



# CITY OF MILWAUKIE

## **Milwaukie Zoning Code Proposed Amendments for Housekeeping 2018, Part 3 ZA-2018-004**

### Municipal Code - Title 11 Miscellaneous Permits

Chapter 11.05 Temporary Uses, Permits, and Regulations

### Municipal Code - Title 12 Streets, Sidewalks, and Public Places

Chapter 12.16 Access Management

### Municipal Code - Title 14 Sign Ordinance

Chapter 14.04 General Provisions

Chapter 14.16 Sign Districts

Chapter 14.28 Removal of Signs in Violation

### Municipal Code - Title 17 Land Division

Chapter 17.12 Application Procedure and Approval Criteria

### Municipal Code - Title 19 Zoning Ordinance

Chapter 19.200 Definitions and Measurements

Chapter 19.300 Base Zones

Chapter 19.500 Supplementary Development Regulations

Chapter 19.600 Off-Street Parking and Loading

Chapter 19.700 Public Facility Improvements

Chapter 19.900 Land Use Applications

Chapter 19.1000 Review Procedures

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## 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 11 MISCELLANEOUS PERMITS**

#### **Chapter 11.05 Temporary Uses, Permits, and Regulations**

The proposed language creates a process for review and approval of temporary uses, such as parking for construction workers, seasonal sales, and boat rentals at Milwaukie Bay Park. This type of permit does not currently exist in the municipal code.

## Underline/Strikeout Amendments

### TITLE 11 MISCELLANEOUS PERMITS

#### 11.05 TEMPORARY USES, PERMITS, AND REGULATIONS

##### 11.05.010 Uses

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as:

- A. Seasonal sales uses on private property and on land owned by the City of Milwaukee. These activities include, but are not limited to, the sale of produce, rental of recreational equipment, provision of recreational lessons, or sale of products at a park owned by the City of Milwaukee.
- B. Temporary real estate offices;
- C. Construction parking;
- D. Construction trailers;
- E. Construction offices;
- F. Other temporary uses similar to those listed above as determined by the City Manager

Approval may be granted provided such uses are consistent with the intent of the underlying zoning district and comply with other provisions of this code. These activities are intended to be in use for a limited duration and shall not become a permanent part of a site.

##### 11.05.020 Application and Fee

An application for a temporary use shall be filed with the City and accompanied by the fee specified in the adopted fee schedule. The applicant is responsible for submitting a complete application which addresses all review criteria. Temporary use permits shall be subject to the requirements set forth in this section.

##### 11.05.030 Permit Approval

###### A. Findings of Fact

A temporary use permit (TUP) may be authorized by the City Manager or designee provided that the applicant submits a narrative and detailed site plan that demonstrates that the proposed use:

1. Generally does not have negative impacts and is not inconsistent with the standards and limitations of the zoning district in which it is located;
2. Meets all applicable City and County health and sanitation requirements;
3. Meets all applicable Uniform Building Code requirements; and
4. On-site real-estate offices, construction offices, and construction trailers shall not be approved until land use approval and building permits, if applicable, have been issued.

###### B. Time Limits

The temporary use or structure shall be removed upon expiration of the temporary use permit, unless renewed by the City Manager or designee.

1. Temporary construction offices, construction trailers, and real estate offices shall not be issued for a period exceeding one (1) year. The applicant may request a renewal for additional time to allow completion of the project provided that the applicant provides a narrative describing the need for additional time and an anticipated date of project completion.
2. Other temporary uses, that are not temporary events per MMC 11.04, shall be issued a permit for up to one (1) year to accommodate the duration of the proposed temporary use.

Renewals may be provided as follows:

- a. A renewal permit may be obtained for a period of one (1) year after providing a narrative describing how the use will remain temporary and how the use is not and will not become permanent.
- b. A temporary use permit shall not be renewed for more than three (3) consecutive years; however, a renewal may be obtained annually for uses that do not exceed a four-month period of time per year.

#### C. Conditions

In issuing a temporary use permit, the City Manager or designee may impose reasonable conditions as necessary to preserve the basic purpose and intent of the underlying zoning district. These conditions may include, but are not limited to the following:

1. Increased yard dimensions;
2. Fencing, screening or landscaping to protect adjacent or nearby property;
3. Limiting the number, size, location or lighting of signs;
4. Restricting certain activities to specific times of day; and
5. Reducing the duration of the temporary use permit to less than one (1) year.

#### D. Revocation

Any departure from approved plans not authorized by the City Manager or designee shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of TUP approval are not or cannot be satisfied, the TUP approval, or building and occupancy permits, shall be revoked.

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## COMMENTARY

### TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES

#### CHAPTER 12.16 ACCESS MANAGEMENT

The proposed language allows for a modification to the access spacing standards for driveways and intersections rather than requiring a Type III Variance. The modification process is already outlined in Title 12 and is under the authority of the Engineering Director.

### TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES

#### CHAPTER 12.16 ACCESS MANAGEMENT

##### 12.16.040 ACCESS REQUIREMENTS AND STANDARDS

###### C. Accessway Location

###### 4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curb, the distance shall be measured from the nearest intersecting street edge of pavement.

Distance from intersection may be modified with a modification as described in MMC 12.16.040.B.2.

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## COMMENTARY

### TITLE 14, SIGN ORDINANCE

The proposed amendments to Title 14 would disallow banner-type signs to be used as permanent wall signs in order to require higher quality signage. The proposed language also includes a 6-month time limit for temporary signs; no time limit currently exists.

The proposed language would create an exemption for signs for historic properties and heritage trees, including standards for the signs and what qualifies as an historic property.

The proposed language would require that signs for businesses that have closed must be removed within 6 months. The purpose is to reduce clutter as well as confusion when signs are still up for businesses that no longer exist.

## TITLE 14 SIGN ORDINANCE

### CHAPTER 14.04 GENERAL PROVISIONS

#### 14.04.030 DEFINITIONS

Sign, Banner. "Banner sign" means a sign of lightweight fabric or similar material that can be mounted ~~both on a permanent or temporary basis~~. A banner sign may not be used as a wall sign. ~~provided appropriate wall sign standards are met.~~

Sign, Wall. "Wall sign" means any sign painted on, attached to, or installed against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall, the angle of said wall not to exceed thirty degrees from the vertical. Wall signs may not project more than 12 inches from the wall to which they are attached. Painted wall decorations which include a message are considered to be wall signs. Banners and similar signs may not be used as wall signs.

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### CHAPTER 14.16 SIGN DISTRICTS

#### 14.12.010 Exempted Signs

B. Temporary signs which are nonilluminated, have an overall face area not exceeding 16 square feet, are not permanently installed, and are intended to be located on property for short durations of time. Such signs may include, but are not limited to, real estate lease and sales, political signs, building permits, public hearing notices, ~~construction signs~~, garage sale, open house, special event, holiday, and similar signs. Temporary signs shall be removed within 6 months. Temporary signs for construction projects may be maintained for the duration of the project. ~~a reasonable period of time.~~

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, that meet the following requirements:

1. Not to exceed 2 sq ft for wall signs and placed no higher than 6 ft above ground level;  
or,
2. 2 sq ft and no taller than 3 ft for a monument sign; and
3. This exemption is limited to:
  - a. historic properties as listed in Appendix A of the Milwaukie Comprehensive Plan;  
or
  - b. any building that is shown to be at least 50 years old; or
  - c. a City-identified heritage tree; or
  - d. an historic site recognized and acknowledged by the City Council or a duly appointed city commission or committee.

Except when installed within a park, only 1 sign per property is permitted. The sign may not be installed in the public right-of-way unless permitted as an encroachment within the public right-of-way per MMC 12.14.

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**CHAPTER 14.28 REMOVAL OF SIGNS IN VIOLATION**

**14.28.010 ABANDONED SIGN**

A. Time Limit

Abandoned signs and sign structures shall be removed within 180 days of the time that a sign is no longer used on the structure. Signs for businesses that have closed must be removed within 6 months of the business closure.

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**COMMENTARY**

**TITLE 17 LAND DIVISION**

**CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA**

The proposed amendments to Title 17 will clarify that a boundary change within an approved subdivision requires a subdivision replat.

**TITLE 17 LAND DIVISION**

**CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA**

**17.12.020 APPLICATION PROCEDURE**

<b>Table 17.12.020 Boundary Change Review Procedures</b>			
<b>Boundary Change Action</b>	<b>Type I</b>	<b>Type II</b>	<b>Type III</b>
<b>1. Lot Consolidation Other Than Replat</b>			
a. Legal lots created by deed.	X		
<b>2. Property Line Adjustment</b>			
a. Any adjustment that is consistent with the ORS and this title.	X		
b. Any adjustment that modifies a plat restriction.		X	
<b>3. Partition Replat</b>			
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	
<b>4. Subdivision Replat</b>			X



a. <u>Any modification to a plat affecting 4 or more lots.</u>			
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## COMMENTARY

### TITLE 19, ZONING

#### CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

The proposed amendments to Title 19 will clarify the definition of public park to remove a reference to the *City Community Services Department* which no longer exists.

The proposed definition of livestock clarifies that this term refers to animals such as goats, sheep, etc. that are not kept as pets. This is related to the proposed language regarding agricultural uses in the residential zones.

The proposed revised definition of live/work unit will provide flexibility in the design of live/work units. The current code language essentially requires that these units are multi-story; the proposed language would allow live/work units that are on a single floor. The change is related to a proposed revision for live/work design and development standards.

The proposed definition of personal/business services clarifies that pet grooming and pet day care services are within this use category. These businesses are not currently included listed in the code.

The proposed amendments add a definition of the term adjacent, which is used in the existing code, but not defined. The amendments clarify the term abutting so that it is distinct from the term adjacent.

### TITLE 19 ZONING

#### CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

##### 19.201 DEFINITIONS

“Abutting” means sharing a common boundary or property line. ~~to reach or touch, to touch at the end or be contiguous with, to join at a border or boundary, and/or to terminate on.~~ Abutting properties include properties across a street or alley.

“Adjacent” means touching; across a public right-of-way from; across an easement from; across a stream or creek from.

"Livestock" means domestic animals, such as cattle, horses, sheep, hogs, or goats, raised for home use (such as meat, milk, or shearing) or for profit.

"Live/work unit" means a dwelling unit where residential and nonresidential spaces are combined and where the dwelling unit is the principal residence of the business operator/proprietor. ~~Nonresidential spaces are typically located on the ground floor and residential spaces are located on upper floors.~~

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

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

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## **COMMENTARY**

### **TITLE 19 ZONING**

#### **CHAPTER 19.300 BASE ZONES**

In 19.300, the permitted use "Personal-service-oriented" is amended to read "Personal/business services" so that the use is consistently named throughout the code.

#### **CHAPTER 19.301 and 19.302 LOW AND MEDIUM DENSITY ZONES**

##### **19.301.3 and 19.302.3 Use Limitations and Restrictions**

The proposed amendments clarify the difference between livestock and animals as household pets on single family properties. The amendment also includes language requiring humane conditions and proper storage of food for animals.

#### **CHAPTER 19.300 BASE ZONES**

##### **19.301 LOW DENSITY RESIDENTIAL ZONES**

###### **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. Unless raised as a household pet, livestock, other than usual household pets, are not shall not be 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.

4. Livestock shall be properly and humanely caged or housed, and proper sanitation shall be maintained at all times.
5. All livestock food shall be stored in rodent-proof receptacles.

**19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES**

**19.302.3 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. Unless raised as a household pet, ~~livestock, other than usual household pets, are not shall not be~~ housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 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.
  4. Livestock shall be properly and humanely caged or housed, and proper sanitation shall be maintained at all times.
  5. All livestock food shall be stored in rodent-proof receptacles.

**19.303 COMMERCIAL MIXED-USE ZONES**

**19.303.2 Uses**

<b>Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones</b>			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Commercial<sup>3, 4</sup></b>			
<p><del>Personal/business services Personal-service-oriented</del>  <del>Personal/business services Personal-service-oriented firms</del> are involved in providing consumer services.                      Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.</p>	P	P	

**CHAPTER 19.303 COMMERCIAL MIXED USE ZONES**

**19.303.3 and 19.303.4 Development Standards and Detailed Development Standards**

References to the new Chapter 19.510 are added as needed in the code language. A correction to typos regarding floor area ratio are included.

**19.303.3 Development Standards**

<b>Table 19.303.3 Commercial Mixed Use Zones—Summary of Development Standards</b>			
<b>Standard</b>	<b>GMU</b>	<b>NMU</b>	<b>Standards/ Additional Provisions</b>
<b>B. Development Standards</b>			
1. Minimum floor area ratio	0.5:1	0.5:1	<b>Subsection 19.303.4.A</b> Floor Area Ratio
2. Building height (ft)			<b>Subsection 19.303.4.B</b> Building Height
a. Base maximum	45	45	<b>Section 19.510</b> <u>Green Building Standards</u>
b. Maximum with height bonus	57–69	Height bonus not available	<b>Subsection 19.911.7</b> Building Height Variance in the General Mixed Use Zone

**19.303.4 Detailed Development Standards**

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

**A. Floor Area Ratio**

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The minimum floor area ratio in Table 19.303.3 applies to all nonresidential building development.

~~The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.~~

- b. Required minimum floor area ratio shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FAR.

~~Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.~~

- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.

### 3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

## B. Building Height

### 1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

### 2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- c. The maximum building height in the NMU Zone is 3 stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

### 3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components, increase area vibrancy, and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and ~~3-b~~ Section 19.510, for a total of 2 stories or 24 ft of additional height, whichever is less. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

#### a. Residential

New buildings that devote at least 1 story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

#### b. Green Building

Project proposals that receive approvals and certification as identified in Section 19.510 are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

~~Project proposals that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Green Globes, or Earth Advantage) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.~~

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

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**CHAPTER 19.304 DOWNTOWN ZONES**

**19.304.4 Development Standards**

A mathematical correction to building height in the table of development standards is proposed: the lowest base maximum is 45 ft; the maximum with 2 stories of height bonuses would be an additional 24 ft, for a total of 69 ft. The language also corrects an inconsistency between the table of standards and Figure 19.304-4

**19.304 DOWNTOWN ZONES**

**19.304.2 Uses**

<b>Table 19.304.2 Uses Allowed in Downtown Zones—Uses</b>			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Commercial</b>			
<del>Personal/business services Personal-service-oriented</del> <del>Personal/business services Personal-service-oriented firms</del> are involved in providing consumer services.  Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.	P/CU	N	<b>Subsection 19.304.3.A.3</b> Commercial use limitations  <b>Section 19.905</b> Conditional Uses

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**19.304.4 Development Standards**

Table 19.304.4 Downtown Zones—Summary of Development Standards			
Standard	DMU	OS	Standards/ Additional Provisions
<b>A. Development Standards</b>			
1. Building height (ft)			
a. Minimum	25	None	<b>Subsection 19.304.5.B</b> Building Height
b. Maximum	<del>45-69</del> <del>35-65</del> (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  <b>Section 19.510</b> Green Building Standards

### 19.304.5 Detailed Development Standards

In the existing code, a requirement for a 6-ft step back is included as both a development standard and as a design standard in 19.508. This presents a procedural conflict for projects proposing a design without a step back, as they would require both a variance and design review process. The proposed language would eliminate the requirement as a development standard and would keep it as a design standard within 19.508. Projects electing to not include a step back would require a Type III Downtown Design Review and would have to address all applicable Downtown Design Guidelines as well as the purpose statement of the applicable design standard. This keeps the review procedure on one design-related path.

### 19.304.5 Detailed Development Standards

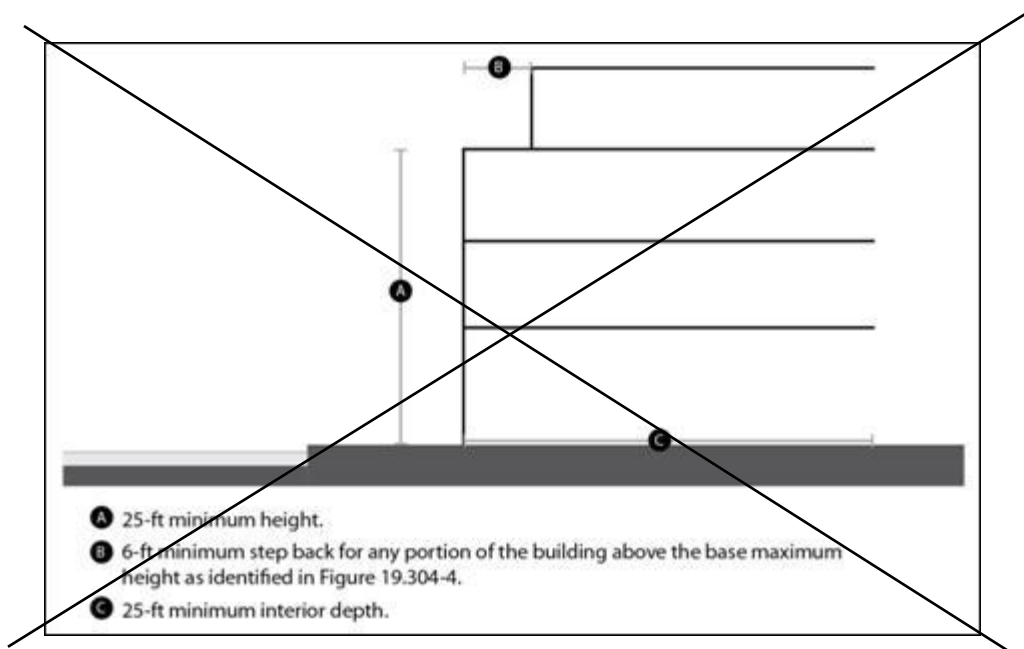
The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.304.4.

#### B. Building Height

##### 2. Standards

- ~~d. Buildings shall provide a step back of at least 6 ft for any street-facing portion of the building above the base maximum height as identified in Figure 19.304-4.~~

**Figure 19.304.5.B.2  
Building Height Standards**



3. Height Bonuses

c. Green Building

Project proposals that receive approvals and certification as identified in Section 19.510 are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

~~New buildings that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Earth Advantage, or Green Globes certified) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.~~

~~Height bonus eligibility shall be verified at the time of building permit submittal and shall be contingent upon submittal of green building certification. The height bonus may be binding under a development agreement and height bonus awards may be revoked, and/or other permits or approvals may be withheld, if the project fails to achieve certification.~~

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**19.306 LIMITED COMMERCIAL ZONE C-L**

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

**19.306.1 Uses Permitted Outright**

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

- D. Personal/business services ~~Personal service business~~ such as a barber shop, tailor shop, or laundry and dry cleaning pickup station.



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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:

- D. Personal/business services ~~Personal service business~~ such as a barber shop, tailor shop or laundry, and dry cleaning pickup station;
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### 19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS

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

#### 19.308.1 Uses

Development shall be a community-scale shopping center.

B. Such center may include the following additional uses:

1. Eating and drinking establishment;
  2. Financial institution;
  3. Entertainment use (theater, etc.);
  4. Personal/business services ~~Personal service businesses~~;
  5. Repair, service or maintenance of goods authorized in this district;
  6. Offices, clinics, or trade schools, provided no more than 15% of the total floor space of the center is devoted to such uses;
  7. Marijuana retailer subject to the standards of Subsection 19.509.1;
  8. Indoor recreation;
  9. Any other uses determined by the Planning Commission to be similar and compatible to the above-listed uses.
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### 19.310 BUSINESS INDUSTRIAL ZONE BI

#### 19.310.4 Limited Uses

A. Limited retail or service uses may be allowed that primarily service the needs of BI Zone clients, employees, and businesses, as opposed to the general public. These uses, subject to the provisions of Subsection 19.310.4.B below, shall include:

3. Personal/business services ~~Personal service businesses~~ such as a barber, beauty parlor, tailor, dressmaking, shoe repair shop, self-service laundry, dry cleaning, photographer, instruction studios, or similar uses;
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## **19.309 MANUFACTURING ZONE M**

### **19.309.2 Permitted Uses**

The proposed language would allow repair and service shops for personal vehicles in the Manufacturing zone along Johnson Creek Blvd. The Manufacturing zone currently permits repair and service for fleet vehicles, heavy trucks, and tire retreading, but does not permit repair and service for personal vehicles. This use is only permitted by right in the DMU, C-G, and GMU zones. Available properties in those zones are few and, coupled with the recent re-zoning of the Manufacturing zone in the NMIA, there is little land available for this necessary use. Given the already permitted repair and service uses in the Manufacturing zone, allowing personal vehicle repair is consistent with the permitted uses in the zone.

## **19.309 MANUFACTURING ZONE M**

### **19.309.2 Permitted Uses**

Permitted uses are limited to industrial uses meeting the following criteria:

H. The following uses are allowed outright and do not need to be part of a project involving an industrial use as described under Subsection 19.309.2.B

#### **2. Repair and Service**

This category comprises firms involved in repair and servicing of industrial, business, or consumer electronic equipment, machinery, and related equipment, products, or by-products. Examples include: welding shops; machine shops; tool, electric motor, and industrial instrument repair; sales, repair, or storage of heavy machinery, metal, and building materials; heavy truck servicing and repair; tire retreading or recapping; exterminators, including chemical mixing or storage and fleet storage and maintenance; janitorial and building maintenance services that include storage of materials and fleet storage and maintenance; fuel oil distributors; solid fuel yards; and large-scale laundry, dry-cleaning, and carpet cleaning plants. ~~Few customers come to the site, particularly not general public daily customers.~~ Auto service and repair shops for personal vehicles are not included in this category and are ~~not~~ allowed in the M Zone.

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## **CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

### **19.505 BUILDING DESIGN STANDARDS**

#### **19.505.3 Multifamily Housing**

The proposed language removes the requirement for native trees to be planted on a multifamily development site within the list of design standards for the objective review

process (Type I review). The proposed language would change the requirement to be that any preserved and/or new trees on the site cannot be nuisance species. This would provide more flexibility in choosing tree species to better ensure the viability of the new trees that are planted. Limiting the new tree list to only native trees may result in trees being planted in small planting areas, such as buffer areas or perimeter planting areas, where they may not survive.

## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

### 19.505 BUILDING DESIGN STANDARDS

#### 19.505.3 Multifamily Housing

Table 19.505.3.D Multifamily Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	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>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). Preserved and new trees 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:            (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.</p>

## 19.505 BUILDING DESIGN STANDARDS

### 19.505.6 Live/Work Units

The proposed language corresponds to the proposed revision in the definition of live/work units. The new language would clarify that live/work units can be either multi-story or single-floor units, providing for more flexibility in the design of such developments. The proposed language also increases the number of employees permitted to work in the live/work unit from 3 to 5, which is consistent with the Oregon Structural Specialty Code. Finally, the proposed language removes the citation that live/work units must meet the design standards of Subsection 19.508, the Downtown Design Standards. New construction of live/work units would have to meet the applicable design standards of the zone in which they are proposed, including the DMU and the Commercial Mixed-Use Zones (GMU and NMU).

### 19.505.6 Live/Work Units

#### C. Use Standards

1. Any nonresidential use allowed in the base zone within which a live/work unit is legally located may be conducted on the premises of that live/work unit.
2. At least one of the employees of the commercial portion of the live/work unit must reside in the unit.
3. If the live/work unit is multistory, ~~t~~The ground floor of a live/work unit can be used for either commercial or residential purposes. When the ground floor is being used as part of the dwelling, the provisions of Subsection 19.508.4.E.5.e are not applicable.
4. A live/work unit is allowed instead of, or in addition to, a home occupation as defined by Section 19.201.

#### D. Development Standards

In addition to the standards of the base zone, live/work units shall comply with all of the following standards.

1. The nonresidential portion of the unit shall occupy at least 25% of the gross floor area.
2. If the live/work unit is multistory, ~~t~~The nonresidential portion of the building shall be located on the ground floor and the residential unit shall be located on the upper floors or to the rear of the nonresidential portion. Live/work units may be single-floor units, in which case a separation between the residential and nonresidential uses is not required.
3. Employees shall be limited to occupants of the residential portion of the building plus up to ~~3~~ 5 persons not residing in the residential portion.

#### ~~E. Design Standards~~

- ~~1. Live/work units are subject to the design standards of Subsection 19.508.~~

2. ~~The transitional entry standards of Subsection 19.505.5.C.2 do not apply to live/work units.~~
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## 19.508 DOWNTOWN SITE AND BUILDING DESIGN STANDARDS

### 19.508.4 Building Design Standards

The proposed language coincides with the proposed language cited above for Subsection 19.304.5 as it relates to the required 6-ft step back. The new language would include the 6-ft step back as a design standard, rather than as an optional design standard. Compliance would be required for an objective review process, or a Type III review against the purpose statement and the applicable Downtown Design Review Guidelines would be necessary.

## 19.508 DOWNTOWN SITE AND BUILDING DESIGN STANDARDS

### 19.508.4 Building Design Standards

#### A. Building Façade Details

##### 1. Purpose

To provide cohesive and visually interesting building façades in the downtown, particularly along the ground floor.

##### 2. Nonresidential and Mixed-Use Buildings

The following standards apply only to nonresidential and mixed-use buildings.

##### a. Vertical Building Façade

Nonresidential and mixed-use buildings 2 stories and above shall provide a defined base, middle, and top.

##### (2) Middle

The middle of a building extends from the top of the building base to the ceiling of the highest building story. The middle is distinguished from the top and base of the building by use of building elements. The middle of the building shall be defined by providing all of the following elements:

- (a) Windows that comply with the standards of Subsection 19.508.4.E.
- (b) One of the following elements:
  - (i) A change in exterior cladding, and detailing and material color between the ground floor and upper floors. Differences in color must be clearly visible.
  - (ii) ~~Either s~~Street-facing balconies or decks at least 2 ft deep and 4 ft wide, ~~or a 6-ft minimum building step back on the third floor or higher,~~ for at least 25% of the length of the building.

(c) A change in wall plane of not less than 24 in. deep and 24 in. wide. Breaks may include but are not limited to an offset, recess, window reveal, pilaster, pediment, coursing, column, marquee, or similar architectural feature.

(d) Provide a step back of at least 6 ft for any street-facing portion of the building above the base maximum height as identified in Figure 19.304-4.

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## **19.509 MARIJUANA BUSINESS STANDARDS**

### **19.509.2 Security and Odor Control for Certain Marijuana Businesses**

The current code language, requiring specific mechanical systems, conflicts with ORS 455.040, which states that a local ordinance cannot require different requirements than the state building code. The goal of ORS 455.040 is to ensure uniformity throughout the state and in all municipalities in matters of building design and construction.

## **19.509 MARIJUANA BUSINESS STANDARDS**

### **19.509.2 Security and Odor Control for Certain Marijuana Businesses**

- A. The operation shall be entirely indoors, within a fully-enclosed, secure building meeting building codes adopted by the City of Milwaukie and all other applicable state regulations.
  - B. ~~Odor shall be managed through the installation of activated carbon filters on exhaust outlets to the building exterior from any rooms used for all production, processing, testing, research, and warehousing uses. A marijuana business shall use an air filtration and ventilation system that ensures that all odors associated with the marijuana is confined to the licensed premises to the extent practicable. Negative air pressure shall be maintained within the rooms. Exhaust outlets shall be a minimum of 25 ft from a property line.~~
  - C. ~~An alternative odor control system may be approved by the building official based on a report by a mechanical engineer licensed by the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.~~
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## **19.510 Green Building Standards**

The current zoning code includes green building standards as height bonuses in 3 different zones: NMIA, GMU and DMU. The proposed code creates a new code section where green building standards are established. This provides uniformity and simplification in the code by referencing one code section wherever green building standards are applicable. This also streamlines any future amendment process by requiring only one code section to be

updated as needed, rather than language in each affected zone. This new language would also apply to local approval criteria for the Vertical Housing Development Zone.

The proposed language also increases the minimum requirements to receive the height bonus, offering a choice between LEED Silver certification or confirmation of participation in the Energy Trust of Oregon's Path to Net Zero program. These two programs align with the City's goals of reduction in energy use in new buildings, as well as other aspects of green building.

### **19.510 Green Building Standards**

Green building is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life cycle from siting to design, construction, operation, maintenance, renovation, and deconstruction. For the purposes of height bonuses and/or meeting the local criteria for the Milwaukie Vertical Housing Development Zone, a green building shall be defined as a building that receives one of the following approvals:

A. LEED Silver Certification; or

B. Documentation from Energy Trust of Oregon's New Buildings program that confirms participation in the Path to Net Zero program offering.

Height bonus eligibility shall be verified at the time of building permit submittal and shall be contingent upon submittal of green building certification. The height bonus may be binding under a development agreement and height bonus awards may be revoked, and/or other permits or approvals may be withheld, if the project fails to achieve certification.

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

### **19.606.2 Landscaping**

The proposed language would add requirements to ensure that selected plantings will achieve the goal of a larger canopy to provide shade in parking lots. The new language also decreases the spacing between new trees in perimeter planting areas from 40 ft to 30 ft to provide more shade and buffer plantings.

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

### **19.606.2 Landscaping**

B. General Provisions

4. Required trees shall be species that, within 10 years of planting, will provide a minimum of 20-ft diameter shade canopy. Compliance with this standard is based on the expected growth of the selected trees.

C. Perimeter Landscaping

The perimeter landscaping of parking areas shall meet the following standards which are illustrated in Figure 19.606.2.C.

2. Planting Requirements

Landscaping requirements for perimeter buffer areas shall include 1 tree planted per ~~30~~ 40 lineal ft of landscaped buffer area. Where the calculation of the number of trees does not result in a whole number, the result shall be rounded up to the next whole number. Trees shall be planted at evenly spaced intervals along the perimeter buffer to the greatest extent practicable. The remainder of the buffer area shall be grass, ground cover, mulch, shrubs, trees, or other landscape treatment other than concrete and pavement.

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**CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS**

**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

The proposed language would change the standard for dead-end streets ("closed-end street system") such that a cul-de-sac with no more than 20 units could be built off a dead-end-street. The current language would not permit this. The amendment provides opportunity for additional development on large lots that are currently accessed by a dead-end street.

**CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS**

**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

E. Street Layout and Connectivity

5. ~~Closed-end street systems~~ Streets with a permanent turnaround may serve no more than 20 dwellings.
-



## CHAPTER 19.900 LAND USE APPLICATIONS

### 19.904 COMMUNITY SERVICE USES

#### 19.904.11 Standards for Wireless Communication Facilities

The proposed language further clarifies the permitting process for wireless communication facilities, including a list of exemptions, reflecting a ruling by the Federal Communications Commission. The proposed language also adds references to Title 21, alerting applicants to other city code requirements such as franchise agreements, as well as other revisions recommended by the ROW/Contracts Coordinator.

## CHAPTER 19.900 LAND USE APPLICATIONS

### 19.904 COMMUNITY SERVICE USES

#### 19.904.11 Standards for Wireless Communication Facilities

##### A. Applicability

The placement, construction, or modification of wireless communication facilities are subject to the provisions of this subsection. In addition, wireless communication facilities shall comply with all municipal codes, heretofore or hereafter amended.

##### C. Application Process

###### 1. ~~Type I Review~~ Exemptions

The following are exempt from the provisions of this chapter, subject to any other applicable provisions of this code:

- a. Temporary WCF during an emergency declared by the City.
- b. Temporary WCF located on the same site as, and during the construction of, a permanent WCF for which appropriate permits have been granted.
- c. Licensed amateur (ham) radio stations.
- d. Satellite dish antennas 6 ft or less in diameter when located in nonresidential zones, and satellite dish antennas 3 ft or less in diameter when located in residential zones, including direct to home satellite services, when used as an accessory use of the property.

###### 2. Type I Review

- a. Modification of WCFs involving the following activities are subject to Section 19.1004, provided that the proposal does not substantially change the physical dimensions of the support structure:
  - (1) Changing the number of antennas.
  - (2) Removal of existing transmission equipment.
  - (3) Replacement of existing transmission equipment.
- b. For the purposes of this section, a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (1)a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 ft, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 ft, whichever is greater;
- (2)b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 ft, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 ft;
- (3)e. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- (4)d. It entails any excavation or deployment outside the current site;
- (5)e. It would defeat the concealment elements of the eligible support structure; or
- (6)f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

**23. Type II Review**

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

**34. Type III Review**

All proposed new monopole towers, and projects exceeding the applicability for Type II review, are subject to Section 19.1006 Type III Review. Also see Table 19.904.11.C.

<b>Table 19.904.11.C Wireless Communication Facilities—Type and Review Process</b>				
<b>Towers</b>		<b>WCFs Not Involving New Tower</b>		
<b>Zones</b>	<b>New Monopole Tower up to 100 Ft</b>	<b>Building Rooftop or Wall Mounted Antenna</b>	<b>Water Towers, Existing Towers, and Other Stealth Designs</b>	<b>On Existing Utility Pole in Row with or w/out Extensions</b>
BI	III	P/I/II	P/I/II	P/I/II

**Proposed Code Amendment with Commentary**

M	III	P/I/II	P/I/II	P/I/II
M-TSA	III	P/I/II	P/I/II	P/I/II
C-N	N	P/I/II	P/I/II	P/I/II
C-G	N	P/I/II	P/I/II	P/I/II
C-L	N	P/I/II	P/I/II	P/I/II
C-CS	N	P/I/II	P/I/II	P/I/II
OS	N	P/I/II	P/I/II	P/I/II
DMU	N	P/I/II	P/I/II	P/I/II
GMU	N	P/I/II	P/I/II	P/I/II
NMU	N	P/I/II	P/I/II	P/I/II
R-1-B	N	P/I/II	P/I/II	P/I/II
R-1	N	N	P/I/II	P/I/II
R-2	N	N	P/I/II	P/I/II
R-2.5	N	N	P/I/II	P/I/II
R-3	N	N	P/I/II	P/I/II
R-5	N	N	P/I/II	P/I/II
R-7	N	N	P/I/II	P/I/II
R-10	N	N	P/I/II	P/I/II

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

II = Type II review—provides for an administrative decision

I = Type I review—provides for an administrative decision

P = Permitted    N = Not Permitted

**D. Application Submittal Requirements**

In addition to the required submittal material the following must also be included with the application:

1. Applications for a WCF that will include a new monopole tower:
  - a. A narrative description of:
    - (1) Tower location;
    - (2) Design;
    - (3) Height;
    - (4) Antenna location and type for all planned antennas;
    - (5) Indication of the number of additional antennas the tower will be able to accommodate;

(6) Right-of-way license number;

(7) Type of service provided.

2. WCF Not Including a New Tower

- a. Detailed narrative description describing the proposed antenna location, design and height, the right-of-way license number, and the type of service provided.

F. Location and Size Restrictions

2. Height: maximum heights. Also see Table 19.904.11.C.

- d. For antennas on utility poles in the right-of-way, a one 15-ft extension is permitted to the original installation by the owner. The carrier may replace the existing pole with a new utility pole not to exceed 15 ft above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Subsection 19.904.11.G.1.b.

G. Development Standards for All WCFs

9. Discontinued Use of and Removal of WCFs

- a. Any WCF not operated for a continuous period of 6 months shall be considered abandoned. The WCF owner is required to remove all abandoned facilities and base equipment within 90 days after notice from the City of Milwaukie.
- b. If the owner of the WCF cannot be located or is no longer in business, it shall be the responsibility of the landowner on whose property the WCF is located to remove the abandoned facility and base equipment.
- c. If the landowner is the City of Milwaukie, the City may invoice the owner of the WCF for the removal.

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**19.905 CONDITIONAL USES**

**19.905.9 Standards Governing Conditional Uses**

The proposed language would add standards for vacation rentals, including a requirement for a building inspection and notification to neighbors.

**19.905 CONDITIONAL USES**

**19.905.9 Standards Governing Conditional Uses**

H. Vacation Rentals

Operation of a vacation rental requires the following:

1. Prior to initial occupancy, the Building Official shall verify that building code and fire code standards are satisfied.
2. With annual filing of MMC Title 5 Business Tax, the operator shall send a notice to neighbors within 300 ft that includes the following information:

- a. Property owner contact information;
  - b. Vacation rental operator and/or property manager contact information; and
  - c. City of Milwaukie Police nonemergency telephone number.
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## **19.910 RESIDENTIAL DWELLINGS**

### **19.910.1 Accessory Dwelling Units**

The proposed language would add language allowing one accessory dwelling unit (ADU) per single family home, which is a requirement of SB 1051.

## **19.910 RESIDENTIAL DWELLINGS**

### **19.910.1 Accessory Dwelling Units**

#### **D. Approval Standards and Criteria**

1. An application for an accessory dwelling unit reviewed through a Type I review shall be approved if the following standards are met.
  - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
  - b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.
  - c. One accessory dwelling unit per ~~lot~~ single family home or per lot is allowed.

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## **19.911 VARIANCES**

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

The proposed language would clarify that a building height variance in the DMU would be an option for developments that are proposed to exceed the allowed building height with height bonuses, or that do not elect to use height bonuses.

## **19.911 VARIANCES**

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

#### **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 and Section 19.510.

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## CHAPTER 19.1000 REVIEW PROCEDURES

The proposed language as it relates to notification to Metro in Type III, IV, and V land use applications would reduce the timeframe for notification of a code or plan amendment from 45 days to 35 days prior to the first evidentiary hearing to coincide with Metro's recent revision of their requirements.

The proposed language also includes references in various subsections related to ORS 197.311, which addresses the new requirements for an expedited review process for qualifying affordable housing projects. The 120-day decision requirement is reduced to 100 days for projects that meet the provisions of ORS 197.311.

## CHAPTER 19.1000 REVIEW PROCEDURES

### 19.1001 GENERAL PROVISIONS

#### 19.1001.6 Applications

##### B. Review of Multiple Applications

When multiple land use applications are required for a single proposal, the applicant may request, or the City may require, that the applications be processed concurrently or individually.

The City shall generally allow applicants the choice of having multiple applications for a single proposal processed concurrently or individually. The City may require that applications be reviewed concurrently for proposals where a review of an application(s) would be difficult without the context of the other applications related to the proposal. Alternatively, the City may require parts of an application to be processed separately in order to comply with the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311) or to allow decisions on parts of a proposal to be made with a lower level of review.

##### C. Notice Requirements

###### 1. Sign Notice

a. Notice of Type II, III, and IV applications, and some Type V applications, shall be posted on the subject property by the applicant per Sections 19.1005-19.1008 respectively.

b. Signs shall be posted in a location which is clearly visible to vehicles traveling on a public street and legible to pedestrians walking by the property. If the sign is providing notice of a public hearing, the sign shall include the date, time, and place of the hearing. The number and size of signs shall be appropriate given the size of the property, the number of street frontages, and the functional classification of surrounding streets. The City shall provide the applicant at least 1 sign and instructions for posting. An affidavit of posting shall be submitted by the applicant prior to the issuance of the decision and made part of the case file.

c. If the affidavit of posting is not submitted on time or if the required number and type of notice signs are not posted for the required period of time, the City may require an extension of the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311), delay the decision, and/or postpone or continue the public hearing on the application as necessary. The applicant will be required to repost the notice signs as necessary to meet the requirements of Sections 19.1005-19.1008 respectively.

### **19.1001.7 Decisions**

#### **C. 120-Day Decision Requirement**

The City shall take final action on land use actions subject to ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete, (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311), unless the applicant provides a written statement consenting to an extension of the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311). The total of all extensions, except as provided for mediation per ORS 227.178(11), shall not exceed 245 days.

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### **19.1004 TYPE I REVIEW**

#### **19.1004.5 Type I Decision**

Written notice of the decision for Type I applications shall be provided to the applicant and property owner of record. The decision shall be issued with sufficient time to allow the appeal authority for a Type I application to issue a final decision within 120 days from when the application was deemed complete. The final decision for an affordable housing application, as defined in and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete.

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### **19.1005 TYPE II REVIEW**

#### **19.1005.5 Type II Decision**

A. The decision shall be issued with sufficient time to allow the appeal authority for a Type II application to issue a final decision within 120 days from the date that the application was deemed complete. The final decision for an affordable housing application, as defined in, and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete.

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### **19.1006 TYPE III REVIEW**

#### **19.1006.3 Type III Public Notice**

B. Metro Notice

## Proposed Code Amendment with Commentary

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For Zoning Map amendments, the City shall provide notification to Metro at least ~~45~~ 35 days prior to the initial evidentiary hearing on adoption.

### 19.1006.5 Type III Decision

A. The decision shall be issued with sufficient time to allow the appeal authority for a Type III application to issue a final decision within 120 days from the date that the application was deemed complete. The final decision for an affordable housing application, as defined in, and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete.

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## 19.1007 TYPE IV REVIEW

### 19.1007.3 Type IV Public Notice

B. Metro Notice

For Zoning Map or Comprehensive Plan map amendments, the City shall provide notification to Metro at least ~~45~~ 35 days prior to the initial evidentiary hearing on adoption.

### 19.1007.5 Type IV Decision

A. The Planning Commission shall serve as the recommendation authority for Type IV applications.

B. The Planning Commission shall conduct an initial evidentiary hearing and provide a recommendation to the City Council with sufficient time to allow the City Council to issue a final decision within 120 days from the date that the application was deemed complete. The final decision for an affordable housing application, as defined in, and subject to all of the provisions of ORS 197.311, shall be issued within 100 days from when the application was deemed complete.

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## 19.1008 TYPE V REVIEW

### 19.1008.3 Type V Public Notice

C. Metro Notice

Notice of a Type V application shall be mailed to Metro at least ~~45~~ 35 days prior to the initial evidentiary hearing on adoption.

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## 19.1009 PUBLIC HEARINGS

### 19.1009.11 Continuance of Hearing

A. Receipt of Additional Materials



All evidence, testimony, or documents relied upon by the applicant shall be submitted to the City and made available to the public. If additional evidence, testimony, or documents is provided by any hearing participant, the hearing body may allow a continuance or leave the record open for at least 7 days to allow other parties a reasonable opportunity to respond. The hearing body may ask the applicant to consider granting an extension of the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311) if a delay in proceedings could impact the ability of the City to take final action on the application, including resolution of any local appeals.

E. 120-Day Decision Requirement

Except for Type V applications, a continuance or extension granted pursuant to Subsection 19.1009.11 shall be subject to the limitations of the 120-day decision requirement (or the 100-day decision requirement for projects meeting the provisions of ORS 197.311) unless the continuance or extension is requested or agreed to in writing by the applicant.

**19.1009.12 Decision**

A. Following the close of the public portion of the hearing, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse, or remand the decision that is on appeal. Remanding the decision to a prior hearing body requires that there is adequate time, pursuant to Subsection 19.1001.7.C for the prior hearing body to issue a decision and for the City to issue a final decision if the decision resulting from the remand is appealed.

B. A final local decision on a Type I, II, III, or IV land use application shall be made within 120 days from the date the application was deemed complete (or within 100 days for a project meeting all provisions of ORS 197.311), except that, with the agreement of the hearing body and the applicant or appellant, the processing of a matter under consideration may be extended per Subsection 19.1001.7.C.

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**19.1011 DESIGN REVIEW MEETINGS**

**19.1011.1 Responsibility of City for Design Review Meetings**

The City shall:

A. Schedule land use applications for design review before the Design and Landmarks Committee at the earliest available scheduled meeting. If the Design and Landmarks Committee is unable to schedule a design review meeting with sufficient time for the Planning Commission to hold a public hearing in compliance with the 120-day decision requirement (or within 100 days for a project meeting all provisions of ORS 197.311), one of the following shall occur:

1. The applicant may extend the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311) per Subsection 19.1001.7.C in order to accommodate Design and Landmarks Committee review of the application.
2. If the applicant does not extend the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311), the

Planning Director shall prepare the design review recommendation in lieu of the Design and Landmarks Committee. The Planning Director's recommendation shall satisfy the requirement of Subsection 19.907.6.

**19.1011.9 Continuance of Meeting**

A. A design review meeting may be continued if the Planning Director determines that there is sufficient time to hold a continued meeting before the Design and Landmarks Committee and a public hearing before the Planning Commission within the required 120 days or if the applicant waives the 120-day decision requirement (or the 100-day decision requirement for a project meeting all provisions of ORS 197.311) per Subsection 19.1001.7.C.

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