



# CITY OF MILWAUKIE

## Milwaukie Zoning Code

### Proposed Housekeeping Amendments

April 5, 2018

File No. ZA-2018-001

#### Municipal Code - Title 14 Sign Ordinance

Chapter 14.04 General Provisions

Chapter 14.12 Exempted Signs

Chapter 14.16 Sign Districts

Chapter 14.28 Removal of Signs in Violation

#### Municipal Code - Title 17 Land Division Ordinance

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Section 19.904 Community Service Uses

Section 19.905 Conditional Uses

Section 19.906 Development Review

Section 19.907 Downtown Design Review

Section 19.911 Variances

Section 19.1002 (Review Procedures) Preapplication Conference

Chapter 19.1200 Solar Access Protection

#### Municipal Code - Updates for Section References Only

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

## Reader Guide

### **Commentary**

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

### **Amendments**

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

### **Context/Surrounding Code**

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

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

## COMMENTARY

### TITLE 14, SIGN ORDINANCE

The proposed amendments to Title 14 will add a definition for neon signs as well as allow neon signs as a type of sign in the Downtown. The amendments will also exempt signs used to identify historic structures and/or properties that meet certain standards. The amendments will also correct typos and references.

## Underline/Strikeout Amendments

### Title 14 Sign Ordinance

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#### CHAPTER 14.16 SIGN DISTRICTS

##### 14.04.030 DEFINITIONS

Sign, Neon. "Neon sign" means an electric sign lighted by long luminous gas-discharge tubes that contain rarefied neon or other gases. A neon sign is a lighting display made of glass tubes that have been filled with a gas and bent into the shape of letters or decorative designs.

Sign, Outdoor Advertising. "Outdoor advertising sign" means a sign that meets the definition of Oregon Revised Statute ORS 377.710(21).

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##### 14.12.010 Exempted Signs

N. Signs or tablets (including names of buildings, and the date of erection) when cut into any masonry surface, or constructed of bronze or other similar durable noncombustible surface meeting the following requirements: not to exceed 2 sq ft for wall signs or 2 sq ft and no taller than 3 ft for a monument sign. This exemption is limited to historic properties, as listed in Appendix A of the Milwaukie Comprehensive Plan or any building that is shown to be at least 50 years old. Only 1 sign per historic property is permitted and may not be installed in the public right-of-way unless permitted as an encroachment with the public right-of-way per MMC 12.14.

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##### 14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DMU or OS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

##### H. Illumination

Illuminated signs may be permitted subject to the following:

6. Neon signs with exposed tubing are allowed provided that light levels comply with Subsection 14.24.020.A and Subsection 14.24.020.D.

- 6Z. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:
- a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
    - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
    - (2) 20 square feet.
  - b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
  - c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
  - d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
  - e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.

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**14.28.020 NONCONFORMING SIGN**

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.43, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.
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## COMMENTARY

### TITLE 17 LAND DIVISION

#### CHAPTER 17.28

#### DESIGN STANDARDS

The proposed amendment corrects a typo and also introduces a Type III variance option for lots design with compound lot lines. The current code prohibits cumulative lateral changes exceeding 10% of the distance between opposing lot corners, but Subsection 17.28.040.D states that lot shape standards may be adjusted subject to a Variance. The proposed language corrects an inconsistency in the existing code language.

### Title 17 Land Division

#### 17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

##### C. Limits on Compound Lot Line Segments

Changes in direction ~~along side~~ along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line ~~is prohibited~~ may only be permitted as a Variance per the provisions of MMC Subsection 19.911. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

**COMMENTARY**  
**TITLE 19 ZONING**  
**CHAPTER 19.100**  
**INTRODUCTORY PROVISIONS**

**Table 19.201 Definitions**

The proposed amendment removes the specific unit description standard from the definition of senior and retirement housing as this does not reflect modern design for these types of units. The method by which density is calculated relative to steep slopes is proposed to be revised consistent with a recent code interpretation: Land Use File #CI-2017-001.

**Title 19 Zoning Ordinance**

**CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS**

**19.201 DEFINITIONS**

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

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**19.202 MEASUREMENTS**

**19.202.4 Density Calculations**

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

**E. Maximum Density**

1. Deductions to Calculate Net Area

The following areas, measured in sq ft, are subtracted from the gross area to determine the net area. The net area calculation is rounded to the nearest whole number.

- a. 1% Annual Chance Flood areas (also called the 100-Year Floodplain), as determined by Federal Emergency Management Agency flood maps.
- b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.
- c. Open space or parkland that will be ~~publically~~ publicly-owned or open space owned in common by owners within the residential development.
- d. Naturally occurring slopes in excess of 25%.
- e. Man-made slopes (grades that are the result of human activity rather than natural causes) in excess of 25% with both a horizontal measure over 40 ft and an elevation change more than 10 ft over that horizontal distance.

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

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**COMMENTARY**  
**TITLE 19 ZONING**  
**CHAPTER 19.300 BASE ZONES**

**CHAPTER 19.304 DOWNTOWN ZONES**

**19.304.4 Development Standards**

The table of Development Standards is proposed to be amended to correct an error so that maximum building heights reflect the corresponding Figure 19.304-4.

**CHAPTER 19.307 GENERAL COMMERCIAL ZONE C-G**

**19.307.1 Uses Permitted Outright**

The proposal would amend the list of outright permitted uses in the C-G zone to formally include indoor recreation establishments which have historically been permitted in the C-G zone and are permitted in other similar zones in the City.

**19.304 DOWNTOWN ZONES**

**19.304.4 Development Standards**

<b>Table 19.304.4</b>			
<b>Downtown Zones—Summary of Development Standards</b>			
Standard	DMU	OS	Standards/ Additional Provisions
<b>B. Development Standards</b>			
2. Building height (ft)			
a. Minimum	25	None	<b>Subsection 19.304.5.B</b> Building Height
b. Maximum	<del>35</del> <u>45</u> – <del>60</del> <u>95</u> (height bonus available)	15	<b>Figure 19.304-4</b> Base Maximum Building Heights <b>Subsection 19.304.5.I</b> Transition Measures <b>Subsection 19.304.5.B.3</b> Height Bonuses



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**19.307 GENERAL COMMERCIAL ZONE C-G**

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

**19.307.1 Uses Permitted Outright**

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

AB. Indoor recreation;

~~AC~~AB. Any other use similar to the above and not listed elsewhere.

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**COMMENTARY**

**CHAPTER 19.400**

**OVERLAY ZONES AND SPECIAL AREAS**

**19.402 NATURAL RESOURCES**

The proposed amendments are minor clarifications and adjustments to language within the Natural Resources section of the zoning code, including corrections to references.

**19.402 NATURAL RESOURCES NR**

**19.402.14 Adjustments and Variances**

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

C. Residential Cluster Development

3. Site Plan Requirements

The preliminary and final site plans for a residential cluster development shall include the following information, in addition to the items listed on the City's Site Plan Requirements:

- c. The calculations for the permitted number of dwelling units, derived pursuant to Subsection 19.402.14.C.21.

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**19.402.15 Boundary Verification and Map Administration**

The NR Administrative Map shows the locations of WQRs and HCAs. For WQRs, the NR Administrative Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is determined according to the parameters established in Table 19.402.15. With respect to HCA locations, the NR Administrative Map is assumed to be correct unless demonstrated otherwise.

A. Boundary Verification

2. Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures, and are subject to Type II review per Section 19.1005.

a. Corrections to WQRs

(1) Submittal Requirements

To propose a correction to a WQR shown on the NR Administrative Map, the applicant shall submit the following information, depending on the type of water feature in question:

(a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant shall submit a ~~hydrology~~ report, prepared by a professional wetland specialist or professional engineer, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant shall provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

B. Map Administration

1. Updates to the NR Administrative Map

When a boundary verification, conducted in accordance with the standards of Subsection 19.402.15.A, demonstrates an error in the location of a WQR or HCA shown on the NR Administrative Map, the City shall update the NR Administrative Map to incorporate the corrected information as soon as practicable. Changes to the NR Administrative Map are not considered amendments to the City's Comprehensive Plan, to Comprehensive Plan Map 5 (Natural Resources), or to the Zoning Map.

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## COMMENTARY

### CHAPTER 19.500

#### SUPPLEMENTARY DEVELOPMENT REGULATIONS

##### 19.502 ACCESSORY STRUCTURES

The proposed amendment is a minor clarification to confirm that the minimum separation between structures is between exterior walls.

##### 19.505 BUILDING DESIGN STANDARDS

The proposed amendments correct typos in the detailed design standard for bay windows and a standard for duplexes on corner lots. Also clarified is the standard for garage width - that it is the width of the garage door, not the entire garage itself. Finally, clarifications are made in the multifamily design standards to make them consistent with other sections of the code.

### CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

#### 19.502 ACCESSORY STRUCTURES

##### 19.502.2 Specific Provisions for Accessory Structures

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

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

1. Development Standards

b. Other Development Standards

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
  - (2) The yard exceptions in 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 the exterior wall of any other structure on a site, excluding a fence or similar structure.
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**19.505 BUILDING DESIGN STANDARDS**

**19.505.1 Single-Family Dwellings and Duplexes**

C. Standards

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

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

4. Detailed Design

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

- o. Bay window at least 2 ft deep and 5 ft widelong.

5. Standards for Duplexes

In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.

- e. For duplexes oner corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.

**19.505.2 Garages and Carports**

C. Standards

- 2. The width of a street-facing garage door(s), as measured between the inside of the garage door frame, may not exceed 40% of the total width of the street-facing façades on the same street frontage as the garage door. See Figure 19.505.2.C.2. Notwithstanding this limit, a dwelling is allowed 1 12-ft-wide garage door, regardless of the total width of street-facing façades.

The maximum allowed garage door width may be increased to 50% of the total width of the street-facing façade if a total of 7 detailed design elements in Subsection 19.505.1.C.4 are included on the street-facing façade.

**19.505.3 Multifamily Housing**

**Table 19.505.3.D**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
6. Building Façade Design	Changes in wall planes, layering, horizontal datums, vertical datums, building materials, color, and/or fenestration shall be	a. Street-facing building façades shall be divided into wall planes. The wall plane on the exterior of each dwelling unit shall be articulated by doing one or more of the following:

**Table 19.505.3.D**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
	<p>incorporated to create simple and visually interesting buildings.</p> <p>Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</p> <p>Windows should be used to provide articulation to the façade and visibility into the street.</p> <p>Building façades shall be compatible with adjacent building façades.</p> <p>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</p>	<p>(1) Incorporating elements such as porches or decks into the wall plane.</p> <p>(2) Recessing the building a minimum of 2 ft deep x 6 ft long.</p> <p>(3) Extending an architectural bay at least 2 ft from the primary street-facing façade.</p> <p>b. Windows <u>and the glass portion(s) of doors with glazing</u> shall occupy a minimum of 25% of the total street-facing façade.</p> <p>c. Buildings shall have a distinct base and top. The base of the building (ground-floor level) shall be considered from grade to 12 ft above grade. The base shall be visually distinguished from the top of the building by any of the following physical transitions: a change in brick pattern, a change in surface or siding materials, a change in color, or a change in the size or orientation of window types.</p> <p>d. To avoid long, monotonous, uninterrupted walls, buildings shall incorporate exterior wall off-sets, projections and/or recesses. At least 1 ft of horizontal variation shall be used at intervals of 40 ft or less along the building’s primary façade on the ground-floor level.</p> <p>e. Blank, windowless walls in excess of 750 sq ft are prohibited when facing a public street, unless required by the Building Code. In instances where a blank wall exceeds 750 sq ft, it shall be articulated or intensive landscaping shall be provided.</p> <p>f. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.</p>
<p>8. Landscaping</p>	<p>Landscaping of multifamily developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management.</p>	<p>a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. <u>Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.</u>  <del>(1) New trees must be listed as native trees in the Milwaukie Native Plant List.</del>  <del>(2) Preserved tree(s) must be at least 6 in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.</del></p> <p>b. Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</p> <p>c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</p> <p>d. For projects with more than 20 units:</p>

**Table 19.505.3.D**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
		(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (2) To reduce the “heat island” effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.
13. Safety	<p>Multifamily development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design:</p> <ul style="list-style-type: none"> <li>• Natural Surveillance: Areas where people and their activities can be readily observed.</li> <li>• Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting.</li> <li>• Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.</li> </ul>	a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill. b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street. c. Uses on the site shall be illuminated as follows: (1) Parking and loading areas: 0.5 footcandle minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. <u>This standard does not apply where the property line is adjacent to a public right-of-way.</u> e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

## COMMENTARY

### CHAPTER 19.600

#### OFF-STREET PARKING AND LOADING

The proposed amendments correct errors in references and numbering, correct a description of the NMU area subject to a reduction in required off-street parking, and correct typos in the text.

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

##### 19.602 APPLICABILITY

##### 19.602.5 Improvements to Existing Off-Street Parking and Loading Areas

###### C. Areas of Required Improvement

5. New perimeter landscape buffers, islands, and medians, as applicable, per Subsection 19.606.2.E.

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##### 19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

##### 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.

###### 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 40th ~~42nd~~ Avenue, King Road, 44th ~~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.~~

**19.606 PARKING AREA DESIGN AND LANDSCAPING**

**19.606.2 Landscaping**

E. Other Parking Area Landscaping Provisions

5. Pedestrian walkways are allowed within perimeter and interior landscape buffers if the landscape buffer is at least 2 ft wider than required in Subsections 19.606.2.C.1 and 19.606.2.D.3.b.

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

**19.607.1 Residential Driveways and Vehicle Parking Areas**

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

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.

- 1a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
- 2b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
- 3e. 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.



# COMMENTARY

## CHAPTER 19.900

### LAND USE APPLICATIONS

The proposed amendments correct errors in references, including adding the Type II review for wireless communication facilities and clarifying a fencing requirement for schools and day-care centers. The amendment also adds the North Milwaukie Industrial Area, which is currently in land use review and confirms the Planning Director's authority to elevate the land use review type when appropriate. The amendment also corrects the building height variance section for the Downtown Mixed Use Zone to allow for variances to building height, which was part of the Moving Forward Milwaukie project.

### CHAPTER 19.900 LAND USE APPLICATIONS

#### 19.901 INTRODUCTION

Application Type	Municipal Code Location	Review Types
Community Service Use	Section 19.904	I, <u>II</u> , III

<sup>1</sup> Level of review determined by City Attorney per Section 19.902.4.A.

<sup>2</sup> Level of review determined by City Attorney per Section 19.902.6.A.1.

#### 19.904 COMMUNITY SERVICE USES

##### 19.904.7 Specific Standards for Schools

Public, private or parochial, elementary, secondary, preschool, nursery schools, kindergartens, and day-care centers are included.

- D. Where Subsection 19.904.7.B is applicable, a sSight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses.

#### 19.905 CONDITIONAL USES

##### 19.905.6 Conditional Use Permit

- D. A conditional use permit is not affected by a change in ownership of the use or the property containing the use. A conditional use permit is valid unless one of the following occurs:
1. There is a change in use.
  2. The permit is suspended per the procedures in Subsection 19.905.7~~6~~.
  3. The use is discontinued as described in Subsection 19.905.8.
- E. Compliance with the terms and conditions of the conditional use permit is required on an ongoing basis.

- F. The notice of decision, Planning Commission minutes, and other city records shall constitute the conditional use permit for conditional uses that were approved prior to the effective date of this ordinance.

**19.905.7 Review of Existing Conditional Use Permits**

- C. If the owner and/or operator of the conditional use cannot or does not resolve the issue in Subsection 19.905.7.B, the matter shall be heard by the Planning Commission to review the conditional use permit and to consider modification, suspension, or revocation of the conditional use permit. The review shall follow the procedures of Section 19.1006 Type III Review. The owner and/or operator shall not be charged a fee for this review.

The Planning Commission may take the following actions in consideration of the conditional use permit:

3. Modify the conditional use permit to address the circumstance(s) that gave rise to the issue. Modifications to the conditional use permit shall be based on factors relevant to the approval criteria for conditional uses in Subsection 19.905.4. The Planning Commission may opt to suspend the permit per Subsection 19.905.7.C.24 until compliance with the modified conditional use permit is achieved.

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**19.906 DEVELOPMENT REVIEW**

**19.906.2 Applicability**

- B. Type II Review

The following development proposals must submit a development review application and are subject to the requirements of this section. Type II development review does not apply to development proposals in the downtown zones as these zones have a separate design review process.

1. New development, or expansions or modifications to existing development, for which the applicant elects, where a choice is available, to have the proposal reviewed against discretionary criteria or standards.
2. New construction of over 1,000 sq ft, either: 1) in the Manufacturing Zone within 120 ft of areas zoned for residential uses, or 2) within any part of the Business Industrial Zone, or 3) within any part of the North Milwaukie Industrial Area.
3. New development or expansions, or modifications to existing development, where the Planning Director determines that the scale of development and/or the level of discretion required to evaluate applicable standards and criteria is not appropriate for a Type I development review.

- C. Exemptions

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

3. Interior modifications to existing buildings that do not involve a change of primary use.

## **19.907 DOWNTOWN DESIGN REVIEW**

### **19.907.3 Review Process**

#### **B. Review Types**

To achieve the purpose of the downtown design standards, there are three downtown design review processes through which to apply for approval:

#### **3. Type III**

The discretionary review track provides for a Type III review process pursuant to Section 19.1006, through which the Design and Landmarks Committee and Planning Commission determine substantial consistency with the purpose statement of the relevant standard or standards and the Milwaukie Downtown Design Guidelines. It generally applies to new development and renovation/remodeling projects, as listed in Subsection 19.907.2.D.

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## **19.911 VARIANCES**

### **19.911.6 Building Height Variance in the Downtown Mixed Use Zone**

#### **A. Intent**

To provide a discretionary option for variances to maximum building heights in the Downtown Mixed Use Zone to reward buildings of truly exceptional design that respond to the specific context of their location and provide desired public benefits and/or amenities.

#### **B. Applicability**

The Type III building height variance is an option for proposed buildings that exceed the base maximum building heights or stories and allowed height through bonuses specified in Figure 19.304-4 ~~and~~ or do not elect to use the height bonuses in Subsection 19.304.5.B.3.

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## CHAPTER 19.1000 REVIEW PROCEDURES

### 19.1002 PREAPPLICATION CONFERENCE

#### 19.1002.2 Applicability

- A. For Type I applications, a preapplication conference is optional if MMC Chapter 19.700 is not applicable to the proposal as determined by MMC Section 19.702.
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## CHAPTER 19.1200 SOLAR ACCESS PROTECTION

### 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 19.1203.36. 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.