements. It would be helpful to clarify that certain basic site improvements should not require design review.

CHAPTER 19.911 VARIANCES

19.911.3.B Type II Variances

The purpose of this amendment is to provide for a Type II variance process so that there is relief from the code provisions for the maximum height for fences. The Type II fence variance would establish limited variations to numerical standards. A Type III variance would allow for more complex variations to maximum fence height standards.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.900

LAND USE APPLICATIONS

19.901 INTRODUCTION

**Table 19.901
Land Use Application**

Application Type	Municipal Code Location	Review Types
Natural Resource Review	Section 19.402	I, II, III, IV

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

C. Application Process

1. Type I Review

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

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

f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

2. Type II Review

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in 19.904.11.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.11.C.

3. Type III Review

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

Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna ¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions ²
BI	P4 III	P2 P/II	P2 P/II	P2 P/II
M	P4 III	P2 P/II	P2 P/II	P2 P/II
M-TSA	P4 III	P2 P/II	P2 P/II	P2 P/II
C-N	N	P2 P/II	P2 P/II	P2 P/II
C-G	N	P2 P/II	P2 P/II	P2 P/II
C-L	N	P2 P/II	P2 P/II	P2 P/II
C-CS	N	P2 P/II	P2 P/II	P2 P/II
OS	N	P2 P/II	P2 P/II	P2 P/II
DMU	N	P2 P/II	P2 P/II	P2 P/II
GMU	N	P2 P/II	P2 P/II	P2 P/II
NMU	N	P2 P/II	P2 P/II	P2 P/II
R-1-B	N	P2 P/II	P2 P/II	P2 P/II
R-1	N	N	P2 P/II	P2 P/II
R-2	N	N	P2 P/II	P2 P/II
R-2.5	N	N	P2 P/II	P2 P/II
R-3	N	N	P2 P/II	P2 P/II
R-5	N	N	P2 P/II	P2 P/II
R-7	N	N	P2 P/II	P2 P/II
R-10	N	N	P2 P/II	P2 P/II

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

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

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

E. Use of Existing Tower or Antenna Support Structure

2. New towers shall not be approved unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission ~~Director~~ that no existing towers or alternative antenna support structure can accommodate the applicant's need for the placement of an antenna in the vicinity of the applicant's proposed location. Evidence demonstrating that use of an existing or alternative support structure is not possible shall be submitted to the Planning Commission ~~Director~~ and shall include one or more of the following:
 - a. That no existing antenna support structures are located within the geographic area which meet the applicant's engineering requirements in regards to location, size, and structural strength and that alternative antenna support structures are not feasible.
 - b. That use of any existing structure would cause electromagnetic interference with the existing antennas and electronic and other radio frequencies.
 - c. That co-locating on an existing antenna support structure would violate RF emissions standards set by the FCC.
 - d. That fees, costs or contractual provisions required by the owner in order to use an existing antenna support structure are unreasonable. A refusal by the owner to allow co-location shall be considered an unreasonable provision.
3. Evidence demonstrating that alternative support structures were considered, but determined to be technologically insufficient, submitted to the Planning Commission ~~Director~~ for review must be verified and stamped by an engineer licensed in the State of Oregon.

H. Expiration of Approval

Authorization under Section 19.904 shall be void after 6 months unless substantial construction has taken place. If substantial construction has not taken place and the approval becomes void, the facility must be completely removed and the site must return to its preexisting condition. Extensions to an existing approval may be requested per 19.908.

19.907 DOWNTOWN DESIGN REVIEW

19.907.2 Applicability

A. Exemptions

Downtown design review does not apply to the following projects:

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

19.911 VARIANCES

19.911.3.B Type II Variances

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

COMMENTARY

CHAPTER 19.1100

ANNEXATIONS AND BOUNDARY CHANGES

CHAPTER 19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

This amendment revises Table 19.1104.1.E so that properties with Clackamas County's MR-1 zone that go through the expedited annexation process are assigned a City zoning designation of R-2 and a Comprehensive Plan Land Use designation of Medium Density. When comparing the entirety of the city and county zoning ordinances as they relate to development standards and permitted uses, the R-2 zone is the most similar to the County's MR-1 zone.

UNDERLINE/STRIKEOUT AMENDMENTS

CHAPTER 19.1100

ANNEXATIONS AND BOUNDARY CHANGES

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

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

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
MR1	R-5-R-2	Moderate Medium density residential
