

COUNCIL ORDINANCE No. 2256

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE FOR THE PURPOSE OF PROVIDING CODE-BASED INCENTIVES FOR THE DEVELOPMENT OF AFFORDABLE HOUSING (PRIMARY FILE #ZA-2025-003).

WHEREAS it is the intent of the City of Milwaukie to promote and support affordable residential development to meet housing production goals; and

WHEREAS the proposed code amendments provide an opportunity to reduce construction costs and encourage the development of income-restricted housing; and

WHEREAS legal and public notices have been provided as required by law, and multiple opportunities for public review and input have been provided; and

WHEREAS on July 22, 2025, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective immediately on the date of adoption.

Read the first time on **8/19/25** and moved to second reading by **3:2** vote of the City Council.

Read the second time and adopted by the City Council on **9/2/25**.

Signed by the Mayor on **9/2/25**.



Lisa M. Batey, Mayor

ATTEST:



Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:



Justin D. Gericke, City Attorney

**Findings in Support of Approval
File #ZA-2025-003
Affordable Housing Incentives Code Amendments**

Sections of the Milwaukie Municipal Code (MMC) not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, proposes to make code amendments to MMC Title 19 related to code-based incentives for affordable housing developments. The land use application file number is ZA-2025-003.
2. The proposed code amendments would aggregate all code-based affordable housing incentives, to centralize information for prospective applicants. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards (see Attachment 1 for the draft language). The goal is to remove barriers to residential development that includes income-restricted units. The city's Housing Production Strategy (HPS) includes a strategy to evaluate incentives for affordable housing development. The proposed amendments address this strategy.
3. Amendments are proposed in the municipal code, as follows:
 - Chapter 19.500 – SUPPLEMENTARY DEVELOPMENT REGULATIONS
 - Section 19.511 Affordable Housing Incentives (NEW)
 - Chapter 19.900 – LAND USE APPLICATIONS
 - Section 19.911 Variances
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.
6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on July 22, 2025, August 19, 2025, and September 2, 2025 as required by law.
7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

The amendments were formally initiated by the Planning Manager on January 2, 2025.

b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:

(1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided as follows:

The City Council held work sessions on January 7, March 18, and May 6, 2025. The Planning Commission held a work session on June 10, 2025. The current version of the draft amendments has been posted on the application webpage since June 17, 2025.

(2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

A notice of the Planning Commission's July 22, 2025 hearing was posted as required on June 17, 2025. A notice of the City Council's August 19, 2025 hearing was posted as required on July 17, 2025.

(3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The proposed amendments will apply to all zones that permit residential development. Therefore, notices were not sent.

(4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on June 17, 2025.

(5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on June 17, 2025.

(6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments will apply to properties in zones that permit residential development and do not affect the already permitted uses on those properties.

(7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held a duly advertised public hearing on July 22, 2025 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on August 19, 2025 and September 2, 2025, and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
- (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on July 22, 2025 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on August 19, 2025 and September 2, 2025, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.

- (b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The goals and policies of the Comprehensive Plan support the amendments to permit incentives for the development of income-restricted housing.

- (c) Section 7 – Housing:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

- (a) Goal 7.1 – Equity:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

- (i) Policy 7.1.3

Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The code language includes expedited review processes both for land use review and development permit review.

(b) Goal 7.2 – Affordability:

Provide opportunities to develop housing that is affordable at a range of income levels.

(i) Policy 7.2.1

Continue to research, leverage and implement housing affordability strategies that meet the needs of Milwaukie households and can adapt to changing market conditions.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The identified adjustments include specific standards in an effort to reduce construction costs. The proposed amendments also include additional bonuses for developments that are 100% affordable at 80% or below AMI. The code language includes expedited review processes both for land use review and development permit review.

(ii) Policy 7.2.3

Pursue programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements.

The proposed amendments provide numerous code-based incentives for the development of income-restricted housing at a variety of levels. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The proposed amendments also allow for height bonuses in addition to existing height bonuses to allow for more density of residential development in mixed use zones. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The code language includes expedited review processes both for land use review and development permit review.

- (d) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(a) Title 1 Housing Capacity

The proposed amendments continue to provide opportunities for high density housing development in the city's high density residential zones.

(b) Title 7 Housing Choice

The proposed amendments will continue to provide the opportunity for much-needed high density housing in the city's high density zones. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones. The proposed amendments will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

- (e) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

In June of 2023 City Council adopted the state required Housing Capacity Analysis (HCA) and Housing Production Strategy (HPS) which were subsequently acknowledged by the Department of Land Conservation and Development (DLCD).

The HPS includes ten actions aimed at encouraging more affordable and diverse housing types, fostering partnerships with housing providers and developers, and increasing housing stability for Milwaukie residents. Strategy E identified in the HPS is to “evaluate incentives for affordable housing development.” This code package fulfills the state requirement to implement actions in the HPS.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

- (f) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear and objective review process for middle housing development in the residential zones.

Statewide Findings for Milwaukie Plan and Code Amendments – Affordable Housing Code Incentives

This memo summarizes the consistency of the proposed code amendments with the following statewide goals, as well as key Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs):

- Goal 1: Citizen Involvement
- Goal 10: Housing

Other Statewide Planning Goals are not directly applicable to the proposed code amendments. Goals related to agriculture and forestry do not apply to land intended for future urbanization within the urban growth boundary. Additionally, the proposed amendments do not involve land or resources designated as part of Oregon's coastal zone.

Consistency with the applicable goals is a requirement for any amendment to a City's land use ordinances.

Based on the findings described below, the proposed code amendments comply with the applicable Statewide Goals and associated ORS and OAR provisions.

Goal 1: Citizen Involvement

Finding: Goal 1 requires the City to employ an appropriately-scaled involvement program to ensure the opportunity for meaningful public involvement throughout the land use planning process. Goal 1 requires the City to incorporate six key components in its public involvement program:

- Citizen Involvement: An officially-recognized committee for public involvement broadly representative of geographic areas and interests related to land use and land-use decisions to provide for widespread public involvement;
- Communication: Mechanisms for effective two-way communication between the public and elected/appointed officials;
- Influence: Opportunities for the public to be involved in all phases of the planning and decision-making process including developing, evaluating, and amending plans;
- Technical Information: Access to technical information used in the decision-making process, provided in an accessible and understandable format;
- Feedback Mechanisms: Programs to ensure that members of the public receive responses from policy-makers and that a written record for land-use decisions is created and made accessible; and,
- Financial Support: Adequate resources allocated for the public involvement program as an integral component of the planning budget.

Following is a summary of activities undertaken by the City to support the proposed code amendments related to consolidation of the high density residential zones.

Planning Commission and City Council Updates

City staff conducted four work sessions with the City's Planning Commission and City Council to review the status of the work and solicit feedback on key issues.

The specific proposed code language was posted with a code commentary on the City's website on June 17, 2025. Prior to the public hearings the Planning Commission had one work session about the proposed code amendment language on June 10, 2025. This meeting was open to the public and was recorded and available for public viewing after the meeting. Three work sessions with the City Council were held before the City Council hearings on the amendments. These meetings were also open to the public and were recorded and available for public viewing after the meetings.

Based on the findings above, the Zoning Code update is consistent with Oregon Statewide Planning Goal 1.

Goal 10: Housing

Goal 10: To provide for the housing needs of citizens of the state.

Finding: Goal 10 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, providing flexibility in housing location, type, and density to ensure the availability and prices of housing units are commensurate with the needs and financial capabilities of Oregon households. Comprehensive plans are required to include an analysis of community housing needs by type and affordability, an assessment of housing development potential, and an inventory of residential land; contain policies for residential development and supportive services based on that analysis that increase the likelihood that needed housing types will be developed; and provide for an adequate supply of a variety of housing types consistent with identified policies and meeting minimum density and housing mix requirements (established by OAR 660, Division 007).

The **Milwaukie Housing Affordability Strategy (MHAS)** was adopted by the Milwaukie City Council in 2018 after the Council identified housing affordability as its number one priority for the 2017–2018 biennium. The MHAS is a blueprint for providing equitable affordable housing opportunities and is intended to help increase the amount of affordable housing in the City. It serves as an overarching framework, combining existing land uses, needs assessments, housing policy analysis, and an analysis of best practices from peer cities. The MHAS includes a total of 31 proposed actions or programs focused around the following three goals:

- Develop New Units
- Prevent Displacement and Keep Affordable Units Affordable
- Connect People to Existing Affordable Housing

The city's Housing Production Strategy (HPS) outlines the specific tools, actions, and policies that the city plans to take to address the housing needs identified in the [Housing](#) Capacity Analysis and the city's plan and timeline for adopting and implementing each strategy. The HPS specifically identifies incentives as a way to encourage the development of affordable, income-restricted housing. DLCD approved the city's HPS in November 2023. The proposed amendments directly implement strategies from the approved HPS.

The proposed amendments relate to implementation of portions of the Comprehensive Plan related to the development and support of affordable housing. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for ways to encourage the development of affordable housing and the reduction of barriers within the development code.

The proposed amendments implement comprehensive plan policies related to housing affordability and equity by providing specific incentives related to residential development: adjustments to certain design and development standards to reduce the cost of construction, and including height bonuses to provide more residential density. A mix of housing types combined with the higher densities will support development of smaller units with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

The city's Community Development Department will continue to work on ways to assist in the development of housing, provide financial incentives for regulated affordable housing development, and provide incentives for the retention or conversion of existing affordable housing supply.

Based on the findings above, the Comprehensive Plan Amendment is consistent with Statewide Planning Goal 10.

UGMFP Findings for Milwaukie Code Amendments for Affordable Housing Incentives

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 14 code titles with policies and compliance procedures.

Metro requires "substantial compliance" with requirements in the UGMFP. Per the definition in Title 10, "substantial compliance" means that the City's zoning code conforms with the purposes of the performance standards in the functional plan "on the whole." Any failure to meet individual performance standard requirements is considered technical or minor in nature.

Based on the findings described below, the proposed code amendments related to Affordable Housing Code Incentives substantially comply with all applicable titles of the Urban Growth Management Functional Plan.

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 11 code titles with policies and compliance procedures for the following topics:

- Title 1: Housing Capacity
- Title 7: Housing Choice
- Title 8: Compliance Procedures

Title 1: Housing Capacity

Finding: Title 1 of the UGMFP is intended to promote efficient land use within the Metro urban growth boundary (UGB) by increasing the capacity to accommodate housing. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 1 responsibilities.

The city's Housing Production Strategy (HPS) identifies a variety of action steps to increase housing development in Milwaukie, including evaluating incentives for affordable housing development.

Staff is proposing a new code section that would aggregate all code-based affordable housing incentives to centralize information for prospective applicants. The proposed code language includes eligibility requirements for qualifying developments and specific incentives, including variances to setbacks, lot coverage, and certain minimum design standards. The goal is to remove barriers to residential development that includes income-restricted units.

The proposed code includes a variety of incentives for qualifying developments that are middle housing, multi-unit, or mixed-use residential, organized as a package of variance requests to existing land use regulations and design and development standards for housing development. The proposal would limit variance applications to no more than 10 distinct variances to these standards. The proposed review process for these variances is an expedited Type II review already included in Milwaukie Municipal Code (MMC) 19.1005, that would reduce the timeframe for a decision from 120 days to 100 days. The amendments are intended to increase the supply of affordable housing, and provide equitable access and housing choice for all.

Based on the findings above, the proposed amendments are consistent with Title 1.

Title 7: Housing Choice

Finding:

Title 7 is designed to ensure the production of affordable housing within the UGB. Under Title 7, the City is required to ensure that its Comprehensive Plan and implementing ordinances include strategies to: ensure the production of a diverse range of housing types, maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout the City, and increase opportunities for households of all income levels to live in affordable housing (3.07.730). Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 7 responsibilities.

The City's Housing Production Strategy (HPS), includes a strategy to evaluate incentives for affordable housing development. The proposed amendments address this strategy. The local code findings also illustrate how the proposed code amendments implement the policies in the new comprehensive plan that promote a diverse range of housing types, with a focus on housing affordability.

In addition to the recently adopted comprehensive plan which has multiple policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals. The *Milwaukie Housing Affordability Strategy* and *Equitable Housing Policy & Implementation Plan* identify a variety of specific strategies to further these goals, many of which are already being implemented by the City and its local and regional partners. The proposed code amendments are the result of an

evaluation of the existing zoning ordinance to reduce barriers to and encourage the development of affordable housing.

Based on the findings above, the proposed amendments are consistent with Title 7.

Title 8: Compliance Procedures

Finding: Title 8 establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the City comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the City provided notice to Metro as required by section 3.07.820(a). The City of Milwaukie provided Metro a set of draft code amendments on June 17, 2025 which was more than 35 days prior to the first evidentiary hearing, which was held on July 22, 2025

Based on the findings above, the proposed amendments are consistent with Title 8.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.511 AFFORDABLE HOUSING INCENTIVES

A. Purpose.

The purpose of this section is to offer incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in subsection B (Eligibility for Incentives), below. Affordable housing incentive requests of this chapter can be made concurrently as part of a land use permit application, as applicable.

B. Eligibility for Incentives.

To be eligible for an adjustment and other incentives provided by this section, a proposed residential project must meet the following requirements:

1. Development must be middle housing, mixed-use residential, or multi-unit residential;
2. Middle housing, multi-unit, and mixed-use residential development must be designed and constructed so that at least:
 - a. Fifty percent (50%) of the total number of proposed dwelling units are restricted to households earning 60% - 80% Area Median Income (AMI) or below;
or
 - b. Forty percent (40%) of the total number of proposed dwelling units are restricted to households earning 40% - 60% AMI or below; or
 - c. Thirty percent (30%) of the total number of proposed dwelling units are restricted to households earning 30% - 40% AMI or below; or
 - d. Twenty percent (20%) of the total number of proposed dwelling units are restricted to households earning less than 30% AMI; and
 - e. Comply with all applicable provisions of this title.
3. Where the calculation of the number of affordable units does not result in a whole number, the result will be rounded up to the nearest whole number.
4. The income restricted units must be reasonably dispersed throughout the development, must contain on average the same number of bedrooms as the market rate units in the development, and must be compatible with the design of the market rate units in terms of size, appearance, materials, and finish quality.

C. Types of Variances and Incentives Allowed.

A residential project that satisfies all applicable provisions of this section is entitled to apply for the following incentives. A variance application may ask for no more than a total of 10 distinct variances between the development and design standards identified below. For the purposes of this section, multiple instances of the same variance type will be considered one distinct variance.

1. The following variances to development standards will be reviewed via an expedited Type II review process pursuant to Section 19.1005:
 - a) Minimum side yard setbacks: 40% reduction.
 - b) Minimum front, rear, street side yard setbacks: 25% reduction; 50% reduction for middle housing except cottage clusters.
 - c) Common area, minimum landscaping, or open space: reduction of up to 25%.
 - d) Minimum lot area: up to 25% reduction.
 - e) Minimum lot width or depth: up to 10% reduction.
 - f) Maximum lot coverage: up to 10 percentage points increase over the base maximum.
 - g) Bike parking: a reduction to the minimum number of long-term and short-term spaces (0.5 spaces/dwelling required for each) and location of spaces.
 - h) Maximum building height: for mixed-use residential developments in the Downtown Mixed Use (DMU) and the General Mixed Use (GMU) zones only and for multi-unit developments, an allowance of up to an additional 20 ft may be allowed. This adjustment does not apply to middle housing.
 - a) In the DMU and the GMU zones, this bonus is in addition to allowable height bonuses for developments where 50% of the total number of proposed dwelling units are restricted to households earning no more than 60% AMI.
 - b) In the GMU zone, a qualifying development that elects to use the allowable height bonuses is not subject to the Type III review identified in Subsection 19.911.7.
 - i) Maximum density: none.
 - j) In the DMU: ground-floor residential units are allowed on all streets.
 - k) In the DMU: nonresidential active uses that support the residential use, such as lobbies, community rooms, exercise rooms, offices, day care, etc., are allowed on the ground floor.
 - l) Townhouse developments: the allowed number of consecutive townhouses that share a common wall is increased to the number of townhouses that occupy a linear measurement of no more than 200 ft of street frontage.
2. The following variances to design standards will be reviewed via an expedited Type II review process (Section 19.1005):
 - a) Facade articulation: exempt from the standard.
 - b) Inclusion of a minimum of three (3) detailed design features in Subsection 19.505.1.C.4., 19.505.4.D.4.d, and 19.505.5.C.4, rather than 5.
 - c) Total window area: reduction of up to 30%; minimum 12% required.
3. A development may use one of the following additional incentives:
 - a. For housing developments where 100% of the total number of proposed dwelling units are restricted to households earning 80% AMI or below the incentives identified in this subsection are increased by an additional 10% (10 percentage

points) over the stated amount. This increase does not apply to building height.
OR

- b. For housing developments where 100% of the total number of proposed dwelling units are homeownership units and are eligible for the incentives as defined in Subsection 19.511.B, the incentives identified in this subsection are increased by an additional 10 percentage points over the stated amounts. This increase does not apply to building height. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring.

4. Other Incentives.

- a. Qualifying multi-unit residential-only developments (not mixed-use developments) proposed in the DMU zone will be reviewed for compliance with Subsection 19.505.3 (Multi-Unit Housing).
- b. This section does not prohibit developers of qualifying affordable residential projects from requesting other regulatory incentives or concessions from the City.

D. Continued Affordability.

The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted units. Developments receiving a direct financial contribution, or other financial incentives from the City, or utilizing any of the incentives provided in this subsection, must maintain the availability of income-restricted homeownership units for a minimum of 60 years and of income-restricted rental units for a minimum of 99 years. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring. Developers must enter into a development agreement or provide legal proof of restriction/affordability covenant with the City of Milwaukie to ensure retention. This should also include the monitoring and verification process that will be utilized throughout the duration of the affordability term to ensure the appropriate income levels are being certified for prospective renters or buyers.

E. Processing of Incentive Requests.

Proposed incentive requests must be included as part of the land use application or permitting materials required for the residential project by this title, including the application of all relevant criteria.

1. Approval Criteria. The approval of the incentives by the review body or City designee must also comply with the following approval criteria:

- a. The approval criteria for Type II variances identified in Subsection 19.911.4.A; and
- b. There are sufficient provisions to guarantee that the dwelling units will remain affordable in the future as required.
- c. Evidence has been provided to show compliance with Subsection 19.511.B.4.

F. Priority Processing of Affordable Housing Projects.

A residential project that satisfies all applicable provisions of this section will be given priority over other types of projects and permits by all City departments in the processing of land use permit and building permit applications, and in inspections of the project during the construction process.

CHAPTER 19.900 LAND USE APPLICATIONS

19.911 VARIANCES

19.911.3 Review Process.

B. Type II Variances

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

~~11. For any middle housing development, except townhouses and cottage clusters, that includes at least one dwelling unit that is affordable that meets the exemption standards as defined in Section 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:~~

- ~~a. Front yard: 10 ft~~
 - ~~b. Rear yard: 10 ft~~
 - ~~c. Side yard: 5 ft~~
 - ~~d. Street side yard: 10 ft~~
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CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.511 AFFORDABLE HOUSING INCENTIVES

A. Purpose.

The purpose of this section is to offer incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in subsection B (Eligibility for Incentives), below. Affordable housing incentive requests of this chapter can be made concurrently as part of a land use permit application, as applicable.

B. Eligibility for Incentives.

To be eligible for an adjustment and other incentives provided by this section, a proposed residential project must meet the following requirements:

1. Development must be middle housing, mixed-use residential, or multi-unit residential;
2. Middle housing, multi-unit, and mixed-use residential development must be designed and constructed so that at least:
 - a. Fifty percent (50%) of the total number of proposed dwelling units are restricted to households earning 60% - 80% Area Median Income (AMI) or below; or
 - b. Forty percent (40%) of the total number of proposed dwelling units are restricted to households earning 40% - 60% AMI or below; or
 - c. Thirty percent (30%) of the total number of proposed dwelling units are restricted to households earning 30% - 40% AMI or below; or
 - d. Twenty percent (20%) of the total number of proposed dwelling units are restricted to households earning less than 30% AMI; and
 - e. Comply with all applicable provisions of this title.
3. Where the calculation of the number of affordable units does not result in a whole number, the result will be rounded up to the nearest whole number.
4. The income restricted units must be reasonably dispersed throughout the development, must contain on average the same number of bedrooms as the market rate units in the development, and must be compatible with the design of the market rate units in terms of size, appearance, materials, and finish quality.

C. Types of Variances and Incentives Allowed.

A residential project that satisfies all applicable provisions of this section is entitled to apply for the following incentives. A variance application may ask for no more than a total of 10 distinct variances between the development and design standards identified below. For the purposes of this section, multiple instances of the same variance type will be considered one distinct variance.

1. The following variances to development standards will be reviewed via an expedited Type II review process pursuant to Section 19.1005:
 - a) Minimum side yard setbacks: 40% reduction.
 - b) Minimum front, rear, street side yard setbacks: 25% reduction; 50% reduction for middle housing except cottage clusters.
 - c) Common area, minimum landscaping, or open space: reduction of up to 25%.
 - d) Minimum lot area: up to 25% reduction.
 - e) Minimum lot width or depth: up to 10% reduction.
 - f) Maximum lot coverage: up to 10 percentage points increase over the base maximum.
 - g) Bike parking: a reduction to the minimum number of long-term and short-term spaces (0.5 spaces/dwelling required for each) and location of spaces.
 - h) Maximum building height: for mixed-use residential developments in the Downtown Mixed Use (DMU) and the General Mixed Use (GMU) zones only and for multi-unit developments, an allowance of up to an additional 20 ft may be allowed. This adjustment does not apply to middle housing.
 - a) In the DMU and the GMU zones, this bonus is in addition to allowable height bonuses for developments where 50% of the total number of proposed dwelling units are restricted to households earning no more than 60% AMI.
 - b) In the GMU zone, a qualifying development that elects to use the allowable height bonuses is not subject to the Type III review identified in Subsection 19.911.7.
 - i) Maximum density: none.
 - j) In the DMU: ground-floor residential units are allowed on all streets.
 - k) In the DMU: nonresidential active uses that support the residential use, such as lobbies, community rooms, exercise rooms, offices, day care, etc., are allowed on the ground floor.
 - l) Townhouse developments: the allowed number of consecutive townhouses that share a common wall is increased to the number of townhouses that occupy a linear measurement of no more than 200 ft of street frontage.
2. The following variances to design standards will be reviewed via an expedited Type II review process (Section 19.1005):
 - a) Façade articulation: exempt from the standard.
 - b) Inclusion of a minimum of three (3) detailed design features in Subsection 19.505.1.C.4., 19.505.4.D.4.d, and 19.505.5.C.4, rather than 5.
 - c) Total window area: reduction of up to 30%; minimum 12% required.
3. A development may use one of the following additional incentives:
 - a. For housing developments where 100% of the total number of proposed dwelling units are restricted to households earning 80% AMI or below the incentives identified in this subsection are increased by an additional 10% (10 percentage

points) over the stated amount. This increase does not apply to building height.
OR

- b. For housing developments where 100% of the total number of proposed dwelling units are homeownership units and are eligible for the incentives as defined in Subsection 19.511.B, the incentives identified in this subsection are increased by an additional 10 percentage points over the stated amounts. This increase does not apply to building height. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring.

4. Other Incentives.

- a. Qualifying multi-unit residential-only developments (not mixed-use developments) proposed in the DMU zone will be reviewed for compliance with Subsection 19.505.3 (Multi-Unit Housing).
- b. This section does not prohibit developers of qualifying affordable residential projects from requesting other regulatory incentives or concessions from the City.

D. Continued Affordability.

The land use permit application for the residential project must include the procedures proposed by the developer to maintain the continued affordability of the income-restricted units. Developments receiving a direct financial contribution, or other financial incentives from the City, or utilizing any of the incentives provided in this subsection, must maintain the availability of income-restricted homeownership units for a minimum of 60 years and of income-restricted rental units for a minimum of 99 years. Homeownership developments must use a community land trust model, shared equity, or similar model, that can ensure continued affordability and compliance monitoring. Developers must enter into a development agreement or provide legal proof of restriction/affordability covenant with the City of Milwaukie to ensure retention. This should also include the monitoring and verification process that will be utilized throughout the duration of the affordability term to ensure the appropriate income levels are being certified for prospective renters or buyers.

E. Processing of Incentive Requests.

Proposed incentive requests must be included as part of the land use application or permitting materials required for the residential project by this title, including the application of all relevant criteria.

- 1. Approval Criteria. The approval of the incentives by the review body or City designee must also comply with the following approval criteria:
 - a. The approval criteria for Type II variances identified in Subsection 19.911.4.A; and
 - b. There are sufficient provisions to guarantee that the dwelling units will remain affordable in the future as required.
 - c. Evidence has been provided to show compliance with Subsection 19.511.B.4.

F. Priority Processing of Affordable Housing Projects.

A residential project that satisfies all applicable provisions of this section will be given priority over other types of projects and permits by all City departments in the processing of land use permit and building permit applications, and in inspections of the project during the construction process.

CHAPTER 19.900 LAND USE APPLICATIONS

19.911 VARIANCES

19.911.3 Review Process.

B. Type II Variances

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