

Burden of Proof Statement
Land Use Application

REQUEST / LOCATION: Eleven lot subdivision with a variance to the rear yard setback, and associated improvements. 11159 SE Maplehurst Road, Milwaukie, OR 97222-2852. Tax lot 00300, Map 12E32BC.

APPLICANT: David Riggins

PROPERTY OWNER: David Riggins

Applicable Criteria: City of Milwaukie Land Division Ordinance: Title 17.12 Application Procedure and Approval Criteria, 17.16 Application Requirements and Procedures, 17.20 Preliminary Plat, 19.300 Base Zones, 19.400 Overlay Zones and Special Areas, 19.500 Supplementary Development Regulations, 19.600 Off-Street Parking and Loading, 19.700 Public Facility Improvements, 19.911 Variances, 19.1200 Solar Access Protection

Zoning Code Designation: R-7

Comprehensive Plan Designation: LD

CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA

17.12.010 PURPOSE

The purpose of this chapter is to specify the process and procedures for lot consolidation, property line adjustment, partition, subdivision, and replat.

17.12.020 APPLICATION PROCEDURE

- A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Type III procedures as indicated in this section.
- B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Director may modify the procedures identified in Table 17.12.020 as follows:
1. Type III review may be changed to Type II review, or a Type II review may be changed to a Type I review, upon finding the following:
 - a. The proposal is consistent with applicable standards and criteria;
 - b. The proposal is consistent with the basis and findings of the original approval; and
 - c. The proposal does not increase the number of lots.
 2. Type III review may be required in the following situations:
 - a. When the Planning Commission approved the original land use action; and
 - b. The proposed change is inconsistent with the original approval.

**Table 17.12.020
Boundary Change Review Procedures**

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

C. An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds 3.

D. Partitions

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1005 Type II Review. Should any associated application subject to Type III review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1006 Type III Review.

2. Full compliance with all requirements for subdivision may be required if the Planning Commission should determine that the entire parcel being partitioned is in the process of being divided for the purpose of subdivision. This provision applies if the land to be partitioned exceeds 2 acres and within a year is being partitioned into more than 2 parcels, any one of which is less than 1 acre.

E. Subdivisions

Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1006 Type III Review.

F. Final Plats

Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1004 Type I Review.

Response: *The proposal is an eleven-lot subdivision with a variance to the rear yard setback and subject to Type III Review per the standards in 17.12.020.*

17.12.040 APPROVAL CRITERIA FOR PRELIMINARY PLAT

A. Approval Criteria

The approval authority may approve, approve with conditions, or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with Title 19 of this code and other applicable ordinances, regulations, and design standards.

Response: *The applicable ordinances and standards for this proposal are addressed in this document.*

2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.

Response: *The applicant is seeking an exception to this standard and is applying for a variance to the 20' rear setback, down to 15'.*

3. The proposed subdivision plat name is not duplicative and the plat otherwise satisfies the provisions of ORS 92.090(1).

Response: *No other subdivisions in the county are named Silas Heights. This standard is met.*

4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

Response: *The proposed subdivision is an infill development and connects to the existing stub of SE 66th Ave. and connects to SE Maplehurst Road.*

5. A detailed narrative description demonstrating how the proposal conforms to all applicable code sections and design standards.

Response: *This document serves to address this standard.*

B. Conditions of Approval

The approval authority may attach such conditions as are necessary to carry out the applicable ordinances and regulations and may require access control strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.

Response: *This standard is procedural.*

CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

17.16.010 APPLICATION REQUIRED

Application submissions for lot consolidation, property line adjustment, partition, subdivision, and replat shall be made in accordance with provisions of this chapter.

Response: *An Application for Land Use Action for the Subdivision and Variance of this property is prepared and submitted with this document.*

17.16.020 DETERMINATION OF COMPLETENESS

A. Consistency with Submission Requirements

The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this chapter shall be deemed incomplete for the purpose of ORS 227.178 and Chapter 19.1000. The Planning Director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with ORS 227.178 and Subsection 19.1003.3.

Response: *This standard is procedural.*

B. Time Allowed to Complete Submission

If the Planning Director finds that the application submission is not complete, the applicant has 15 calendar days from the date of the Director's notice to provide the missing information. If the missing information is not provided within 15 days, the application shall be rejected. Rejection of an incomplete application does not constitute a land use action.

Response: *This standard is advisory.*

C. Reactivation of rejected applications may only be made by new submission of a complete application and fee.

Response: *This standard is advisory.*

17.16.060 PRELIMINARY PLAT FOR PARTITION AND SUBDIVISION

The following shall accompany applications for partition:

A. Completed application form signed by all owners of property included in the proposal;

Response: *A signed application is submitted along with this document.*

B. Application fee as adopted by the City Council;

Response: *The application fee shall be paid along with the submittal of the application.*

C. Completed and signed “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;

Response: A signed “Submission Requirements” and a signed “Preliminary Plat Checklist” are included in the submittal.

D. All information specified on the “submission requirements” and “partition checklist” or “subdivision checklist” forms as appropriate;

Response: All information specified in the above forms has been provided as required.

E. Requirements and information specified in Chapter 17.20; and

Response: Chapter 17.20 is addressed below.

F. Any additional information as may be needed to demonstrate compliance with approval criteria.

Response: Additional approval criteria is addressed below.

CHAPTER 17.20 PRELIMINARY PLAT

17.20.010 SUBMISSION OF PLANS

Applicants for partition, subdivision, and replat shall prepare a preliminary plat and such improvement plans and other supplemental material including as may be required to describe and represent the objectives of the proposal.

Response: A preliminary plat and improvement plan has been provided with this application.

17.20.020 SCALE

The preliminary plat shall be drawn at a scale and on a sheet size that reliably and conveniently represents design details sufficient for the proper plan review and determination of compliance with this title.

Response: The provided plans are to scale at 1" = 30'.

17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT

A. Preliminary plats shall be prepared by an Oregon registered land surveyor.

Response: The preliminary plat was prepared by an Oregon registered land surveyor. This standard is met.

- B. The following general information shall be submitted with the preliminary plat:
1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;
 2. Date, north point, and scale of drawing;
 3. Appropriate identification clearly stating the map is a preliminary plat;
 4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;
 5. Names and addresses of the owner, subdivider, and engineer or surveyor;
 6. Acreage;
 7. Structures and yard setbacks;
 8. The location, width, and purpose of easements;
 9. The location, approximate dimensions, and area of all lots;
 10. Lot and block numbers; and
 11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

Response: *The above information is shown on the provided plans. This standard is met.*

- C. Vicinity map shall be drawn at an appropriate scale, showing all existing subdivisions, streets, and unsubdivided land between the proposed subdivision and the nearest existing arterial or collector streets, and showing how proposed streets may be extended to connect with existing streets. At a minimum, the vicinity map shall depict future street connections for land within 400 feet of the subject property.

Response: *Existing streets either run adjacent to the property or are stubbed to it directly and the plan shows connections to said streets. A vicinity map is provided that shows the location of the property in relation to arterial and collector streets within 400 ft.*

17.20.040 BUILDING LINES PROHIBITED

Platted building lines are prohibited. The effect of building lines may be executed through recordation of instruments, which shall be referenced on the recorded plat.

Response: *No building lines are proposed to be platted.*

17.20.050 EXISTING CONDITIONS

The following shall be shown on the preliminary plat:

- A. Location, width, and names of all existing or platted streets within or adjacent to the tract, together with easements, railroad right-of-way, and other important features, such as section lines and corners, City boundary lines, and monuments.

Response: *Existing easements, streets, and city boundary lines are indicated on the provided plan.*

- B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of 2 feet for slopes up to 10% and 5 feet for slopes over 10%.

Response: *One foot interval contours elevated to NAVD 88 based on NGS benchmark RD1488 are shown on the provided plan.*

- C. Location within the area to be divided, and in the adjoining streets and property, of existing sewers, water mains, culverts, storm drain system, and electric conduits or lines proposed to service the property to be subdivided, and invert elevations of sewer manholes, drain pipes, and culverts.

Response: *Existing utilities were marked based on One Call Locate Ticket 17123353. Invert elevations were measured and shown on the provided plan.*

- D. Zoning and existing uses within the tract and 200 feet on all sides, including the location and use of all existing structures indicating those that will remain and those to be removed.

Response: *Zoning and existing structures on the site are shown on the provided plan.*

- E. Approximate location of areas subject to inundation or stormwater overflow with approximate high-water elevation. Location, width, direction, and flow of all watercourses on or abutting the tract including wetlands and watercourses as shown on City-adopted natural resource and Title 3 maps.

Response: *No watercourses exist on subject property. Stormwater overflow will flow to SE Maplehurst Road and SE 64th Avenue. Stormwater systems have been designed to meet the City of Milwaukie Public Works Standards and the Portland Stormwater Management Manual.*

- F. Natural features such as rock outcroppings, drainages whether seasonal or perennial, wooded areas, and isolated trees, including type and caliper.

Response: *Any existing natural features, including trees, are shown on the provided plan.*

- G. Floodway and floodplain boundary.

Response: *The subject property is not within a floodplain. This standard does not apply.*

H. Areas containing slopes of 25% or greater.

Response: *No slopes over 25% exist on the subject property. This standard does not apply.*

17.20.060 PROPOSED CONDITIONS

A. 12 copies of a preliminary plat shall be submitted to the Planning Director. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;
2. Name and address of the record owner or owners and of the person who prepared the site plan;
3. Approximate acreage and square feet under a single ownership, or if more than 1 ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and rights-of-way; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
5. Location of existing structures, identifying those to remain in place and those to be removed;
6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

Response: *The proposed conditions stated above are addressed and shown on the provided plan.*

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

Response: *No nearby properties are vacant and access has already been reserved for the subject property. This standard is not applicable.*

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

Response: *This document serves to address this standard.*

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

Response: *A preliminary plat and improvement plan has been provided with this application.*

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

Response: *A drainage summary report and plan are included as part of this submittal.*

F. Proposed deed restrictions, if any, in outline form.

Response: *A title report is provided with the application and outlines any deed restrictions. This standard is met.*

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, State law, and other applicable City ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat, the additional details shall be submitted with the request for final plat approval.

Response: *Improvements to be made by the developer are shown in the provided plan. Approximate time such improvements are to be completed shall be submitted with the request for final plat approval.*

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some nonhousehold living uses but maintain the overall character of a single-family neighborhood.

19.301.2 Allowed Uses in Low Density Residential Zones

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

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

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes Subsection 19.910.2 Duplexes
Residential home	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	N	III	III	Subsection 19.910.3 Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	Subsection 19.905.9.G Senior and Retirement Housing

P = Permitted.

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

Response: Per Table 19.301.2, single-family detached dwellings are a permitted use.

19.301.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
 - 1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
 - 2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
 - 3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Marijuana production is not permitted in low density residential zones except as follows:
 - 1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
 - 2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

Response: No uses in the above section are proposed. This section does not apply.

19.301.4 Development Standards

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

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

Table 19.301.4				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
A. Lot Standards				
1. Minimum lot size (sq ft)				Subsection 19.501.1 Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100	80		

4. Minimum street frontage requirements (ft)		
a. Standard lot		35

Table 19.301.4 CONTINUED				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
A. Lot Standards CONTINUED				
b. Flag lot			25	
c. Double flag lot			35	
B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				Subsection 19.301.5.A Side Yards
a. Front yard	20	20	20	
b. Side yard	10	5/10	5	Subsection 19.501.2 Yard Exceptions
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	Subsection 19.504.8 Flag Lot Design and Development Standards

Table 19.301.4 CONTINUED				
Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions
B. Development Standards CONTINUED				
2. Maximum building height for primary structures			2.5 stories or 35 ft, whichever is less	Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				Subsection 19.501.3 Building Height and Side Yard
a. Height above ground at minimum required side yard depth (ft)			20	

b. Slope of plane (degrees)	45			Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	30%	35%		Section 19.201 “Lot coverage” definition Subsection 19.301.5.B Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre)				Subsection 19.301.5.D Residential Densities
a. Minimum	3.5	5.0	7.0	Subsection 19.501.4 Density Exceptions
b. Maximum	4.4	6.2	8.7	

Response: A proposed variance for a 15' rear setback is proposed as part of this submittal. Lot size, remaining setbacks, and density are proposed to meet the standards listed in Table 19.301.4. Vegetation, lot coverage, and building height shall follow the standards of Table 19.301.4.

19.301.5 Additional Development Standards

A. Side Yards

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

Response: All side yards in the proposed plans are 20 ft per this standard.

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

Figure 19.301.5.B.2

Increased Lot Coverage for Single-Family Detached Dwellings

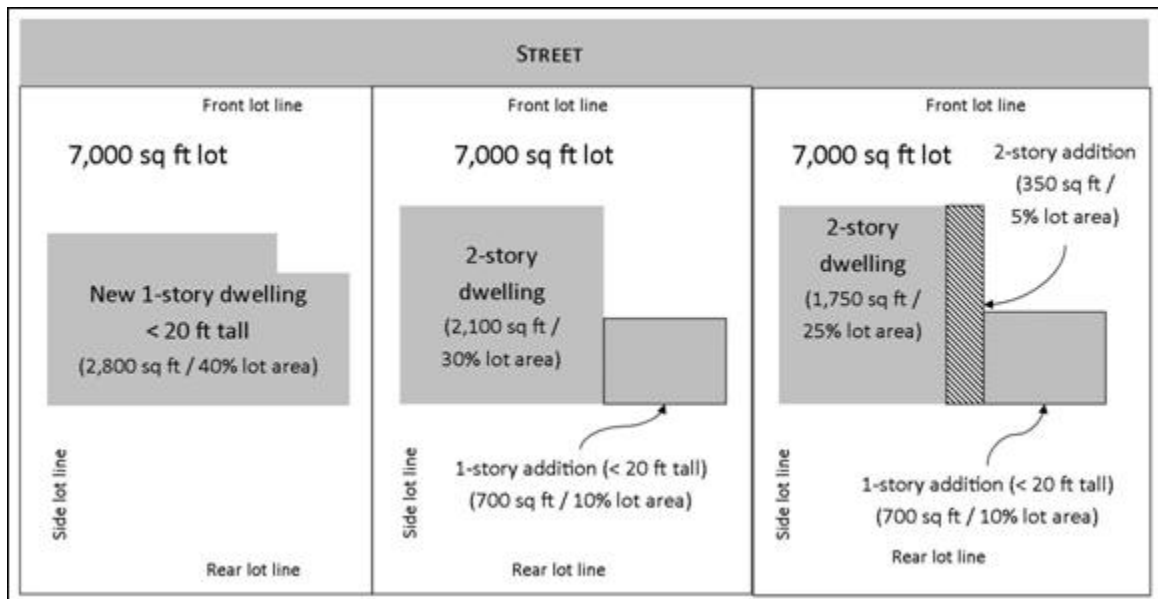


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000-sq-ft lot area.

3. Increased Lot Coverage for Duplexes

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

4. Increased Lot Coverage for Detached Accessory Dwelling Units

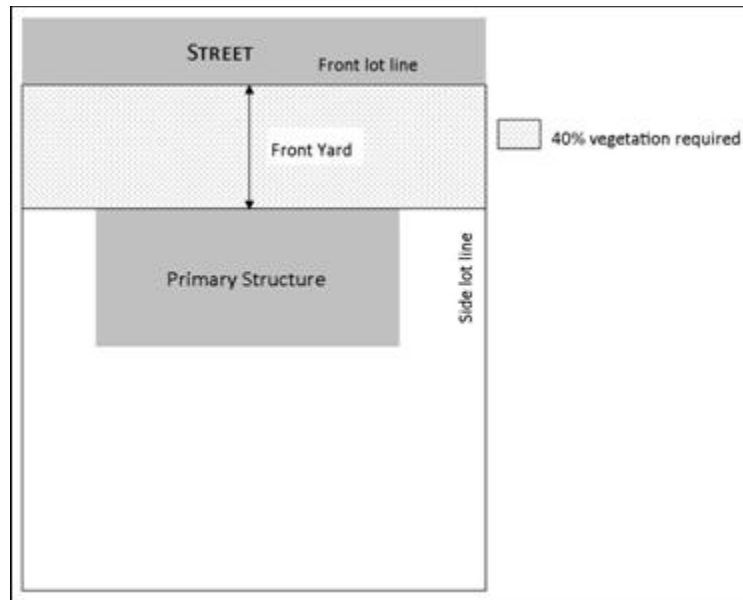
The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures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

Response: No proposed lot is more than 2.5 times the minimum lot size. No dwelling shall exceed maximum lot coverage.

C. Front Yard Minimum Vegetation

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

Figure 19.301.5.C
Front Yard Minimum Vegetation



Response: 40% of each lot front yard shall be vegetated.

D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots.

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

Response: The proposed density is 5.9 units per acre and meets density requirements per Table 19.301.4.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

Response: *No accessory structures are proposed as part of this application.*

F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

Response: *Each lot shall only have one primary building designed for residential purposes.*

G. Off-Street Parking and Loading

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

Response: *Off-Street Parking and Loaded is addressed below in 19.600.*

H. Public Facility Improvements

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

Response: *Public facility improvements are addressed below in Section 19.700.*

I. Additional Standards

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

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.505.1 Single-Family Dwellings and Duplexes
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

Response: *Additional standards are addressed below in Section 19.505.1.*

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

Response: *The subject property does not fall into any overlay zones or special areas. This section does not apply.*

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

The exceptions listed in Subsections 19.501.1–4 below are “by right” exceptions. “By right” exceptions require no special review or approval by the City to implement.

19.501.1 Lot Size Exceptions

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

- A. The development must conform to all other applicable standards of Title 19, unless a variance is granted per Section 19.911.
- B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.

Response: *All lots are a minimum of 7,000 sf and meet the R-7 zoning requirements. No exception is needed.*

19.501.2 Yard Exceptions

- A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.501.2.A below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.501.2.A plus the yard requirement of the underlying zone.

Table 19.501.2.A Additional Yard Requirements	
Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th Ave. to Stanley Ave.)	25'
Harmony Road	40'
Harrison Street (Milwaukie Expressway to 44th Ave.)	40'
Harrison Street (Milwaukie Expressway to McLoughlin Blvd.)	30'
Harvey Street (32nd Ave. to 42nd Ave.)	25'
Howe Street (42nd Ave. to 43rd Ave.)	30'

**Table 19.501.2.A CONTINUED
Additional Yard Requirements**

Major Street	Distance from Centerline (plus yard requirements in zone)
Johnson Creek Boulevard	30'
King Road	40'
Linwood Avenue	40'
Lake Road	30'
Logus Road	25'
Monroe Street (52nd Ave. to Linwood Ave.)	30'
Oak Street	30'
Oatfield Road	30'
Ochoco Street	30'
Olsen Street	25'
Railroad Avenue	30'
River Road (south of Lark St.)	30'
Roswell Street (32nd Ave. to 42nd Ave.)	25'
Washington Street (west of Railroad Ave.)	30'
Willow Street (Windsor Dr. to Stanley Ave.)	25'
17th Avenue (Ochoco St. to McLoughlin Blvd.)	40'
32nd Avenue (north of Harrison St.)	30'
37th Avenue (Lake Rd. to Grogan Ave.)	25'
40th Avenue (Harvey St. to Railroad Ave.)	30'
42nd Avenue (Johnson Creek Blvd. to Howe St.)	30'
42nd Avenue (Harrison St. to King Rd.)	30'
43rd Avenue (Howe St. to King Rd.)	30'
55th Avenue (Firwood St. to Johnson Creek Blvd.)	25'

Response: *The subject property is not located along any of the listed streets. A yard exception does not apply.*

B. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 in into a required side yard or 36 in into a required front or rear yard. Such features extending from an accessory structure shall not be closer than 3 ft from a property line.

Response: *No architectural features shall project more than 24 in into a side yard or 36 in into a front or rear yard. No accessory structures are proposed as part of this application.*

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

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

Response: *Any proposed porches shall not be enclosed, exceed 18 in above grade, and be no closer than 5 ft from the front lot line.*

19.501.3 Building Height and Side Yard Height Plane Exceptions

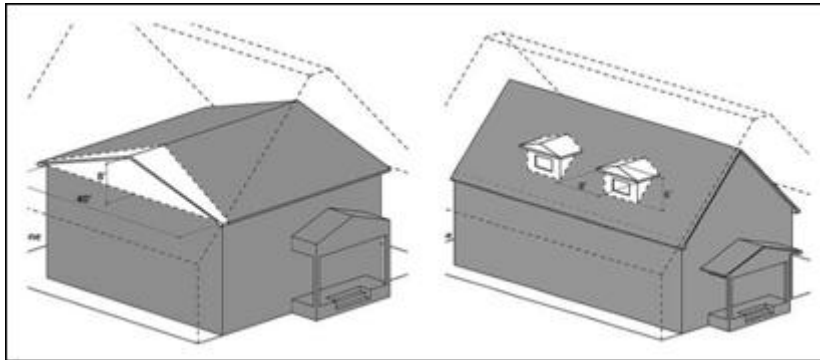
A. Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height and side yard height plane limitations of the Zoning Ordinance, except as provided in an L-F Zone.

Response: *This standard is advisory.*

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

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
2. The gable end of a roof, provided that the encroachment is not more than 8 ft high above the side yard height plane or more than 40 ft wide.
3. Dormers, with the following limitations:
 - a. The highest point of any dormer is at or below the height of the primary roof ridge.
 - b. The encroachment is not more than 6 ft high above the side yard height plane or more than 8 ft wide.
 - c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.

Figure 19.501.3.B
Allowed Height Plane Encroachments



Response: All allowed encroachments into a side yard height plane shall comply with this standard.

19.501.4 Density Exceptions

In exchange for the dedication of parkland, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

Response: The proposed development meets R-7 density requirements. No exception applies.

19.502 ACCESSORY STRUCTURES

19.502.1 General Provisions

- A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.

Response: This standard is advisory.

- B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.

Response: This standard is advisory.

- C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.

Response: No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.

D. Accessory structures excluding fences, flagpoles, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.

Response: *No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.*

E. Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft, except as described below.

1. Accessory structures are subject to the minimum street side yard requirements of the base zones in Chapter 19.300.
2. Regulations for overlay zones or special areas in Chapter 19.400 may require an accessory structure to be set back beyond the minimum side or rear yard requirements.
3. If the rear or side yard requirement in the base zone in Chapter 19.300 is less than 5 ft, then the yard requirements of the base zone shall apply.
4. The rear or side yard requirement for residential accessory structures per Subsection 19.502.2.A or 19.910.1.E.4 may specify a different yard requirement.

Response: *No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.*

F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Development.

Response: *No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.*

G. Fences, flagpoles, pergolas, arbors, and trellises are permitted in yards in all residential zones.

Response: *This standard is advisory.*

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

a. Height and Footprint

The maximum height and footprint allowed for an accessory structure is determined by the yard depths between the structure and the lot lines. Accessory structures with a larger height and footprint must meet the increased yard requirements. An accessory structure is allowed the maximum building height and footprint listed in Table 19.502.2.A.1.a only if the entire structure meets or exceeds all the yard requirements in the same column. See Figure 19.502.2.A.1.a.

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 Subsection 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 is all of the following, which results in an addition and is not an accessory structure:
 - (a) Fully enclosed and meets the building code definition of a conditioned space; and
 - (b) Provides a shared wall with the primary structure with the common wall being the longer of either 20 ft in length or 40% of the overall length of the wall of the primary structure (see Figure 19.502.2.A.1.b); and
 - (c) Provides for interior passage between the primary structure and the new structure.

2. Design Standards

- a. Metal siding is prohibited on structures more than 10 ft high or with a footprint greater than 200 sq ft, unless the siding replicates the siding on the primary dwelling or has the appearance of siding that is commonly used for residential structures.
- b. Structures located in a front, side, or street side yard that are visible from the right-of-way at a pedestrian level shall use exterior siding and roofing materials that are commonly used on residential structures.

3. Roof Pitch

There are no roof pitch requirements for an accessory structure with a height equal to or less than 10 ft. A minimum 4/12 roof pitch is required for an accessory structure with a height over 10 ft.

4. Exceptions for Large Lots

Lots larger than 1 acre in size are allowed an exception to the Type C accessory structure height limitation and footprint size limitation of 75% of the primary structure.

- a. The allowed exceptions are:
 - (1) The structure is allowed the base zone height limit or 25 ft, whichever is greater.
 - (2) The structure is allowed a maximum footprint of 1,500 sq ft, regardless of the footprint of the primary structure.
- b. The exceptions are allowed with the following limitations:
 - (1) The sum of accessory structure footprints that exceed 75% of the footprint of the primary structure is limited to 2,500 sq ft.
 - (2) The side yard requirement shall be 20 ft, regardless of the base zone.
 - (3) The structure must conform to all other base zone and accessory structure regulations.

Response: *No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.*

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

a. Residential Zones and Residential Uses in All Zones

Maximum height is 6 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.

b. Commercial Zones

Maximum height 6 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a 6-ft-high sight-obscuring fence.

c. Industrial Zones

Maximum height 8 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of 6 ft.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 1-ft horizontal distance from the fence.

Response: No plans are proposed at this time for fences or walls. This condition will be met upon the building permit application process.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to 3 ft for an uncovered patio, deck, or swimming pool not exceeding 18 in high above the average grade of the adjoining ground (finished elevation). An uncovered ramp with handrails is allowed to exceed 18 in high if it provides access from grade to the elevation of the main entrance of a residential structure.

Response: This standard is advisory.

D. A stand-alone flagpole in a residential zone is limited to 25 ft high and must be at least 5 ft from any lot line. A stand-alone flagpole in commercial or industrial zones is subject to the height limits of the base zone in which it is located, and it must be at least 5 ft from any lot line.

Response: No plans are proposed at this time for stand-alone flag poles. This condition will be met upon the building permit application process.

19.502.3 Sustainability-Related Accessory Structures

A. Purpose

The purpose of these regulations is to allow apparatus for the generation of renewable energy and collection of stormwater, subject to standards to ensure that these structures are appropriate for their surroundings in both design and scale.

B. Maintenance Requirement

All of the sustainability-related structures in this subsection shall be maintained to be functional and safe. The Planning Director may require the repair or removal of a structure listed in this subsection if the structure is deteriorated, malfunctioning, or is otherwise unsafe.

Response: This standard is advisory.

C. Solar Energy Systems

1. Allowance

The installation of a solar energy system is an outright permitted use in zones where commercial, industrial, and residential structures are allowed outright. Installation of solar equipment that does not meet the definition of a solar energy system shall be reviewed as a Community Service Use, per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Solar Energy Systems
 - a. A stand-alone solar energy system that is not wholly supported by another structure is subject to the reviews required by applicable base zones and overlay zones or special areas.
 - b. A solar energy system that is wholly supported by another structure shall be subject to review, or not, as described below.
 - (1) The installation of a solar energy system on an historic resource that is designated either “contributing” or “significant,” per Section 19.403, shall follow the review procedures of that section for alteration of the resource.
 - (2) The installation of a solar energy system in a downtown zone shall be exempt from downtown design review, per Section 19.907.
 - (3) The installation of a solar energy system on a structure within the Willamette Greenway Zone, or within a designated Natural Resource, is exempt from the review requirements of that zone or special area.
 - (4) The installation of a solar energy system on a structure that has been designated as a Conditional Use or a Community Service Use is exempt from the reviews of Subsections 19.904.3 and 19.905.3.
 - (5) The installation of a solar energy system under circumstances other than those described in Subsections 19.502.3.C.2.b(1)-(4) above is exempt from any land use review.
 - c. A Type I development review permit may be required for installation of a solar energy system depending upon the applicability criteria in Subsection 19.906.2.A. In no case shall a Type II development review application be required for installation of a solar energy system.
3. Standards
 - a. A stand-alone solar energy system is subject to the development standards that apply to the site. The design standards of Subsection 19.502.2.A.2 shall not be construed so as to prevent installation of a stand-alone solar energy system.
 - b. A solar energy system that is attached to a structure is subject to the following standards.
 - (1) The solar energy system will not increase the lot coverage or footprint of the structure on which the system is installed.
 - (2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof, except that the plane of the system is allowed a minimum slope of 35 degrees from horizontal regardless of the slope of the roof.

Response: *No plans are proposed at this time for solar energy systems. This condition will be met upon the building permit application process.*

D. Wind Energy Systems

1. Allowance

A wind energy system is allowed outright as an accessory use in all zones. Installation of wind turbines, and related equipment that does not meet the definition of a wind energy system, shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Wind Energy Systems

The review of a freestanding or roof-mounted wind energy system is subject to the reviews required by applicable base zones and overlay zones or special areas.

3. General Standards

- a. The minimum distance between the ground and any part of a rotor blade must be at least 20 ft.
- b. Wind energy systems may not be illuminated, nor may they bear any signs or advertising.
- c. Wind energy systems must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.
- d. All wiring serving small wind energy systems must be underground.
- e. Noise produced by wind energy systems may not exceed 45 dBA measured at the property line.
- f. Wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, any public safety agency or organization's radio transmissions, or any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference, should any occur, or must immediately shut down the system or parts of the system causing the interference.
- g. A finish (paint/surface) must be provided for the wind energy system that reduces the visibility of the facility, including the rotors. The Planning Director may specify that the support structure and rotors be brown, blue, light gray haze, or other suitable color to minimize the structure's visibility. If the support structure is unpainted, it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.
- h. The rotor sweep area, as defined by the American Wind Energy Association, is 50 sq ft in residential zones and 150 sq ft in all other zones.

4. Standards for Freestanding Systems

Wind energy systems may be mounted on a tower that is detached from other structures on the lot.

a. Setback

A freestanding wind energy system is not allowed in a required front yard or street side yard, and it must be at least 10 ft away from any side or rear lot line. All portions of the support pole, blades, guy wires, and associated structures or equipment must meet these standards.

b. Height

The pole and turbine are subject to the base zone height limit for primary structures, except that an increase of 1 additional ft high is allowed for every 1 ft that the wind energy system is set back beyond what is required in Subsection 19.502.3.D.4.a, up to a maximum of 50% above the base zone height limit.

c. Number

A maximum of 1 freestanding small wind generator system may be allowed on a lot of 15,000 sq ft or less. 1 additional freestanding system is allowed for each 7,500 sq ft of lot area above 15,000 sq ft.

5. Standards for Roof-Mounted Systems

Wind energy systems may be mounted on the roof of a structure.

a. Setback

The roof-mounted wind energy system is subject to the minimum yard requirements of the building on which it is mounted.

b. Height

Roof-mounted systems are subject to the height limit for freestanding systems in Subsection 19.502.3.D.4.b.

c. Number

There is no maximum number of roof-mounted systems permitted.

Response: No plans are proposed at this time for wind energy systems. This condition will be met upon the building permit application process.

E. Rainwater Cisterns

1. A rainwater cistern installed below ground, at grade, or above ground is a permitted accessory use for all properties.

2. A rainwater cistern that meets the standards listed below may encroach up to 3 ft into a required yard, but not be closer than 3 ft from any lot line. Rainwater cisterns that meet the standards below are not subject to any design or materials standards.

a. The rainwater cistern is not mounted more than 2 ft above grade.

b. The rainwater cistern's storage capacity is 80 gallons or less.

3. A rainwater cistern that exceeds the standards listed in Subsection 19.502.3.E.2 is allowed subject to all other applicable regulations for an accessory structure.

4. A below-ground rainwater cistern shall be located at least 3 ft away from any lot line.

Response: No plans are proposed at this time for rainwater cisterns. This condition will be met upon the building permit application process.

19.503 ACCESSORY USES

19.503.1 General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

- A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling and may be used as a short-term rental, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.
- B. A greenhouse or hothouse may be maintained accessory to a dwelling.
- C. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number. Subsections 19.301.3 and 19.302.3.A contain additional regulations on keeping chickens or other domesticated fowl in the residential zones.
- D. Keeping of bees shall be a permitted accessory use for residentially zoned properties.
- E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers are not permitted within any required front yard or street side yard, and shall be located at least 5 ft away from any side or rear property line. Amateur and CB radio structures and towers may exceed the height limits for the base zone, but shall not exceed a height of 70 ft. Any deviation from these standards will require a variance by the Planning Commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

Response: *No plans are proposed at this time for any accessory structures. This condition will be met upon the building permit application process.*

19.504 SITE DESIGN STANDARDS

19.504.1 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

Response: *Clear vision at intersections shall be maintained per Chapter 12.24.*

19.504.2 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

Response: *No reduction to the minimum ordinance requirements are proposed.*

19.504.3 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in Subsection 19.605.4.

Response: *No dual use are proposed as part of this application.*

19.504.4 Buildings on the Same Lot

A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.

B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

Response: *Each lot shall only have one primary building designed for residential purposes.*

19.504.5 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 ft from the property line.

Response: *This standard does not apply.*

19.504.6 Transition Area Measures

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

A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.

B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen lower-density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.

Response: *This standard does not apply.*

19.504.7 Minimum Vegetation

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

Response: *Bark mulch shall not exceed 20% of the required vegetation areas.*

19.504.8 Flag Lot Design and Development Standards

A. Applicability

Flag lots in all zones are subject to the development standards of this subsection.

Response: *No flag lots are proposed. This standard does not apply.*

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

Response: *Single-family developments are excluded from this standard.*

19.504.10 Setbacks Adjacent to Transit

The following requirement applies to all new commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

When adjacent to a street served by transit, new commercial, office, or institutional development, including uses authorized under Section 19.904 Community Service Uses, shall be set back no more than 30 ft from the right-of-way that is providing transit service.

- A. An individual building may be set back more than 30 ft, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30-ft setback standard.
- B. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 ft.

- C. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.
- D. If the site abuts more than 1 street served by transit, then the maximum setback requirement need only apply to 1 street.

Response: *This standard does not apply.*

19.504.11 Preliminary Circulation Plan

A preliminary circulation plan is intended to guide site development by establishing a plan for multimodal access, connectivity, and circulation. A preliminary circulation plan is a conceptual plan, in that it does not establish a precise alignment for street, pedestrian, or bicycle facilities.

A. Applicability

A preliminary circulation plan is required for nonresidential development on sites 3 acres and larger that are subject to development review per Section 19.906 and where any of the following is true:

1. The site is vacant.
2. The proposed new development or redevelopment will result in reconfiguration of the transportation and development pattern for > 50% of the site.
3. The development is in the Flex Space Overlay Zone.

Response: *This section does not apply as the proposed development is residential.*

19.505 BUILDING DESIGN STANDARDS

19.505.1 Single-Family Dwellings and Duplexes

A. Purpose

The design standards for single-family dwellings and duplexes require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

B. Applicability

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

1. New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.
2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
 - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.

- b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
 - c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
 - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
 - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
 - d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
 - e. Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
- a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

Response: Section shall be addressed during the building permit application process.

19.505.3 Multifamily Housing

A. Purpose

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

The guidelines and standards are intended to achieve the following principles that the City encourages for multifamily development:

1. Livability

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

2. Compatibility

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

3. Safety and Functionality

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

4. Sustainability

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

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multifamily and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multifamily or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.
 - a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
 - b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
 - c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.
 - d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.
 - e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
 - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
 - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
 - h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.
 - i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.
 - j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.
3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

Response: *This standard does not apply.*

19.505.4 Cottage Cluster Housing

A. Purpose

These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300. The standards apply to development of new cottage clusters and modifications to existing cottage clusters.

Response: *This standard does not apply.*

19.505.5 Rowhouses

A. Purpose

Rowhouses provide a type of housing that includes the benefits of a single-family detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. The purpose of these standards is to allow rowhouses in medium to high density residential zones. Rowhouses are allowed at the same density as single-family detached and multifamily dwellings, and the general design requirements are very similar to the design requirements for single-family detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of rowhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single-family dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a rowhouse lot in both Section 19.302 and Subsection 19.505.5.E. Rowhouse development may take place on existing lots that meet the lot standards for rowhouse lots or on land that has been divided to create new rowhouse lots.
2. Development standards for rowhouses are in Subsection 19.302.4.
3. Design standards for single-family detached dwellings in Subsections 19.505.1-2 are also applicable to rowhouses.

4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either duplexes or multifamily housing.

Response: *This standard does not apply.*

19.505.6 Live/Work Units

A. Purpose

This section establishes regulations and standards for creating and operating live/work units as a primary use. The purposes of these provisions are as follows:

1. Allow for the creation of cost-efficient alternative work space that will provide an incentive for entrepreneurs, business owners, artists, artisans, and other individuals to work in Milwaukee and contribute to the city's economy.
2. Foster and encourage the development of small businesses.
3. Enliven the vitality of commercial corridors by encouraging on-site residential uses.
4. Ensure that the use and design of live/work units is compatible with the use and design of surrounding structures and development.

B. Applicability

These standards apply to live/work units, as defined in Section 19.201, wherever this use is allowed by the base zones in Chapter 19.300 or the overlay zones in Chapter 19.400.

1. Live/work units may be established through the conversion of existing buildings or through new construction.
2. The construction or creation of live/work units in the Downtown Mixed Use Zone is subject to the design standards and applicability of Subsection 19.508.
3. Development standards for live/work units are those of the base zone and Subsection 19.505.6.D.

Response: *This standard does not apply.*

19.505.7 Nonresidential Development

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards support development of an attractive, cohesive, and pedestrian-friendly commercial area. The design standards do not prescribe a particular building or architectural style.

B. Applicability

1. The design standards in this section generally apply to the street-facing façades of new commercial, institutional, manufacturing, and mixed-use buildings within the commercial mixed-use zones.
2. The standards in this section do not apply to rowhouses or live/work units. Rowhouses and live/work units are subject to the design standards in Subsections 19.505.5 Rowhouses and 19.505.6 Live/Work Units.

3. The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Subsection 19.505.3 Multifamily Housing.
4. The standards in this section do not apply to cottage cluster housing. Cottage cluster housing is subject to the design standards in Subsection 19.505.4 Cottage Cluster Housing.

Response: *This standard does not apply.*

19.505.8 Building Orientation to Transit

The following requirement applies to all new commercial, office, mixed-use, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than 1 entrance. If the development has frontage on more than 1 transit street, the primary building entrance may be oriented to either street or to the corner.

Response: *This standard does not apply.*

19.507 HOME OCCUPATION STANDARDS

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the City's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.507.1 Home Occupation Use Standards

Home occupation uses are allowed by right; however, they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property.
- B. Maintain the residential character of the building and premises.
- C. Not have the outward appearance of a business.
- D. Not detract from the residential character of the neighborhood.
- E. Be owned and operated by an occupant of the dwelling.

Response: *This condition will be met upon the building permit application process.*

19.507.2 Prohibitions and Use Restrictions

- A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premises instruction, no more than 5 enrollees shall be present at the same time.
- D. Motor vehicle, boat, or trailer repair is prohibited as a home occupation.
- E. Only 1 home occupation is allowed per residence, except that 2 may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.
- F. Except as set forth in Section 19.509, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

Response: *None of the prohibitions or use restrictions listed above are proposed as part of this development.*

19.507.3 Permitted Signage

Only 1 sign is permitted on any property with an approved home occupation. The sign shall not exceed 4 sq ft in area, shall not be illuminated, shall not exceed 3 ft in height, and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the City without prior notice.

Response: *No signs are proposed as part of this submittal.*

19.507.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.507.1 of this section:

- A. Number of on-site employees who are not members of the family residing on the premises.
- B. Use of the home to distribute or receive goods.
- C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.
- D. The use of public streets for parking or storage.
- E. The time of day that home occupation activities may take place.
- F. Equipment or material storage, including vehicles and trailers.
- G. Noise, light, fumes, exhaust, and similar impacts.

Response: *This section is advisory.*

19.507.5 Special Provisions for Specific Uses

Short-Term Rentals. A short-term rental is an accessory use to a primary residence and allowed as a home occupation provided the following provisions are met:

- A. The residence must be occupied by the owner or a primary operator for not less than 270 days per year.
- B. Unhosted rentals (where the primary occupants vacate the unit or site during the rental period) are limited to no more than 95 days per year.
- C. If a dwelling on a property with an accessory dwelling unit is being used for short-term rental purposes, either the primary residence or the accessory dwelling unit must be occupied by the property owner for not less than 270 days per year.
- D. A property in a low-density residential zone or any property with a duplex is limited to having 1 short-term rental operating at any given time period.
- E. At any given time, no more than 2 rental parties (i.e., under 2 separate reservations) shall occupy a dwelling unit used for short-term rental purposes.
- F. Building code and fire code standards must be met.
- G. The operator of a short term rental shall register with the City and comply with all relevant requirements of Title 5 of the Milwaukie Municipal Code. The registration process will be used to verify that all code provisions have been satisfied. The right to operate the short-term rental business may be revoked if the owner or operator fails to comply with these provisions or any other home occupation standards.

Response: *This section applies to the future homeowner. The conditions will be adhered to by homeowner.*

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

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

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official.

19.602 APPLICABILITY

19.602.1 General Applicability

The regulations of Chapter 19.600 apply to all off-street parking areas and off-street loading areas, whether required by the City as part of development or a change in use, per Subsection 19.602.3, or voluntarily installed for the convenience of users, per Subsection 19.602.4. Activity that is not described by Subsections 19.602.3 or 4 is exempt from compliance with the provisions of Chapter 19.600. Changes to nonconforming off-street parking and loading are addressed through Chapter 19.600 and not through the provisions of Chapter 19.800

Response: *This section is advisory.*

19.602.2 Maintenance Applicability

Property owners shall comply with the regulations of Chapter 19.600 by ensuring conformance with the standards of Chapter 19.600 related to ongoing maintenance, operations, and use of off-street parking and loading areas. Changes to existing off-street parking or loading areas that bring the area out of conformance with Chapter 19.600, or further out of conformance if already nonconforming, are prohibited.

Response: *This section is advisory.*

19.602.3 Applicability for Development and Change in Use Activity

The provisions of Chapter 19.600 apply to development and changes of use as described in Subsection 19.602.3.

- A. Development of a vacant site shall have off-street parking and off-street loading areas that conform to the requirements of Chapter 19.600. Development of a site that results in an increase of 100% or more of the existing floor area and/or structure footprint on a site shall also conform to the requirements of Chapter 19.600. The floor area and/or footprint of structures demolished prior to development or redevelopment on the site shall not be considered when calculating the increase in floor area and/or structural footprints.
- B. Existing off-street parking and loading areas shall be brought closer into conformance with the standards of Chapter 19.600, per Subsection 19.602.5, when the following types of development or change in use occur:
 1. Development that results in an increase of less than 100% of the existing floor area and/or structure footprint.
 2. Changes of use, as defined in Section 19.201.

Response: *All off-street parking shall comply with this section.*

19.602.4 Applicability not Associated With Development or Change in Use

A. Any parking or loading area developed to serve an existing use(s) that is not associated with development activity or a change in use described in Subsection 19.602.3 shall conform to the requirements of Sections 19.604 and 19.606-19.611. The total number of spaces in the existing parking area and new parking area shall not exceed the maximum allowed quantity of parking as established in Section 19.605.

B. Any parking or loading area that is not developed to serve an existing use and is not associated with development activity or a change in use as described in Subsection 19.602.3 shall conform to the requirements of Sections 19.604 and 19.606-19.611. The requirements of Section 19.605 do not apply to parking areas described under Subsection 19.602.4.B.

Response: *This standard does not apply.*

19.602.5 Improvements to Existing Off-Street Parking and Loading Areas

A. Purpose

The purpose of Subsection 19.602.5 is to improve nonconforming off-street parking and loading areas as redevelopment occurs. These improvements should occur in conjunction with a development or change in use.

B. Limitations on Required Improvements

The cost of materials for any required improvements shall not exceed 10% of the development permit value of the associated development, redevelopment, and/or tenant improvements associated with a change in use. The cost of capital equipment such as manufacturing or operational equipment is exempt from the building permit value for purposes of this regulation. This exemption does not include building infrastructure such as electrical, plumbing, heating, venting, or air conditioning equipment.

C. Areas of Required Improvement

The Planning Director will evaluate the applicant's parking plan and use the prioritized list below when determining what improvements will be required.

1. Paving and striping of parking areas, per Subsection 19.606.3.A.
2. Minimum required vehicle parking spaces, per Section 19.605.
3. Minimum required bicycle parking spaces, per Section 19.609.
4. Landscaping of existing buffers, islands, and medians, per Subsection 19.606.2.D.
5. New perimeter landscape buffers, islands, and medians, as applicable, per Subsection 19.606.2.E.
6. Other applicable standards within Chapter 19.600, as determined by the Planning Director.

Response: *No existing off-street parking exists. This section does not apply.*

19.603 REVIEW PROCESS AND SUBMITTAL REQUIREMENTS

19.603.1 Review Process

The Planning Director shall apply the provisions of Chapter 19.600 in reviewing all land use and development permit applications, except when an application is subject to a quasi-judicial land use review or appeal, in which case the body reviewing the application or appeal has the authority to implement and interpret the provisions of Chapter 19.600.

Response: *This standard is procedural.*

19.603.2 Submittal Requirements

Except for single-family dwellings, a development or change in use subject to Chapter 19.600 as per Section 19.602 shall submit a parking plan, drawn to scale. The parking plan shall show that all applicable standards are met, and shall include but not be limited to the items listed below, unless waived by the Planning Director.

- A. Delineation of individual spaces and wheel stops.
- B. Drive aisles necessary to serve spaces.
- C. Accessways, including driveways and driveway approaches, to streets, alleys, and properties to be served.
- D. Pedestrian pathways and circulation.
- E. Bicycle parking areas and rack specifications.
- F. Fencing.
- G. Abutting land uses.
- H. Grading, drainage, surfacing, and subgrading details.
- I. Location and design of lighting fixtures and levels of illumination.
- J. Delineation of existing and proposed structures.
- K. Parking and loading area signage.
- L. Landscaping, including the following information.
 - 1. The location and area of existing and proposed trees, vegetation, and plant materials, including details about the number, size, and species of such items.
 - 2. Notation of the trees, plants, and vegetation to be removed, and protection measures for existing trees and plants to be preserved.

Response: *The proposed development is for single-family dwellings. This section does not apply.*

19.604 GENERAL PARKING STANDARDS

19.604.1 Parking Provided with Development Activity

All required off-street parking areas shall be provided at the time the structure is built; at the time a structure or site is enlarged; or when there is change in use or an increase in density or intensity. All required off-street parking areas shall be provided in conformance with the standards of Chapter 19.600 prior to issuance of a certificate of occupancy, or final development permit approval, or as otherwise specified in any applicable land use decision.

Response: *Off-street parking shall be provided with the construction of the homes.*

19.604.2 Parking Area Location

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

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

Response: *All off-street parking shall be on the same site as the primary use for which the parking is accessory.*

19.604.3 Use of Parking Areas

All required off-street parking areas shall continually be available for the parking of operable vehicles of intended users of the site. Required parking shall not be rented, leased, sold, or otherwise used for parking that is unrelated to the primary or accessory use of the site, except where a shared parking agreement per Subsection 19.605.4 has been recorded. Subsection 19.604.3 does not prohibit charging fees for parking when the parking serves the primary or accessory uses on site.

Response: *This standard is advisory.*

19.604.4 Storage Prohibited

No required off-street parking area shall be used for storage of equipment or materials, except as specifically authorized by Subsection 19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking.

Response: *This standard is advisory.*

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

Nonresidential development in the Downtown Mixed Use (DMU) and Open Space (OS) Zones is exempt from the requirements of Section 19.605.

19.605.1 Minimum and Maximum Requirements

- A. Development shall provide at least the minimum and not more than the maximum number of parking spaces as listed in Table 19.605.1. Modifications to the standards in Table 19.605.1 may be made as per Section 19.605. Where multiple ratios are listed, the Planning Director shall determine which ratio to apply to the proposed development or use.
- B. When a specific use has not been proposed or identified at the time of permit review, the Planning Director may elect to assign a use category from Table 19.605.1 to determine the minimum required and maximum allowed parking. Future tenants or property owners are responsible for compliance with Chapter 19.600 per the applicability provisions of Section 19.602.
- C. If a proposed use is not listed in Table 19.605.1, the Planning Director has the discretion to apply the quantity requirements of a similar use listed in the table upon finding that the listed use and unlisted use have similar parking demands. If a similar use is not listed, the quantity requirements will be determined per Subsection 19.605.2.
- D. Where the calculation of minimum parking spaces does not result in a whole number, the result shall be rounded down to the next whole number. Where the calculation of maximum parking spaces does not result in a whole number, the result shall be rounded to the nearest whole number.
- E. Parking spaces for disabled persons, and other improvements related to parking, loading, and maneuvering for disabled persons, shall conform to the Americans with Disabilities Act and shall be subject to review and approval by the Building Official. Spaces reserved for disabled persons are included in the minimum required and maximum allowed number of off-street parking spaces.
- F. Uses that have legally established parking areas that exceed the maximum number of spaces allowed by Section 19.605 prior to June 17, 2010, the effective date of Ordinance #2015, shall be considered nonconforming with respect to the quantity requirements. Such uses shall not be considered parking facilities as defined in Section 19.201.

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling		

units (includes senior and retirement housing). a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory dwelling units (ADU)—Types I and II.	Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.

Response: All lots are proposed to have single-family dwellings and shall have a minimum of one parking space per dwelling.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with large parking demands.

A. Applicability

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

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

Response: No modifications to the quantity of parking spaces are required. This section does not apply.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

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

A. Exemptions to Maximum Quantity Allowance

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

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

B. Reductions to Minimum Parking Requirements

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

1. Reductions for Neighborhood Commercial Areas

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

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

2. Proximity to Public Transit

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

3. Multitenant Commercial Sites

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

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.
- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

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

5. Bicycle Parking

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

6. Car Sharing

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

7. Provision of Transit Facility Improvements

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

Response: *This section does not apply.*

19.605.4 Shared Parking

Some or all of a use's required parking spaces may be accommodated off-premises on the parking area of a different site through shared parking, pursuant to the standards of Subsection 19.605.4. The standards of Subsection 19.605.4 do not apply to voluntary shared parking agreements that are not created in order to conform to the quantity requirements of Section 19.605.

A. Review

The Planning Director shall determine, in accordance with Section 19.1004 Type I Review, whether the shared parking standards are met. The Planning Director may require a nonconforming parking area be brought into conformance, or closer to conformance as per Subsection 19.602.5, before it may be used for shared parking.

B. Standards

1. The applicant must demonstrate that the shared parking area has a sufficient quantity of spaces for the uses that will share the parking area. The Planning Director may require the applicant to provide data substantiating the claim that the proposed parking is sufficient for multiple uses during peak hours of demand for each use.
2. The nearest parking spaces shall be no further than 1,000 ft from the principal structure(s) or use(s). The measurement shall be along a route that is adequately illuminated; has vertical or horizontal separation from travel lanes within the right-of-way; uses legal crosswalks for right-of-way crossing; and has an asphalt, concrete, or similar surface material. The applicant may propose to construct new facilities or modify existing facilities to comply with Subsection 19.605.4.B.2.
3. Legal documentation between the property owners that guarantees access to the shared parking shall be recorded with the County. The documentation shall be reviewed and approved by the Planning Director prior to being recorded. The agreement shall run with the land and not be tied to property ownership. The agreement shall not be terminated without City approval. The request for terminating the agreement must demonstrate that the properties in the agreement and their uses will comply with the quantity requirements of Section 19.605 after dissolution of the agreement. A copy of the recorded documentation shall be provided to the City prior to obtaining a building permit.

Response: No shared parking is proposed. This section does not apply.

19.606 PARKING AREA DESIGN AND LANDSCAPING

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

Response: The proposed development is for single-family dwellings. This section does not apply.

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.

A. Dimensions

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

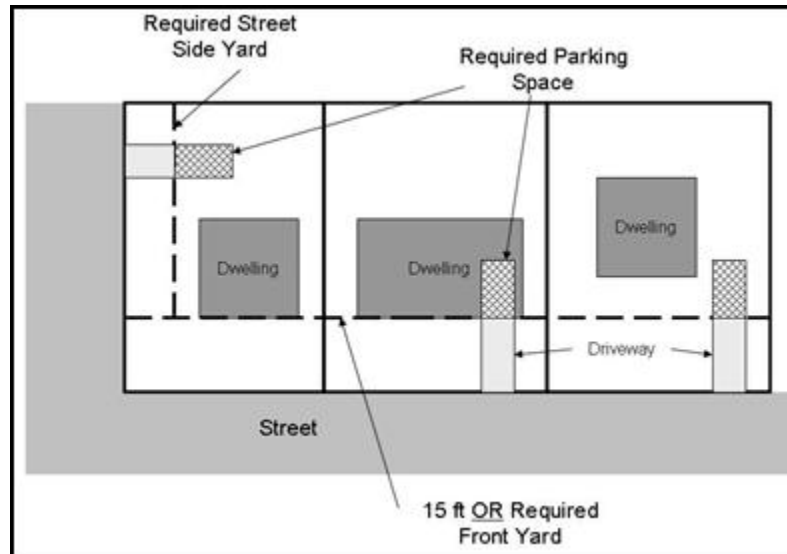
Response: Off-street parking spaces shall be designed to the required 9' x 18' dimensions.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
 - a. Within the required front yard or within 15 ft of the front lot line, whichever is greater.
 - b. Within a required street side yard.

Figure 19.607.1.B.2

Required Parking Space Location



Response: All off-street parking shall be provided on the same lot as the associated dwellings and be located beyond the required front yard setback per this standard.

C. Parking Surface Materials

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

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
 - a. Required parking space(s).

- b. All vehicle parking spaces and maneuvering areas located within a required front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
 - c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

Response: *Off-street parking surface materials shall meet the criteria detailed in this standard.*

D. Parking Area Limitations

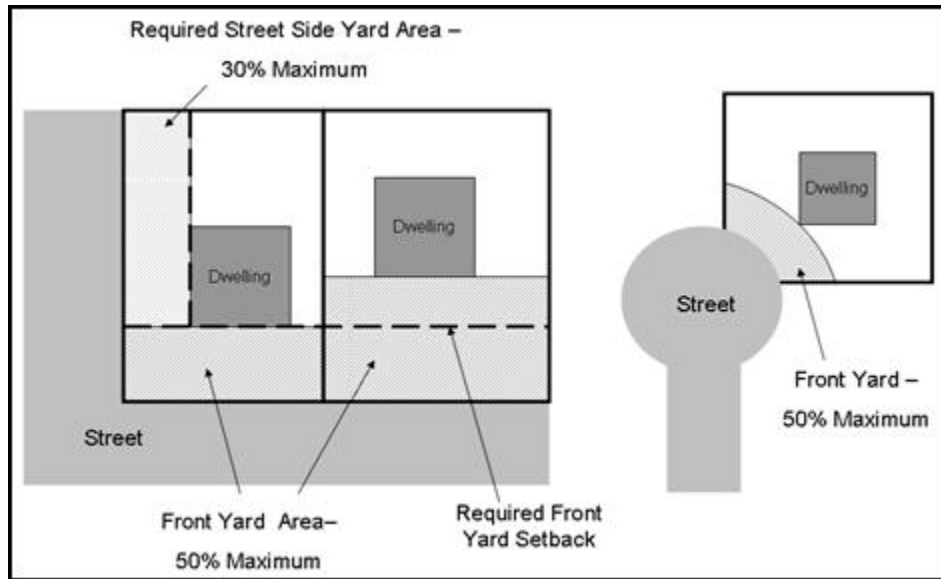
Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

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

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

Figure 19.607.1.D

Front and Street Side Yard Parking Area Limits



Response: All proposed parking areas shall be limited to these standards.

E. Additional Driveway Standards

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

Figure 19.607.1.E.1

Driveway Widening Limitation—Option 1

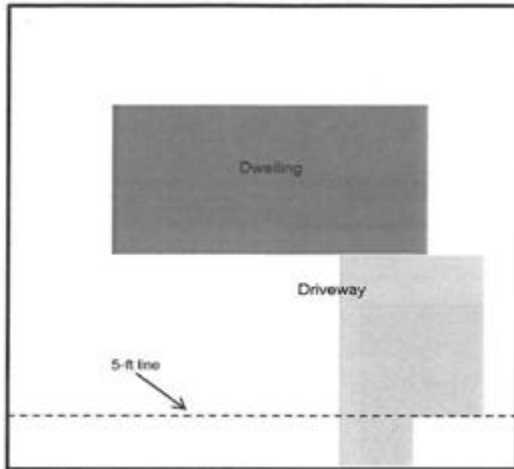
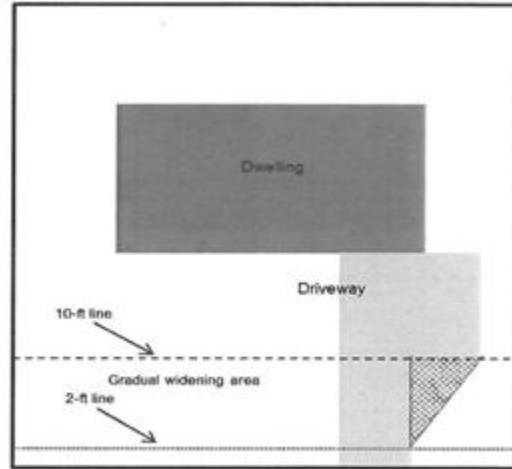


Figure 19.607.1.E.2

Driveway Widening Limitation—Option 2



Response: No proposed driveway shall exceed the approved driveway approach width.

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

Response: All properties take access from local streets. This standard does not apply.

19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

Subsection 19.607.2 is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.607.2 apply to off-street parking areas for cottage clusters, rowhouses, duplexes, single-family detached dwellings, and residential homes in all zones.

- A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on cottage cluster, rowhouse, duplex, single-family detached dwelling, or residential home properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in 1 day if the vehicle is engaged in loading or unloading materials for a residence(s).
- B. Recreational vehicles and pleasure crafts on cottage cluster, rowhouse, duplex, single-family detached, or residential home properties must comply with the following regulations:
 1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft long shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.
 2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a cottage cluster, rowhouse, duplex, single-family detached dwelling, or residential home.

3. A recreational vehicle or pleasure craft may be parked anywhere on a residential lot for up to 24 hours for the purposes of loading or unloading the vehicle.
4. A recreational vehicle or pleasure craft is encouraged to be parked or stored in the side or rear yard area of a residential lot.
5. Recreational vehicles and pleasure craft must be stored on a surface that meets the requirements of Subsections 19.607.1.C.1 or 2. Parking areas for recreational vehicle and pleasure craft are considered excess parking, and may be graveled as allowed by Subsection 19.607.1.C.2. The prohibitions in Subsection 19.607.1.C.2 on graveled areas in front yard or side yard setbacks are not applicable for areas where recreational vehicles and pleasure crafts are parked.

Response: *This standard is advisory.*

19.608 LOADING

19.608.1 General Provisions

- A. The purpose of off-street loading areas is to contain loading activity of goods on-site and avoid conflicts with travel in the public right-of-way; provide for safe and efficient traffic circulation on the site; and minimize the impacts of loading areas to surrounding properties.
- B. Off-street loading areas may be required for commercial, industrial, public, and semipublic uses for the receipt or distribution of merchandise, goods, or materials by vehicles. Off-street loading is not required in the Downtown Mixed Use Zone.

Response: *This standard does not apply.*

19.610 CARPOOL AND VANPOOL PARKING

19.610.1 Applicability

New industrial, institutional, and commercial development with 20 or more required parking spaces shall provide carpool/vanpool parking.

Response: *This standard does not apply.*

19.611 PARKING STRUCTURES

The purpose of Section 19.611 is to regulate the design and location of structured parking, and to provide appropriate incentives for the provision of structured parking. Structured parking is allowed to accommodate parking that is required for a specific use, or as a parking facility that is a use by itself.

19.611.1 Permitted Zones and Review Procedures

A. Parking structures, including underground parking, are allowed in all zoning districts except the R-10, R-7, R-5, and Open Space Zones. A parking structure can be permitted through approval of a Community Service Use application in all zones except the Open Space Zone. A parking structure to be used for commercial parking in the Downtown Mixed Use Zone must be permitted through approval of a conditional use application.

B. Applications for parking structures with fewer than 20 spaces are subject to Type II review, per the procedures of Section 19.1005. Applications for parking structures with 20 spaces or more shall be reviewed by the Planning Commission at a public hearing per Section 19.1006 Type III Review. The Planning Commission may impose conditions on the proposed structure to make it compatible with surrounding properties.

Response: *Parking structures are not permitted. This standard does not apply.*

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.701 PURPOSE

The purpose of Chapter 19.700 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this chapter include the following:

19.701.1 For Transportation Facilities

- A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.
- B. Protect the functional classification, capacity, and level of service of transportation facilities.
- C. Ensure that transportation facility improvements are provided in rough proportion to development impacts.
- D. Provide an equitable and consistent method of requiring transportation facility improvements.
- E. Ensure that transportation facility improvements accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.701.2 For Public Facilities

- A. Ensure that public facility improvements are safe, convenient, and adequate.
- B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.
- C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.
- D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

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

Response: *The proposed plan is for subdivision of the subject property. This section applies.*

19.703 REVIEW PROCESS

19.703.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.700 per Section 19.702, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

Response: *A preapplication conference was held, this standard is met.*

19.703.2 Application Submittal

For all proposed development that is subject to Chapter 19.700 per Section 19.702, one of the following types of applications is required.

- A. Development Permit Application

If the proposed development does not require a land use application, compliance with Chapter 19.700 will be reviewed as part of the development permit application submittal.

Response: *This section is advisory. The proposed development does require a land use application.*

B. Transportation Facilities Review (TFR) Land Use Application

If the proposed development triggers a transportation impact study (TIS) per Section 19.704, a TFR land use application shall be required. Compliance with Chapter 19.700 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Section 19.1005. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

If the proposed development does not trigger a TIS per Section 19.704, but does require the submittal of other land use applications, compliance with Chapter 19.700 will be reviewed during the review of the other land use applications.

Response: *Per the Preapplication Report, the City of Milwaukie Engineering Director has determined that this development will not require a traffic impact study.*

19.703.3 Approval Criteria

For all proposed development that is subject to Chapter 19.700 per Section 19.702, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submittal.

A. Procedures, Requirements, and Standards

Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.700 and the Public Works Standards.

Response: *This standard is advisory.*

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 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall only be required to provide transportation improvements that are identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

Response: *Transportation improvements through the subject property are proposed as part of the development.*

C. Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submittal of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.

3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.703.3.C.5 below.
5. Adequate frontage improvements as follows:
 - a. For local streets, a minimum paved width of 16 ft along the site's frontage.
 - b. For nonlocal streets, a minimum paved width of 20 ft along the site's frontage.
 - c. For all streets, a minimum horizontal right-of-way clearance of 20 ft along the site's frontage.
6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:
 - a. Level of Service F for the first hour of the morning or evening 2-hour peak period.
 - b. Level of Service E for the second hour of the morning or evening 2-hour peak period.

Response: *The surrounding public facilities were deemed adequate as part of the preapplication conference. Frontage improvements have been laid out in the Preapplication Report and addressed in the provided plan.*

19.703.4 Determinations

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

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the Engineering Director will also determine whether a transportation impact study (TIS) is required. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 sq ft.

Response: *Per the Preapplication Report, the City of Milwaukie Engineering Director has determined that this development will not require a traffic impact study.*

B. Street Design

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

Response: *Frontage improvements have been laid out in the Preapplication Report and addressed in the provided plan.*

C. Proportional Improvements

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

Response: *Transportation improvements have been laid out in the Preapplication Report and addressed in the provided plan.*

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 Subsection 19.706.1.

Response: *A FILOC is not proposed with in this application.*

19.705 ROUGH PROPORTIONALITY

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.703.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.702.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.702.2.

When conducting a proportionality analysis for frontage improvements, the Engineering Director will not consider prior use for the portion of the proposed development that involves new construction. The Engineering Director will, however, consider any benefits that are estimated to accrue to the development property as a result of any required transportation facility improvements.

The following general provisions apply whenever a proportionality analysis is conducted.

Response: *Transportation improvements have been laid out in the Preapplication Report and addressed in the provided plan.*

19.705.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.704. When no TIS is required, potential impacts will be determined by the Engineering Director.

Response: *Per the Preapplication Report, the City of Milwaukie Engineering Director has determined that this development will not require a traffic impact study.*

19.705.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

- A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a 1/2-mile radius of the proposed development. If a TIS is required pursuant to Section 19.704, the impact area is the TIS study area.
- B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.
- C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.
- D. The most recent use when a change in use is proposed that does not involve new construction.
- E. Applicable TSP goals, policies, and plans.
- F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.
- G. Accident history within the impact area.

- H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.
- I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.
- J. Other considerations as may be identified in the review process.

Response: *This section is advisory.*

19.707 AGENCY NOTIFICATION AND COORDINATED REVIEW

19.707.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.700 to the following agencies:

- A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 ft of a State highway, or is within 1,320 ft of a State highway interchange ramp.
- B. ODOT Rail Division: If the proposed development is within 300 ft of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.
- C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-1 of the TSP.
- D. Metro: If the proposed development is within 200 ft of a designated regional multiuse trail, as identified in the Regional Transportation Plan.
- E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 ft of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

Response: *No agencies fall within the distances listed above from the subject property. This standard does not apply.*

19.707.2 Coordinated Review

The City shall coordinate application review and land use findings and conditions, if any, with the agencies listed above. The City shall include the deadline for review comments in its notice. Agencies shall indicate in their comments if additional public facility permits or approvals are required through their agency separate from City permits and approvals.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

This section contains the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. For ease of reading, the more common term "street" is used more frequently than the more technical terms "public right-of-way" or "right-of-way." As used in this section, however, all three terms have the same meaning.

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the

value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City’s street design standards are based on the street classification system described in the TSP. Figure 8-1 of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.708.1 General Street Requirements and Standards

A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

Response: *Access is provided via an existing street stub and a 47’ wide “flag pole” where an existing driveway access SE Maplehurst Road.*

B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

Response: *No obstructions are proposed within clear vision areas.*

C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the PAR per Subsection 19.304.6.

Response: *The proposal is not in a downtown zone; this standard does not apply.*

D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the PAR is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.

Response: *Street designs have been provided in the Preapplication Report and addressed in the provided plan.*

2. Streets shall be designed according to their functional classification per Figure 8-3b of the TSP.

Response: *Street designs have been provided in the Preapplication Report and addressed in the provided plan.*

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.708.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with Section 19.708 and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

Response: *Right-of-way dedication is shown in the provided plan.*

4. The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.

Response: *All proposed lots access a public street.*

5. Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.

Response: *Off-site improvements are only proposed to connect to the stub of SE 66th Ave.*

6. The following provisions apply to all new public streets and extensions to existing public streets.
 - a. All new streets shall be dedicated and improved in accordance with this chapter.
 - b. Dedication and construction of a half-street is generally not acceptable. However, a half-street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half-street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half-street shall be the minimum width necessary to accommodate 2 travel lanes pursuant to Subsection 19.708.2.

Response: *A new street is proposed to be dedicated and has full travel widths.*

7. Traffic calming may be required for existing or new streets. Traffic calming devices shall be designed in accordance with the Public Works Standards or with the approval of the Engineering Director.

Response: *This standard does not apply.*

8. Railroad Crossings

Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

Response: *This standard does not apply.*

9. Street Signs

The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

Response: *This standard is advisory.*

10. Streetlights

The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

Response: *Street lights shall be noted on the final engineering plans.*

E. Street Layout and Connectivity

1. The length, width, and shape of blocks shall take lot size standards, access and circulation needs, traffic safety, and topographic limitations into consideration.

Response: *The proposed development has taken into consideration the lot size standards, access needs, traffic safety, and topology.*

2. The street network shall be generally rectilinear but may vary due to topography or other natural conditions.

Response: *The proposed development is generally rectilinear except for where the lot shape requires a reverse curve to connect to SE Maplehurst Rd.*

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.
 - a. Temporary turnarounds shall be constructed for street stubs in excess of 150 ft in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.
 - b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.
 - c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

Response: *The proposed development is infill. All surrounding properties are already developed. This standard does not apply.*

4. Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. For proposed land division sites that are 3 acres or larger, a street ending in a turnaround shall have a maximum length of 200 ft, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. For proposed land division sites that are less than 3 acres, a street ending in a turnaround shall have a maximum length of 400 ft, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic.

Response: *Per the Preapplication Report, the west end of the new road must end in a turnaround. This turnaround can fit in a standard 50-foot right-of-way.*

5. Closed-end street systems may serve no more than 20 dwellings.

Response: *The proposed development results in eleven lots. This standard is met.*

F. Intersection Design and Spacing

1. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

Response: *Connecting street intersections are provided at the only locations available due to the infill nature of this development.*

2. Street and intersection alignments for local streets shall facilitate local circulation but avoid alignments that encourage nonlocal through traffic.

Response: *No through street is proposed. This standard does not apply.*

3. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the Engineering Director has approved a special intersection design.

Response: *New streets are proposed to intersect at right angles.*

4. New streets shall intersect at existing street intersections so that centerlines are not offset. Where existing streets adjacent to a proposed development do not align properly, conditions shall be imposed on the development to provide for proper alignment.

Response: *No street intersections exist adjacent to the subject property. This standard does not apply.*

5. Minimum and maximum block perimeter standards are provided in Table 19.708.1.

Response: *The largest proposed block perimeter is 1,790' which includes proposed lots around a turnaround. Due to the infill nature of this proposal, a smaller block size cannot be achieved as there the subject property is limited by its available access.*

6. Minimum and maximum intersection spacing standards are provided in Table 19.708.1.

Table 19.708.1 Street/Intersection Spacing			
Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530'	1,000'	2600'
Collector	300'	600'	1800'
Neighborhood Route	150'	530'	1650'
Local	100'	530'	1650'

Response: *The proposed streets do not intersect any city street within the minimum 100'. There is a county street within this minimum but the eastern configuration of the subject property limits the proposed intersection to its current exact location.*

19.708.2 Street Design Standards

Table 19.708.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.708.2.A augment the dimensional standards contained in Table 19.708.2. The Engineering Director will rely on Table 19.708.2 and Subsection 19.708.2.A to determine the full-width cross section for a specific street

segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.708.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.708.2 Street Design Standards (Dimensions are Shown in Feet)							
Street Classification	Full-Width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per street classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per street classification	Per street classification

A. Additional Street Design Standards

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

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.

Response: 10-ft travel lanes are proposed in the provided plan.

2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.

Response: No travel lanes are proposed adjacent to curb.

3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.

Response: *No shared or bicycle lanes are proposed.*

4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.

Response: *This standard does not apply.*

5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.

Response: *Curbs shall be designed to the Public Works Standards.*

6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.

Response: *This standard does not apply.*

7. On-street parking in industrial zones shall have a minimum width of 8 ft.

Response: *This standard does not apply.*

8. On-street parking in commercial zones shall have a minimum width of 7 ft.

Response: *This standard does not apply.*

9. On-street parking in residential zones shall have a minimum width of 6 ft.

Response: *On-street parking is proposed with a width of 6 ft. This standard is met.*

10. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

Response: *No reduced width sidewalk is proposed.*

11. Landscape strip widths shall be measured from back of curb to front of sidewalk.

Response: *Landscape strips are shown measured from back of curb to front of sidewalk in the provided plans.*

12. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

Response: *Street trees are proposed and spaced 40' in the provided plan.*

13. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.

Response: *Sedimentation manholes are proposed for water quality treatment and are not located in the landscape strip. This standard does not apply.*

14. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

Response: *6" is provided between property lines and street elements.*

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.708.2 and the additional street design standards in Subsection 19.708.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.
2. Multimodal street improvements identified in the TSP.
3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically regarding sidewalk and landscape strip improvements.
4. Existing development pattern and proximity of existing structures to the right-of-way.
5. Existing right-of-way dimensions and topography.

Response: *This section is advisory.*

19.708.3 Sidewalk Requirements and Standards

A. General Provisions

1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the TSP and provide the context for needed pedestrian improvements. Figure 5-1 of the TSP illustrates the Pedestrian Master Plan and Table 5-3 contains the Pedestrian Action Plan.
2. Americans with Disabilities Act (ADA) requirements for public sidewalks shall apply where there is a conflict with City standards.

Response: *This section is advisory.*

B. Sidewalk Requirements

1. Requirements

Sidewalks shall be provided on the public street frontage of all development per the requirements of this chapter. Sidewalks shall generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a public easement with the approval of the Engineering Director.

2. Design Standards

Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards.

3. Maintenance

Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04.

Response: *Sidewalks are proposed within a public easement due to the limiting size of the property and with the approval of the Engineering Director.*

19.708.4 Bicycle Facility Requirements and Standards

A. General Provisions

1. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.
2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

Response: *This section is advisory.*

B. Bicycle Facility Requirements

1. Requirements

Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.600, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

2. Timing of Construction

To assure continuity and safety, required bicycle facilities shall generally be constructed at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities.

3. Design Standards

Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.600 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

Response: *No bicycle facilities are proposed in this application.*

19.708.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

Pedestrian/bicycle paths are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers, and commercial districts to adjacent and nearby residential areas, transit stops, and neighborhood activity centers.

Pedestrian/bicycle paths may be in addition to, or in lieu of, a public street. Paths that are in addition to a public street shall generally run parallel to that street. These types of paths are not subject to the provisions of this subsection and shall be designed in accordance with the Public Works Standards or as specified by the Engineering Director. Paths that are in lieu of a public street shall be considered in areas only where no other public street connection options are feasible. These types of paths are subject to the provisions of this subsection.

Response: *This section is advisory.*

B. Pedestrian/Bicycle Path Requirements

In addition to sidewalks on public streets, other available pedestrian routes, as used in this subsection, include walkways within shopping centers, planned developments, community service use developments, and commercial and industrial districts. Routes may cross parking lots on adjoining properties if the route is paved, unobstructed, and open to the public for pedestrian use.

Pedestrian/bicycle paths shall be required in the following situations.

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 ft when a street connection is not feasible.
2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.
3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 ft and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

4. In all districts where addition of a path would provide a midblock connection between blocks that exceed 800 ft or would link the end of a turnaround with a nearby street or activity center.

Response: *Pedestrian/bicycle paths are not required for this development. This section does not apply.*

C. Design Standards

Pedestrian/bicycle paths shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Paths shall be located to provide a reasonably direct connection between likely pedestrian and bicyclist destinations. A path shall have a minimum right-of-way width of 15 ft and a minimum improved surface of 10 ft. If a path also provides secondary fire access or a public utility corridor, it shall have a minimum right-of-way width of 20 ft and a minimum improved surface of 15 ft. Additional standards relating to entry points, maximum length, visibility, and path lighting are provided in the Public Works Standards.

Response: *This standard does not apply.*

D. Ownership and Maintenance

To ensure ongoing access to and maintenance of pedestrian/bicycle paths, the Engineering Director will require one or more of the following:

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.
2. Creation of a public access easement over the path prior to final development approval.
3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

Response: *This standard does not apply.*

19.709 PUBLIC UTILITY REQUIREMENTS

19.709.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.700 per Section 19.702 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

A. Permit Review

The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards within 10 working days of application submittal. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

Response: *This standard is procedural.*

B. Review Standards

Review standards for public utilities shall be those standards currently in effect, or as modified, and identified in such public documents as Milwaukie's Comprehensive Plan, Wastewater Master Plan, Water Master Plan, Stormwater Master Plan, Transportation System Plan, and Public Works Standards.

Response: *This standard is advisory.*

19.709.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

Response: *This section is procedural.*

19.709.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

***Response:** Engineered utility plans shall be provided prior to construction.*

19.709.4 Oversizing

The Engineering Director may require utility oversizing in anticipation of additional system demand. If oversizing is required, the Engineering Director may authorize a reimbursement district or a system development charge (SDC) credit in accordance with Chapter 13.28.

***Response:** This standard is advisory.*

19.709.5 Monitoring

The Engineering Director shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all City permitting requirements and standards. Utility improvements are subject to the requirements of Chapter 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered a part of the monitoring process.

***Response:** This standard is procedural.*

19.911 VARIANCES

19.911.1 Purpose

Variations provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. Variations are intended to provide some flexibility while ensuring that the intent of each development standard is met. Variations may be granted for the purpose of fostering reinvestment in existing buildings, allowing for creative infill development solutions, avoiding environmental impacts, and/or precluding an economic taking of property. Variations shall not be granted that would be detrimental to public health, safety, or welfare.

19.911.2 Applicability

A. Eligible Variations

Except for situations described in Subsection 19.911.2.B, a variance may be requested to any standard or regulation in Titles 17 or 19 of the Milwaukie Municipal Code, or any other portion of the Milwaukie Municipal Code that constitutes a land use regulation per ORS 197.015.

B. Ineligible Variations

A variance may not be requested for the following purposes:

1. To eliminate restrictions on uses or development that contain the word "prohibited."
2. To change a required review type.

3. To change or omit the steps of a procedure.
4. To change a definition.
5. To increase, or have the same effect as increasing, the maximum permitted density for a residential zone.
6. To justify or allow a Building Code violation.
7. To allow a use that is not allowed outright by the base zone. Requests of this nature may be allowed through the use exception provisions in Subsection 19.911.5, nonconforming use replacement provisions in Subsection 19.804.1.B.2, conditional use provisions in Section 19.905, or community service use provisions in Section 19.904.

C. Exceptions

A variance application is not required where other sections of the municipal code specifically provide for exceptions, adjustments, or modifications to standards either “by right” or as part of a specific land use application review process.

Response: *This section is advisory.*

19.911.3 Review Process

A. General Provisions

1. Variance applications shall be evaluated through either a Type II or III review, depending on the nature and scope of the variance request and the discretion involved in the decision-making process.
2. Variance applications may be combined with, and reviewed concurrently with, other land use applications.
3. One variance application may include up to three variance requests. Each variance request must be addressed separately in the application. If all of the variance requests are Type II, the application will be processed through a Type II review. If one or more of the variance requests is Type III, the application will be processed through a Type III review. Additional variance requests must be made on a separate variance application.

Response: *This standard is procedural.*

B. Type II Variances

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

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.

6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

Response: *The proposed rear yard setback is 15ft is due to the limited width of the subject property.*

C. Type III Variances

Type III variances allow for larger or more complex variations to standards that require additional discretion and warrant a public hearing consistent with the Type III review process. Any variance request that is not specifically listed as a Type II variance per Subsection 19.911.3.B shall be evaluated through a Type III review per Section 19.1006.

Response: *This standard does not apply.*

19.911.4 Approval Criteria

A. Type II Variances

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

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

Response: *Due to the configuration of the subject property and need for a reasonable width public street, a variance to the rear setback is required to create buildable lots. The rear setback still provides a reasonable distance from the neighboring properties. Additionally, the development removes existing buildings adjacent to the property line creating even more space from the neighboring properties.*

2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

Response: *The proposed variance to the rear setback will not impact any public transportation facilities or utilities.*

3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

Response: *No existing site improvements are being retained as part of the proposed development.*

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

Response: *The proposed variance has no foreseeable negative impacts and causes no need for mitigation.*

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1201 PURPOSE

19.1201.1 The purpose of this chapter is:

- A. To orient new lots and parcels to allow utilization of solar energy;
- B. To promote energy conservation and the effective use of the sun as a renewable resource;
- C. To implement provisions of the Milwaukie Comprehensive Plan encouraging use of solar energy;
- D. To provide a means of encouraging investment in solar design and solar equipment.

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

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

19.1203.2 Applicability

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

Response: *As the proposed development is creating lots in a single-family zone, this section applies.*

19.1203.3 Design Standard

At least 80% of the lots in a development subject to these provisions shall comply with one or more of the options in this subsection; provided a development may, but is not required to, use the options in Subsections 19.1203.3.B or C below to comply with Section 19.1203.

A. Basic Requirement

A lot complies with Subsection 19.1203.3 if it:

1. Has a north-south dimension of 90 ft or more; and

Response: *Due to the restrictive width of the property, the north-south dimension of the lots can only reach 80 ft and still support a road. The development complies with this section through the Performance Option in this section.*

2. Has a front lot line that is oriented within 30 degrees of a true east-west axis (see Figure 19.1203.3).

Response: *The front lot line of 80% of the lots is oriented within 30 degrees of east/west.*

B. Protected Solar Building Line Option

In the alternative, a lot complies with Subsection 19.1203.3 if a solar building line is used to protect solar access as follows:

1. A protected solar building line is designated on the plat or in documents recorded with the plat; and
2. The protected solar building line is oriented within 30 degrees of a true east-west axis; and
3. There are at least 70 ft between the protected solar building line and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
4. There are at least 45 ft between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80% of their south-facing wall will not be shaded by structures or nonexempt vegetation (see Figure 19.1202.1-4).

Response: *This alternative is not used.*

C. Performance Option

In the alternative, a lot complies with Subsection 19.1203.3 if:

1. Habitable structures built on that lot will have their long axis oriented within 30 degrees of a true east-west axis, and at least 80% of their ground floor south wall will be protected from shade by structures and nonexempt trees using appropriate deed restrictions; or
2. Habitable structures built on that lot will orient at least 32% of their glazing, and at least 500 sq ft of their roof area, to face within 30 degrees east or west of true south, and that glazing and roof area are protected from shade by structures and nonexempt trees using appropriate deed restrictions.

Response: *The long axes of 80% of the lots are oriented within 30 degrees of a true east-west axis. New structures shall orient the required roof area and glazing to within 30 degrees of true east-west and be protected from shade.*

19.1203.4 Exemptions from Design Standard

A development is exempt from Subsection 19.1203.3 if the Director finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from Subsection 19.1203.3 to the extent the Director finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with Subsection 19.1203.3.

A. Slopes

The site, or a portion of the site for which the exemption is sought, is sloped 20% or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

Response: *This exemption does not apply.*

B. Off-Site Shade

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

1. Shade from an existing or approved off-site dwelling in a single-family residential zone, and from topographic features, is assumed to remain after development of the site.
2. Shade from an off-site structure in a zone other than a single-family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.
3. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; they are part of a developed area, public park, or legally reserved open space; they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.
4. Shade from other offsite sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.

Response: *This exemption does not apply.*

C. On-Site Shade

The site, or a portion of the site for which the exemption is requested:

1. Is within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or

2. Contains nonexempt trees at least 30 ft tall and more than 6 in. in diameter measured 4 ft above the ground, which have a crown cover over at least 80% of the site or the relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the crown cover that causes the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party to any covenant or restriction created to enforce any provision of this section. The covenant or restriction shall not be amended without written City approval.

Response: *This exemption does not apply.*

D. Completion of Phased Subdivision

The site is part of a phased subdivision, none of which was subject to Section 19.1203, and the site and the remainder of the unplatted portion of the phased subdivision contains no more than 20% of the lots in all phases of the subdivision.

Response: *This exemption does not apply.*

19.1203.5 Adjustment to Design Standard

The Director shall reduce the percentage of lots that must comply with Subsection 19.1203.3, to the minimum extent necessary, if he or she finds the applicant has shown it would cause or is subject to one or more of the following conditions.

A. Adverse Impacts on Density, Cost, or Amenities

1. If the design standard in Subsection 19.1203.3.A is applied, either the resulting density is less than that proposed, or on-site site development costs (e.g., grading, water, storm drainage, sanitary systems, and road) and solar-related off-site site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Subsection 19.1203.3.A would reduce density or increase costs per lot in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for a development:

- a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10% or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor, USGS, or other officially recognized topographic information;
- b. There is a significant natural feature on the site, identified as such in the Comprehensive Plan or Development Ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed;
- c. Existing road patterns must be continued through the site or must terminate on the site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access;
- d. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

2. If the design standard in Subsection 19.1203.3.A applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with Subsection 19.1203.3.A is relevant to whether a significant development amenity is lost or impaired.

Response: *No adjustments to the design standard are requested.*

B. Impacts of Existing Shade

The shadow pattern from nonexempt trees covers over at least 80% of the lot and at least 50% of the shadow pattern will remain after development of the lot. The applicant can show the shadow pattern using a scaled survey of nonexempt trees on the site or using an aerial photograph.

1. Shade from nonexempt trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.
2. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files, in the office of the County Recorder, a covenant binding the applicant to retain the trees causing the shade on the affected lot(s).

Response: *No adjustments to the design standard are requested.*

19.1203.6 Protection from Future Shade

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Subsection 19.1203.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this subsection. The covenant or restriction shall not be amended without written City approval.

Response: *This standard is procedural.*

19.1203.7 Application

An application for approval of a development subject to this section shall include the following:

- A. Maps and text sufficient to show the development complies with the solar design standard of Subsection 19.1203.3, except for lots for which an exemption or adjustment from Subsection 19.1203.3 is requested, including at least:
 1. The north-south lot dimension and front lot line orientation of each proposed lot;
 2. Protected solar building lines and relevant building site restrictions, if applicable;
 3. For the purpose of identifying trees exempt from Subsection 19.1203.6, a map showing existing trees at least 30 ft tall and over 6 in diameter at a point 4 ft above grade, indicating their height, diameter, and species, and stating that they are to be retained and are exempt; and

4. Copies of all private restrictions relating to solar access.
- B. If an exemption or adjustment to Subsection 19.1203.3 is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in Subsections 19.1203.4 or 5, respectively.

Response: *Direction and trees are shown on the provided plan.*

19.1203.8 Process for Approval

Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title.

Response: *This standard is advisory.*