

ORDINANCE NO. 1907

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE TITLE 15, TITLE 19- ZONING ORDINANCE, REPEALING TITLE 17-SUBDIVISION ORDINANCE, AND ADOPTING TITLE 17- LAND DIVISION ORDINANCE, AND TO ADOPT AN EMERGENCY CLAUSE TO ENACT THESE AMENDMENTS.

(Milwaukie Planning Department File ZA-02-02)

WHEREAS, the City of Milwaukie desires to review and amend its Zoning and Subdivision Ordinances on a regular basis; and

WHEREAS, on July 23, 2002, after an extensive public information and involvement process, the Planning Commission held a public hearing and adopted a motion recommending the City Council approve the proposed amendments; and

WHEREAS, public and agency notice of application ZA-02-02 has been provided in accordance with the Milwaukie Municipal Code and Oregon Revised Statutes; and

WHEREAS, over the past year, the proposed amendments were reviewed in several work sessions of the Planning Commission and City Council, with the interest and involvement of Neighborhood District Associations; and

WHEREAS, the proposed flag lot, house design standards, and accessory structure standards are more closely aligned with neighborhood values for the quality of new development; and

WHEREAS, the proposed provisions for processing land use applications will improve administrative efficiency and quality of application submissions; and

WHEREAS, the proposed changes to the Zoning Ordinance concerning non-conforming zoning situations clarifies existing code language and improves procedures for determining non-conforming situations; and

WHEREAS, the City Council desires to ensure that development projects are consistent with approved plans and finds that zoning inspections prior to building occupancy are warranted; and

WHEREAS, on September 18, 2001, the City Council adopted Ordinance 1893 instituting new regulations that implements the Milwaukie Transportation System Plan; and

WHEREAS, code provisions of Ordinance 1893 require clarification to ensure transportation improvements for single-family development are secured at the time of development consistent with City Council policy direction; and

WHEREAS, the City Council finds that unenclosed pergolas, arbors, and trellises are customary and appropriate residential landscape features; and

WHEREAS, Milwaukie Municipal Code 19.1010 Mandamus duplicates state law and is therefore not needed for the proper administration of the Zoning Ordinance;

WHEREAS, flag lot development and related variances have undermined the character of existing residential neighborhoods and diminish neighborhood livability; and

WHEREAS, the Milwaukie City Council held a public hearing on August 20, 2002,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings of fact in support of these amendments contained in application ZA-02-02.

The application and proposed amendments are consistent with Zoning Ordinance 19.902 Amendment Procedure and 19.905 Approval Criteria for all Amendments and 19.1011.5-Legislative Actions as shown in Attachment 4.

Section 2 The following sections of Milwaukie Municipal Code Title 19 are repealed:

- a. 1004 Transportation Planning, Design Standards, and Procedures-, Administrative Provisions, Review of Application
- b. 1010 Transportation Planning, Design Standards, and Procedures- Administrative Provisions, Mandamus Authorized

Section 3. Ordinance 1440, adopted as Milwaukie Municipal Code Title 17 - Subdivision Ordinance, and its subsequent amendments are repealed and replaced by the Land Subdivision Ordinance shown in Attachment 1.

Section 4. Ordinance 1712, Milwaukie Municipal Code Title 19 -Zoning Ordinance is amended as shown in Attachment 2.

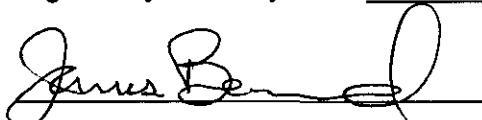
Section 5. Milwaukie Municipal Code Section 15.32.020 is amended as shown in Attachment 3.

Section 6. The City Council finds that the provisions of this ordinance are immediately necessary for the preservation and livability of residential neighborhoods and the general public welfare of the citizens of the City of Milwaukie. Therefore, an emergency is declared and this Ordinance shall be effective upon passage by the City Council.


Read for the first time on August 20, 2002 and moved to a second reading by
5 - 0 vote of the City Council.

Read the second time and adopted by the City Council on August 20, 2002.

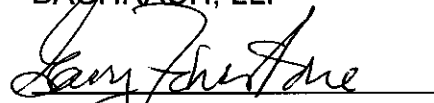
Signed by the Mayor on August 20, 2002.


James Bernard, Mayor

ATTEST


Pat Duval, City Recorder

APPROVED AS TO FORM
RAMIS CREW CORRIGAN &
BACHRACH, LLP


City Attorney

Attachment 1

Milwaukie Municipal Code Title 17 Land Division Ordinance

CHAPTER 17.04 ADMINISTRATION AND ENFORCEMENT

Sections:

17.04.010	Title and Structure
17.04.020	Authority.
17.04.030	Consistency with Municipal Code.
17.04.040	Approval required.
17.04.050	Time Limit on approval.
17.04.060	Reduction of land below minimum standards.
17.04.070	Correction of improper land division or boundary change.
17.04.080	Form of applications.
17.04.090	Fees.
17.04.100	Amendments.
17.04.110	Determinations of Legal Status.
17.04.120	Recording.
17.04.130	Monumentation and Survey.
17.04.140	Violation – Penalties.
17.04.150	Appeals.

17.04.010. Title and structure

A. Title. The ordinance codified in Title 17 shall be known and may be cited as the "Land Division Ordinance" of the City of Milwaukie.

B. Structure. This Title is divided into chapters and sections. Chapter divisions are denoted by the two digit number following the title number. Section divisions are identified by the three digit number following the chapter division.

17.04.020 Authority

A. The Planning Director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Director regarding a requirement of this title may be made to the Planning Commission under provisions of Title 19.1000.

B. The Engineering Director shall have the authority to accept, conditionally accept or reject construction and engineering plans and specifications in accordance with professional judgment and accepted engineering or surveying practices.

17.04.030. Consistency with Municipal Code.

All land divisions and property boundary changes shall be consistent with Title 16 Environment, Title 17 Land Division Ordinance, Title 18 Flood Hazard Regulations, and Title 19 Zoning Ordinance.

17.04.040 Approval required.

All lot consolidations, land divisions, changes in property boundary lines, and creation of streets or rights-of-way shall be approved in accordance with these regulations prior to conveying or recording any instrument effecting a lot consolidation, land division or property boundary change. A person desiring to partition, subdivide, replat, consolidate or change property boundaries, shall submit application for approval as provided in this title and state law.

17.04.050 Time Limit on approval

A. Expiration of approval. All decisions on boundary changes and land divisions shall expire one year after the date of approval. Reactivation of expired decisions may only be made by submission of a new application and related fees.

B. Extensions. Approvals may be extended up to six months upon submission of formal request to the original decision-making authority. One extension of the approval period not to exceed six months will be granted provided that:

1. No changes are made on the original plan as approved;
2. The applicant can show intent of recording the land division or boundary change within the six-month extension period; and
3. There have been no changes in the ordinance provisions on which the approval was based.

17.04.060 Reduction of land below minimum standards

No unit of land shall be split or reduced by any means in conflict with the requirements of the Land Division or Zoning Ordinances. The splitting of a lot or parcel to add to another shall not be allowed unless the remaining portion meets all zoning standards for the zone where the land is located, or it is simultaneously consolidated with a contiguous parcel, which will thereafter comply with zoning standards.

17.04.070 Correction of improper land division or boundary change.

Improper land divisions or boundary changes shall be corrected by submission of appropriate applications and by following the associated review procedures prescribed in this title. This section shall not preclude enforcement against violations of this title.

17.04.080 Form of applications.

All applications provided for in this title shall be made on forms prescribed by the Planning Director.

17.04.090 Fees

A fee as established by resolution of the City Council shall be paid to the city upon the filing of an application. Such fees shall not be refundable.

17.04.100 Amendments

Legislative amendments to this title shall be made in accordance with Chapters 19.900 and 19.1000.

17.04.110 Determinations of Legal Status

A. All requests for determination of the legal status of parcels or lots shall be submitted in writing to the Planning Director and shall be accompanied by the following.

1. The fee for Director Determinations as adopted by the City Council;
2. Title report including related instruments of conveyance; and
3. A detailed written request specifically identifying what information is being sought.

B. On review of the request, the Planning Director may require additional information as needed to respond to the request.

17.04.120 Recording

A. Recording instruments for boundary change, subdivision, partition, and replat shall be submitted to the County Surveyor within six months of city approval.

B. Prior to recording a lot consolidation, property line adjustment, subdivision, or partition plat or replat, the applicant shall submit the recording instruments to the Planning Director for a determination of consistency with city code and required approvals.

C. Lot consolidations for units of land legally created by metes and bounds descriptions may be recorded by deed subject to approval of the County Surveyor.

D. Subdivision and partition plats, and replats, must be recorded by plat.

E. A copy of the recording instruments shall be submitted to the Planning Director no later than 15 days after filing with the County Surveyor.

17.04.130 Monumentation and Survey

A. Monuments are required in accordance with Oregon Revised Statutes Chapter 92.

B. Monumentation surveys shall be filed with the County Surveyor in accordance with Oregon Revised Statutes Chapters 92 and 209.

17.04.140. Violation – Penalties.

Violation of any provision of this ordinance is a civil infraction. The civil penalty for violation of this ordinance shall be \$200. The cost of completing or correcting any improvements required by this ordinance and incurred by the City may be assessed to persons as part of the civil infraction judgment. Each day a violation continues shall be considered a separate violation.

17.04.150 Appeals.

Appeals on actions authorized under this Title shall be made in accordance with Chapter 19.1000.

CHAPTER 17.08 DEFINITIONS

Sections

17.08.010 Generally

17.08.020 Applicant

17.08.030 Approval Authority

17.08.040 Bicycle way

17.08.050 Block

17.08.060 Boundary Change

17.08.070 Buffer strip

17.08.080 Building line

17.08.090 City.

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17.08.110 Easement.

17.08.120 Flag lot.

17.08.130 Land Division
17.08.140 Lot
17.08.150 Lot consolidation
17.08.160 Monument
17.08.170 Owner
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17.08.190 Partition
17.08.200 Partitioning
17.08.210 Pedestrian way
17.08.220 Person
17.08.230 Plat
17.08.240 Property Line Adjustment
17.08.250 Replat
17.08.260 Access control strip
17.08.270 Right-of-way
17.08.280 Sidewalk
17.08.290 Street
17.08.300 Subdivide land.
17.08.310 Subdivision
17.08.320 Tract
17.08.330 Transportation Design Manual
17.08.340 Unit of Land

17.08.010 Generally.

The words and phrases used in this title have the meanings provided in this chapter.

17.08.020 Applicant

"Applicant" means the person who has filed application for land use action, or who has requested a Director's determination, or other action requiring a response from the city.

17.08.030 Approval Authority

"Approval authority" means the individual or governmental body authorized by the Municipal Code to take action on applications for actions specified in this title.

17.08.040 Bicycle way.

"Bicycle way" means a right-of-way for bicyclists.

17.08.050. Block.

"Block" means a group of lots, tracts, or parcels, which have been subdivided and are entirely surrounded by highways or streets or in part by a well-defined and fixed boundary.

17.08.060 Boundary change

"Boundary change" means the relocation a property line established by dedication, deed, property line adjustment, lot consolidation, partition, subdivision, and/or replat.

17.08. 070 Buffer strips.

"Buffer strip" means a strip of land of sufficient width to serve as a buffer between dissimilar use districts, existing in a natural or landscaped condition and located along the edge of a subdivision.

17.08.080 Building line.

"Building line" means a line on a plat or otherwise described indicating the limit beyond which buildings or structures may not be erected.

17.08.090 City.

"City" means the City of Milwaukie, Oregon.

17.08.100 Comprehensive plan.

"Comprehensive plan" means the plan adopted by the city council for the guidance of growth and improvement of the city, including modifications or refinements, which may be made from time to time.

17.08.110 Easement.

"Easement" means the right to use land in a limited way for a stated purpose.

17.08.120 Flag lot.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow access way to the main part of the lot used for building, which is located behind another lot that has normal street frontage. There are two distinct parts to the flag lot; the development area, which comprises the actual building site, and the access way, which provides access from the lot interior to the street.

17.08.130 Land Division

"Land division" means the division of land by partition, subdivision, or replat.

17.08.140. Lot.

"Lot" means a single unit of land that is created by a subdivision of land.

17.08.150. Lot consolidation.

"Lot consolidation" means the elimination of a common property line between two or more units of land to form one unit of land.

17.08.160 Monument.

"Monument" means a fixed, permanent and visible landmark indicating boundaries.

17.08.170 Owner.

"Owner" means the owner of record of real property as shown on the latest tax rolls of Clackamas County, or by the deed records of said county, or a person who is purchasing a parcel of property under contract.

17.08.180 Parcel

"Parcel" means a single unit of land that is created by a partitioning of land.

17.08. 190 Partition

"Partition" means either the act of partitioning land or an area of land partitioned.

17.08.200. Partition Land.

"Partitioning" means to divide an area of land into two or three parcels within a calendar year but does not include the following:

A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with applicable zoning;

C. The division of land resulting from the recording of a subdivision or condominium plat;

D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

17.08.210 Pedestrian way.

"Pedestrian way" means a right-of-way for pedestrians that is improved or unimproved.

17.08.220 Person.

"Person" means an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity, and including any trustee, receiver, assignee, or other similar representative thereof.

17.08.230 Plat.

"Plat" means and includes a map and other writing containing all the descriptions, locations, dedications, specifications, provisions and information concerning a partition or subdivision.

17.08.240 Property Line Adjustment

"Property line adjustment" means the relocation of a common property line between two abutting units of land that does not result in the creation of a new unit of land.

17.08.250 Replat

"Replat" means the act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat including an increase or decrease in the number of lots.

17.08.260 Access Control strip.

"Access control strip" means a strip of land reserved between the end or side of a street or alley and an abutting parcel of land, or a strip of land between a dedicated street of less than full width and an abutting parcel of land, held for access control, future street extension, or widening.

17.08.270 Right-of-way.

"Right-of-way" means the area between boundary lines of a public way.

17.08.280 Sidewalk.

"Sidewalk" means a pedestrian walkway with permanent surfacing to city standards.

17.08.290 Street.

"Street" means the width between the boundary lines of every way that provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. "Street" includes the terms "road," "highway," "lane," "place," "avenue," "boulevard," or other similar designations.

A. "Access street" means a street intended only for access to abutting properties.

B. "Alley" means a narrow street used for access to the back or side of properties otherwise abutting on another street.

C. "Major arterial street" means a street that carries both local and through traffic to destinations outside the local community. The major arterial provides access to other communities as well as access through Milwaukie. Public transit to other communities generally use a major arterial.

D. "Minor arterial street" means a street that carries local traffic between neighborhood areas or to regional facilities. The minor arterial provides access from neighborhood collector streets to community services and to other neighborhoods within, or immediately adjacent to the city. Local public transit may use minor arterial streets.

E. "Collector street" means a street that serves internal traffic within areas having a single land use pattern. The collector streets carry local traffic within a neighborhood area. They carry traffic from the local streets to the minor and/or major arterial network or to schools, local shopping centers, or other local streets within the neighborhood.

F. "Cul-de-sac" means a short access street terminated by a vehicle turn-around.

G. "Dead-end street" means a street terminating at a property line, but which may be extended.

H. "Frontage street" means an access street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

I. "Local street" means a street that provides direct access to abutting property.

17.08.300 Subdivide land.

"Subdivide land" means to divide an area or tract of land into four or more lots.

17.08.310 Subdivision.

"Subdivision" means either an act of subdividing land or a tract of land subdivided as defined in this title.

17.08.320 Tract.

"Tract" means a unit of land other than a lot or parcel.

17.08.330 Transportation Design Manual

"Transportation Design Manual" means the document authorized under Ordinance 1893, which is maintained and administered by the Engineering Director for the purpose of executing the purposes of Ordinance 1893, implementing the Transportation System Plan, and providing transportation design standards and policies.

17.08.340 Unit of Land

"Unit of land" means a legally created lot, parcel, or other unit of real property legally created by metes and bounds description or other legal means that is recorded on the County land records.

CHAPTER 17.12 APPLICATION PROCEDURE AND APPROVAL CRITERIA

Sections

17.12.010	Purpose
17.12.020	Application Procedure,

Table 17.12.020	Application & Review Procedures
17.12.030	Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat
17.12.040	Approval Criteria for Preliminary Plat
17.12.050	Approval Criteria for Final Plat

17.12.010 Purpose

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

17.12.020 Application Procedure

A. Applications for land division and property boundary changes shall be processed in accordance with Chapter 19.1000 Type I, Type II, and Minor Quasi-Judicial procedures as indicated in this section.

B. Applications for property boundary changes shall be processed in accordance with Table 17.12.020 based on the type of change requested. The Planning Director may modify the procedures identified in Table 17.12 as follows:

1. Minor Quasi-Judicial review may be changed to Type II review, or a Type II review may be changed to a Type I review upon finding the following:

- a. The proposal is consistent with applicable standards and criteria;
- b. the proposal is consistent with the basis and findings of the original approval; and
- c. the proposal does not increase the number of lots.

2. Minor Quasi-Judicial review may be required in the following situations:

- a. When the Planning Commission approved the original land use action; and
- b. the proposed change is inconsistent with the original approval.

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

D. Partitions.

1. Applications for preliminary partition plat shall be processed in accordance with Section 19.1011.2, Type II Administrative Review. Should any associated application subject to minor quasi-judicial review be submitted in conjunction with a partition, the partition application shall be processed according to Section 19.1011.3 Minor Quasi-Judicial review.

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

E. Subdivisions. Applications for subdivision preliminary plat applications shall be processed in accordance with Section 19.1011.3 Minor Quasi-Judicial review.

F. Final plats. Applications for final plats of partitions and subdivisions shall be processed in accordance with Section 19.1011.1 Type I Administrative Review.

Table 17.12.020 Boundary Change Review Procedures

Boundary Change Action	Type I	Type II	Minor Quasi- Judicial
1. Lot Consolidation other than Replat			
a. Legal lots created by deed.	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with the Oregon Revised Statutes and this Ordinance.	X		
b. Any adjustment that modifies a plat restriction.		X	
3. Partition Replat			
a. Any modification to a plat that was decided by the Planning Commission.			X
b. Parcel consolidation.	X		
c. Actions not described in 3(a) or (b).		X	
4. Subdivision Replat			X

17.12.030. Approval Criteria for Lot Consolidation, Property Line Adjustment, and Replat.

A. Approval criteria. The approval authority may approve, approve with conditions, or deny a lot consolidation, property line adjustment, and/or replat based on the following approval criteria. The applicant for a lot consolidation, property line adjustment, or replat shall demonstrate the following:

1. Compliance with Milwaukie Municipal Code Titles 17 and 19.
2. The boundary change will allow reasonable development of the affected lots and will not create the need for a variance of any land division or zoning standard.
3. Boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which the property is located.

Section 17.12.040 Approval Criteria for Preliminary Plat

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

1. The proposed preliminary plat complies with the Zoning Ordinance and other applicable ordinances, regulations, and design standards.
2. The proposed division will allow reasonable development and will not create the need for a variance of any land division or zoning standard.
3. The proposed plat name is not duplicative and the plat otherwise satisfies the provisions of Oregon Revised Statutes 92.090(1).
4. The streets and roads are laid out so as to conform to the plats of subdivisions already approved for adjoining property as to width, general direction, and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

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

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

17.12.050 Approval Criteria for Final Plat

Following the Type I procedure, the Planning Director and the Engineering Director shall review the final plat and shall approve or deny the final plat based on findings of compliance with the following:

A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been satisfied.

B. The preliminary plat has not lapsed.

C. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities.

D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.

E. All common improvements required as conditions of approval have been described and referenced on the plat, and where appropriate, instruments to be recorded have been submitted.

F. The plat complies with the zoning ordinance and other applicable ordinances and regulations.

G. Submission of signed deeds when access control strips are shown on the plat.

H. The plat contains an affidavit by the land surveyor who surveyed that the land represented on the plat was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92[.060] and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. survey or giving two or more objects for identifying its location.

CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

Sections

17.16.010 Application Required.

17.16.020 Determination of Completeness

17.16.030 Waiver of Submission Requirements

17.16.040 Lot Consolidation and Property Line Adjustment

17.16.050 Replat

17.16.060 Preliminary Plat for Partition and Subdivision

17.16.070 Final Plat for Partition and Subdivision

17.16.010 Application required.

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

17.16.020 Determination of Completeness

A. Consistency with submission requirements. The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this Chapter shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Milwaukie Municipal Code Chapter 19.1000. The Planning Director shall provide to the applicant notice of whether an application is complete or incomplete in accordance with Oregon Revised Statutes 227.178 and Chapter 19.1004.

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

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

17.16.030 Waiver of Submission Requirements

A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:

1. The applicant shows good cause for the requested waiver;
2. The waiver does not compromise a proper and complete review; and
3. The information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. Signed and completed application form, submission requirements form and plan checklist;
2. Property owner's authorization for application to be made;
3. Detailed narrative description that specifies how the proposal complies with applicable codes; and
4. Required plans, maps, and drawings.

C. Application fees may only be waived by action of the City Council.

17.16.040 Lot Consolidation and Property Line Adjustment

The following shall accompany applications for lot consolidation and property line adjustments:

- A. Completed application forms signed by all owners of property included in the proposal;
- B. Application fee as adopted by the City Council;
- C. Narrative report that describes how the proposal meets approval criteria, and
- D. Additional information as may be required by the application check list.
- E. A plan drawn to scale showing the following details:
 1. Scale, north arrow and date of map;
 2. Tax map and lot number identifying each property involved in the application;
 3. Adjacent rights-of-way, with width shown;
 4. Location, width and purpose of any recorded easements and/or plat restrictions;
 5. Proposed property lines and dimensions of the affected lots;
 6. The area of each lot;

7. Location of existing structures to remain and proposed structures if any, with setbacks shown to all existing and proposed lot lines,

8. Deeds of the properties involved, and

9. Application fee as adopted by the City Council.

17.16.050. Replat.

The following shall accompany applications for a replat:

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

B. The application fee as adopted by the City Council;

C. A narrative report that describes how the proposal meets approval criteria;

D. Additional information as may be required by the application checklist; and

E. Additional information including full submission requirements for preliminary plat as may be required by the Planning Director upon review of the proposal.

17.16.060 Preliminary Plat for Partition and Subdivision

The following shall accompany applications for partition:

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

B. Application fee as adopted by the City Council;

C. Completed and signed "Submission Requirements" and "Partition Checklist" or "Subdivision Checklist" forms as appropriate;

D. All information specified on the "Submission Requirements" and "Partition Checklist" or "Subdivision Checklist" forms as appropriate.

E. Requirements and information specified in Chapter 17.20; and

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

17.16.070 Final Plat for Partition and Subdivision

The following shall accompany applications for partition:

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

2. The application fee as adopted by the City Council;

3. Completed and signed "Submission Requirements" and "Final Plat Checklist" forms;

4. All information specified on the "Submission Requirements" and "Final Plat Checklist";

5. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;

5. Requirements and information specified in Chapter 17.24; and

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

CHAPTER 17.20 PRELIMINARY PLAT

Sections

17.20.010. Submission of plans

17.20.020 Scale.

17.20.030 General information to be shown on the preliminary plat.

17.20.040 Building Lines Prohibited

17.20.050 Existing Conditions

17.20.060 Proposed Conditions

17.20.010. Submission of plans.

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

17.20.020 Scale.

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

17.20.030 General information to be shown on the preliminary plat.

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

B. The following general information shall be submitted with the preliminary plat:

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the County. Subdivision names shall be approved by the County Surveyor in accordance with Oregon Revised Statutes Chapter 92;

2. Date, north point, and scale of drawing;

3. Appropriate identification clearly stating the map is a preliminary plat;

4. Location by section, township, and range; and a legal description sufficient to define the location and boundaries of the area to be divided;

5. Names and addresses of the owner, subdivider, and engineer or surveyor;

6. Acreage;

7. Structures and yard setbacks;

8. The location, width, and purpose of easements;

9. The location, approximate dimensions, and area of all lots;

10. Lot and block numbers,

11. Other information as maybe specified on application forms and checklists prescribed by the Planning Director.

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

Section 17.20.040 Building Lines Prohibited

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

Section 17.20.050 Existing Conditions

The following shall be shown on the preliminary plat:

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

B. Contour lines related to an established benchmark or other datum approved by the Engineering Director, with intervals at a minimum of two feet for slopes up to ten percent and five feet for slopes over ten percent.

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

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

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

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

G. Floodway and floodplain boundary.

H. Areas containing slopes of 25% or greater.

Section 17.20.060 Proposed Conditions

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

1. Date, north point, scale, address, assessor reference number, and legal description.

2. Name and address of the record owner or owners and of the person who prepared the site plan.

3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition.

4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities.

5. Location of existing structures, identifying those to remain in place and those to be removed.

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements.

7. Existing development and natural features for the site and adjacent properties, including those properties within 100 feet of the proposal, showing buildings, mature trees, topography, and other structures.

8. Elevation and location of flood hazard boundaries.

9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; if roads will continue beyond the plat; and existing and proposed grade profiles.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a

comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of Titles 17 and 19 and city design standards including the Milwaukie Transportation Design Manual.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of Titles 17 and 19 and city design standards including the Milwaukie Transportation Design Manual.

E. A drainage summary report and plan that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.

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

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

CHAPTER 17.24 FINAL PLAT

Sections

17.24.010 Required Plat Information

17.24.020 Additional Required Information.

17.24.030 Approval of final plat

17.24.040 Filing

17.24.050 Notice for improvements.

17.24.060 Bond

17.24.010. Required Plat Information.

In addition to that otherwise specified by law, the following information shall be shown on the final plat:

A. The date, scale, north point, legend, plat boundary, and controlling topography such as creeks and highways.

B. Legal description of the tract boundaries.

C. Name of the owner(s), applicant(s), and surveyor.

D. Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

1. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the subdivision.

2. Adjoining corners of adjoining subdivisions.

3. Other monuments found or established in making the survey of the subdivision or required to be installed by provision of this title.

E. The exact location and width of streets and easements intersecting the boundary of the tract.

F. Lines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings for tract, lot, and block boundaries, and street right-of-way and centerlines. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings approved in advance by the County Surveyor. All distances shall be shown to the nearest hundredth of a foot. No ditto marks may be used.

G. The width of the portion of streets being dedicated, the width of any existing right-of-way, and the width of each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to the centerline dimensions, the radius and central angle shall be indicated.

H. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not definitely located of record, a statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

I. Lot numbers beginning with the number "1" and numbered consecutively.

J. Land tracts to be dedicated or reserved for any purpose, public or private, as distinguished from residential lots intended for sale.

K. References to any agreements including conditions of approval or special building restrictions that will be recorded with the plat.

L. The following certificates, which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat..

2. A certificate signed and acknowledged as above, dedicating all parcels of land shown on the final map as intended for any public use without any reservation or restriction whatsoever, except those parcels which are intended for the exclusive use of the lot.

3. A certificate signed by the engineer or the surveyor responsible for the survey and final map. The seal and signature of the engineer or surveyor.

17.24.020 Additional Required Information .

The following shall accompany the final plat application.

A. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.

B. Sheets and drawings signed by a professional civil engineer registered in Oregon showing the following:

1. Traverse data including the coordinates of the boundary of the subdivision and showing the error of closure, if any.

2. The computation of all distances, angles, courses and lot areas shown on the final map.

3. Ties to existing monuments, adjacent subdivisions and street corners,.

4. Profiles of finished grade at centerline of all streets and public ways and a plan profile for all utilities.

C. A copy of any deed restriction applicable to the subdivision.

D. A certificate by the Engineering Director certifying that the applicant has complied with one of the following alternatives:

1. All improvements have been installed in accordance with these regulations and with preliminary plat approval.

2. An agreement has been executed as provided in Chapter 17.32 of this title to assure completion of all required improvements.

17.24.030 Approval of final plat.

Approval of the final plat shall be indicated by signature of the Planning Director and Engineering Director.

17.24.040 Filing.

Within 6 months of city approval the applicant shall submit the final plat for city signatures. Approval of the final plat shall be null and void if the plat is not submitted within the time specified or if the plat is not recorded within thirty days after the date the last required signature has been obtained. One copy of the recorded plat shall be supplied to the city.

17.24.050 Notice for improvements.

Before approval is certified on the final plat, the applicant shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision, or file with the Engineering Director a notice, specifying the period within which required improvements and repairs will be completed. In either case, the applicant shall reimburse the city for the cost of inspection by the city at a rate established by the City Council. All required improvements shall be guaranteed and bonded as provided in Chapter 17.32 of this title.

17.24.060 Bond.

A. The applicant shall file with the notice one of the following to assure his full and faithful performance:

1. An agreement to make improvements in a form approved by the city attorney.
2. A letter of credit.
3. Cash.

B. Such assurance of full and faithful performance shall be for a sum determined by the public works director as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of city inspection.

C. If the applicant fails to carry out said improvements and the city has unreimbursed costs or expenses resulting from such failure, the city may call the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost incurred by the city, the city shall release the remainder. If the amount of the bond or cash deposit is less than the cost incurred by the city, the applicant shall be liable to the city for the difference.

CHAPTER 17.28 DESIGN STANDARDS

Sections

17.28.010 Conformity of subdivision.

17.28.020 Streets.

17.28.030 Easements

17.28.040 General Lot Design

17.28.050 Flag Lot Development and Future Access

17.28.060 Flag Lot Design Standards

17.28.070. Flag Lot Limitations

17.28.070 Public open spaces

17.28.010 Conformity of subdivision.

Partitions and subdivisions shall conform with any development plans of the City and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the City.

17.28.020 Streets.

A. General. Requirements and standards for the layout, design and improvement of streets, pedestrian facilities, bicycle facilities, and transit facilities are included in Chapter 19.1400 of the Zoning Ordinance and the Milwaukie Transportation Design Manual are applicable to all land divisions.

B. The location, width, and grade of streets shall be considered in relation to existing and planned streets, topographic conditions, public convenience and safety, and the proposed use of the land served by the street. The street system shall assure an adequate traffic circulation and connectivity to existing streets or planned streets. Intersection angles, grades, tangents, and curves shall be appropriate for the traffic to be carried and the terrain. Where their location is not shown in a development plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate extension of existing streets in surrounding areas; or
2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

17.28.030 Easements.

A. Utility Lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be at least ten feet wide and centered on rear or side lot lines.

B. Watercourses. If a subdivision is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major watercourses may be required.

17.28.040 General Lot Design.

A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to the Zoning Ordinance. This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature.

B. Rectilinear Lots Required. Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

C. Limits on Compound Lot Line Segments. Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the

distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. Adjustments to Lot Shape Standard. Lot shape standards may be adjusted subject to Section 19.700- Variances, Exceptions and Home Improvement Exceptions.

E. Double Frontage. Double frontage and reversed frontage lots should be avoided except where essential to provide separations of residential development from railroads, traffic arteries, adjacent nonresidential uses or to overcome specific disadvantages of topography and orientation.

17.28.050 Flag lot development and future access.

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval.

17.28.060 Flag Lot Design Standards

A. Consistency with the Zoning Ordinance. Flag lot design shall be consistent with Chapter 19.425.

B. More than 2 flag lots prohibited. The division of any unit of land shall not result in the creation of more than two flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than two flag lots are prohibited.

17.28.070. Flag Lot Limitations

Flag lots are prohibited in subdivisions.

17.28.080 Public open spaces.

A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the comprehensive plan or master plan adopted by the city is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the planning commission, and where the comprehensive plan or adopted master plan of the city does not indicate proposed public use area, the Planning Commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within eighteen months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same

CHAPTER 17.32 IMPROVEMENTS

Sections

17.32.010 Improvement procedures

17.32.020 Required improvements.

17.32.030 Guarantee

17.32.010 Improvement procedures.

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option shall conform to the requirements of this title and to improvement standards and specifications followed by the City. The improvements shall be installed in accordance with the following procedure:

A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the City.

B. Work shall not begin until the City has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the City is notified.

C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated. E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the City.

17.32.020 Required improvements.

If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the applicant:

A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the City in Chapter 19.1400 of the Zoning Ordinance, the Transportation Design Manual, and other standards as may be adopted by the Engineering Director. Existing streets that abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the approval authority with the advice of the Engineering Director.

B. Curbs. Curbs shall be constructed in accordance with standards adopted by the City.

C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the City.

D. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the City.

E. Drainage. Drainage of surface water shall be provided as determined by the approval authority with the advice of the Engineering Director.

F. Underground Utility and Service Facilities. All utility lines, including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines

operating at fifty thousand volts or above. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

G. Street Light Standards. Street light standards shall be installed in accordance with regulations adopted by the City.

H. Street Signs. Street name signs shall be installed at all street intersections and dead-end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the City. Other signs may be required upon the recommendation of the Engineering Director.

I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, and intermediate points. Monuments shall be of such material, size and length as required by state law and city standards. Any monuments that are disturbed before all improvements are completed shall be replaced to conform to the requirements of state law. Centerline monuments wells shall meet the specifications of, and be installed as required by the County Surveyor.

J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the City.

17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one year following acceptance by the City. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the Engineering Director. Said cash or bond shall comply with the terms and conditions of Section 17.24.060 of this title.

CHAPTER 17.44 EXCEPTIONS AND VARIANCES

17.44.010 Variance.

A variance of any provision of this Title may only be granted in accordance with Chapter 19.700.

Attachment 2
City Council August 20, 2002

Amendments to Milwaukie Municipal Code Title 19
Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

Section 19.101 Title and Structure

Title 19 shall be known and may be cited as the zoning ordinance of the city of Milwaukie, Oregon. The Title is divided into sections. The three-digit number following the title number identifies section divisions.

Section 19.103 Definitions

"Arbor" means an unroofed and unenclosed structure of vines, branches, or lattice work typically used to support climbing vines or shrubs.

"Application" means all materials and information submitted for action authorized under this Title specified herein and on related administrative forms and checklists.

"Belfry" means an ornamental or functional roof mounted structure for enclosing a bell.

"Belvedere" means an architectural feature of a building designed to create views from the building.

"Cupola" means an ornamental or functional structure placed on a roof or dome mimicking or functioning as a lantern, belfry, or belvedere.

"Dormer" Means a projecting structure built out from a sloping roof usually containing a window.

"Lantern" means a superstructure crowning a roof or dome having open or windowed walls to let in light and air.

"Lot coverage" means the footprint of a building or buildings on a lot, measured from the outermost projection of the structure expressed as a percentage of the total lot area.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are two distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

"Minimum Vegetation" means the area of a lot that supports plantings or natural growth, grass, shrubs, measured as a percentage of lot area including planted areas under roof eaves.

"Pergola" means an unenclosed and unroofed structure of parallel columns supporting an open roof of beams and crossing rafters or trellis work.

"Planning Director's Interpretation" means a ruling of the Planning Director regarding the applicability, scope, or effect of any provision of Titles 14, 17, and 19.

"Story" means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than six feet above grade for more than

50 percent of the total perimeter or is more than 10 feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

"Story, half" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than six feet above grade, for more than 50 percent of the total perimeter or is not more than 10 feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

"Trellis" means an unenclosed and unroofed vertical frame supporting open latticework used as a screen or support for growing vines or other plants.

"Vegetation": means plantings or natural growth including trees, grass, shrubs, and other similar vegetated groundcover.

CHAPTER 19.400 SUPPLEMENTARY REGULATIONS

19.401. Accessory Structures,

19.402 Accessory Structures, Limitations

19.403 Accessory Uses, general provisions, (renumber subsequent sections)

19.401. Accessory Structures.

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

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

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

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

E. An accessory structure must maintain a minimum side and rear yard setback of five feet, except where other requirements of this title are more restrictive.

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

G. Pergolas, arbors, and trellises are permitted in yards in all residential zones.

19.402 Accessory Structures, Limitations

A. Residential accessory structures excluding pools, uncovered decks and patios are subject to the following.

1. For lots 10,000 square feet or less, the footprint of an accessory structure may not exceed 500 square feet. For lots greater than 10,000 square feet the footprint of an accessory building may not exceed 850 square feet.

2. An accessory structure may not exceed 15 feet in height as measured from the average finished grade within a 10-foot horizontal distance from the base of the building to the highest point of the roof.

3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than nine feet.

4. The minimum roof pitch for accessory structures with other than a flat or shed roof is 4 inches rise for every 12 inches of run.

5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.

6. Metal siding is prohibited on accessory structures with a footprint greater than 120 square feet. For accessory structures greater than 120 square feet, exterior siding and roofing materials that are commonly used on residential structures shall be used.

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

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are to be provided by city public works as part of the clear vision determination process specified in Chapter 19.1400. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

1. Residential zones and residential uses in all zones: Maximum height is six feet for rear, street side and side yards, forty-two inches for front yards, except that for flag lots fences in the front yard may be six feet. No electrified, barbed, or razor wire fencing is permitted.

2. Commercial zones: Maximum height six feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a six-foot-high sight-obscuring fence.

3. Industrial zones: Maximum height eight feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of six feet.

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

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to three feet for an uncovered patio, deck, or swimming pool not exceeding eighteen inches in height above the average grade of the adjoining ground (finished elevation).

19.403 Accessory uses, general provisions.

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

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling.

B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.

C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed fifty in number and shall require the written consent of all owners of real property (or a part thereof)

within one hundred feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.

D. Keeping of colonies of bees shall be prohibited except that the planning commission may approve an application to keep not more than two colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within one hundred feet of any point on the boundary of the property on which the bees are proposed to be kept.

E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard, and other standards of the zoning ordinance. Any deviation from these standards will require a variance by the planning commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

19.409 Buildings on the same lot.

A minimum distance of six feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones, only one building designed for dwelling purposes shall be permitted per lot.

19.424. Design Standards For Single Family Housing.

A. All new one- and two-family dwellings shall meet the following design standards:

1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.

2. The area of windows on all exterior wall elevation(s) facing the street shall be at least 12% of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.

B. All dwellings, except temporary dwellings approved in accordance with this Chapter, shall include at least three of the following features on any building elevation that faces, or is visible to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this Chapter.

1. Covered porch at least five feet deep.
2. Entry area recessed at least two feet from the exterior wall to the door.
3. Bay or bow window that projects at least one foot from exterior wall.
4. Offset on the building face of at least sixteen inches from one exterior wall surface to the other.
5. Dormer.
6. Roof eaves with a minimum projection of twelve inches from the intersection of the roof and the exterior walls.
7. Roof line offsets of at least sixteen inches from the top surface of one roof to the top surface of the other.
8. Attached garage.
9. Cupola.
10. Tile or wood shingle roofs.
11. Horizontal lap siding.

12. Brick covering at least 40% of the building elevation that is visible from the street.
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Chapter 19.425 Flag Lot Design And Development Standards

Sections

- 19.425.1 Applicability**
- 19.425.2 Development Standards**
- 19.425.3 Variances Prohibited.**
- 19.425.4 Frontage, Accessway, and Driveway Design.**
- 19.425.5 Protection of Adjoining Properties.**
- 19.425.6 Landscape Plan Required.**

19.425.1 Applicability

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

19.425.2 Development Standards

A. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.

B. Yard Setbacks for Flag Lots.

1. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.
2. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

19.425.3 Variances Prohibited.

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

19.425.4 Frontage, Accessway, and Driveway Design.

A. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet.

B. Abutting flag lots shall have a combined frontage and accessway of 35 feet. For abutting accessways of two or more flag lots, the accessway of any individual lot shall not be less than 15 feet

C. Driveway Design and Emergency Vehicle Access.

1. Driveways shall be designed and constructed in accordance with standards adopted by the Engineering Director.

2. Driveways serving single flag lots shall have a minimum paved width of 12 feet.

3. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this Chapter.

4. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.

5. Driveways serving two flag lots shall be consolidated and have a minimum shared driveway width of 16 feet.

6. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. Driveway location and design is subject to clear vision and driveway spacing provisions of Chapter 19.1400-Transportation Planning, Design Standards, and Procedures.

7. Design standards for shared driveways serving more than three lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

8. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

19.425.5 Protection of Adjoining Properties.

A. Flag lots must be screened in accordance with this section to minimize potential adverse impacts to abutting properties.

B. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

C. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows.

1. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.

2. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

3. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

D. Tree Mitigation. All trees six inches or greater in diameter, as measured at the lowest limb or four feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of two inches caliper and evergreen trees shall be a minimum of five feet tall.

19.425.6 Landscape Plan Required.

A landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

- A. A list of existing vegetation by type, including number, size, and species of trees;
- B. details for protections of existing trees;
- C. list of existing natural features;
- D. location and space of existing and proposed plant materials;
- E. list of plant material types by botanical and common names;

- F. notation of trees to be removed;
 - G. size and quantity of plant materials; and
 - H. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.
-

SECTION 800 NONCONFORMING USES

Section 19.802 Continuation of a nonconforming use.

A nonconforming use may be continued, but shall not be altered unless such alteration is approved by the planning commission after a public hearing in accordance with subsection 19.1011.3, Minor Quasi-Judicial Review, upon a determination that the proposed modifications would result in no more of a detriment to surrounding properties than the existing use. A nonconforming use that is limited to a portion of a property may not be relocated to a different portion of the property on which it is located or to any other property.

19.807 Destruction of Nonconforming Structure or Use

A. If a nonconforming structure is destroyed by any cause to an extent exceeding fifty percent of its real market value a future structure on the site shall conform to this title.

B. If any structure containing a nonconforming use is destroyed by any cause to an extent exceeding fifty percent of its real market value, and is not returned to use within six months by obtaining occupancy approval under applicable building codes, future uses on the site shall conform to this title.

19.809 Determination of Nonconforming Situations

19.809.1 Planning Director's Determination.

The Planning Director shall make a determination regarding the legal status of a nonconforming use, structure, or other applicable zoning requirements in accordance with Section 1011.1 Type I Administrative review. Any nonconformity shall be known as a nonconforming situation for the purpose of this section. Determinations of nonconforming situations shall be made using the following criteria.

A. Proof that the nonconforming situation was permitted under applicable regulations at the time it was established, including:

1. copies of building and/or land use permits issued at the time the use, building, or other condition was established;
2. copies of zoning code provisions and/or maps;
3. demonstration that the situation was established before the applicable development code for the community was adopted; and

B. Proof that the situation has been legally maintained over time. Evidence that the nonconforming situation has been maintained over time including:

1. Utility bills;
2. Income tax records;
3. Business licenses;
4. Listings in telephone, business and Polk directories;

5. Advertisements in dated publications, e.g., trade magazines; and/or;
 6. Building, land use or development permits.
 - C. Submission of the applicable fee as adopted by the City Council.
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SECTION 1000 ADMINISTRATIVE PROVISIONS

Repeal Sections 19.1001 Enforcement, 19.1004 Review of Application, 1010 Mandamus Authorized.

19.1001 Administration

19.1001.1 Authority

The Planning Director shall have the authority to apply, interpret, and enforce the provisions of this title. An appeal from a ruling by the Planning Director regarding a requirement of this title may be made to the planning commission under provisions of this section.

19.1001.2 Application and Fee Required.

Applications and requests for actions authorized under this Title shall be made in accordance with provisions of this chapter. Application and other applicable fees as established by resolution of the City Council shall be paid at the time the application or request is submitted.

19.1001.3 Consistency with statute

Applications for action authorized under this Title shall be processed in accordance with Oregon Revised Statutes Chapter 227.178.

19.1001.4 Planning Director's Interpretations

A. Purpose. The Planning Director's Interpretation process is established to resolve unclear or ambiguous terms, phrases, and provisions within Titles 14-Sign Ordinance, 17-Subdivision Ordinance, and 19-Zoning Ordinance. This process may be used independent of, or concurrent with, applications for a particular permit or land use application. All Director's Interpretations are subject to appeal in accordance with this Section.

B. Requests. A request for an interpretation shall be made in writing to the Director. The Director may develop guidelines to govern the request process.

C. Independent Interpretations: The Director may issue interpretations independent of a request by another party.

D. Decision to issue. The Director shall have the authority to consider the request for an interpretation. The Director shall respond within 14 calendar days after the request is made, as to whether or not an interpretation will be issued,

E. Director may decline. The Director is authorized to issue or decline to issue a requested interpretation. The Director's decision to issue or decline to issue an interpretation is final when such decision is mailed.

F. Written interpretation mailed. If the Director decides to issue an interpretation as requested, it shall be issued in writing and shall be mailed to the person requesting the interpretation and any other person that has specifically requested a copy of such interpretation.

G. Appeal to Planning Commission. The applicant and any party who received notice of interpretation or who participated in the proceedings through the submission of written or verbal evidence of an interpretation, may appeal the Director's Interpretation to the Planning Commission within 14 days after the interpretation is mailed to the applicant. The appeal may be initiated by filing a notice of appeal with the Director. The appeal fee as adopted by the City Council shall accompany all appeals.

H. Appeal procedure. The Planning Commission shall hear all appeals of a Director's Interpretation within 40 days of filing the appeal. Appeal hearings shall be conducted under procedures established under Section 19.1011.3 Minor Quasi-Judicial Review except as modified by this section. Notice of the meeting at which the appeal will be heard shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who has requested notice.

I. Final decision/effective date. The decision of the Planning Commission on an appeal of a Director's Interpretation is effective when notice of the decision is mailed to the applicant, provided however, that if the applicant is the Planning Director or the Planning Commission; the decision is final and effective when made.

J. City Council Appeal. The Planning Commission's decision on an appeal of a Director's interpretation may be appealed to the City Council.

19.1001.5 Determination of Completeness

A. Consistency with submission requirements. The Planning Director shall review applications for consistency with submission requirements of this chapter. Application submissions that do not meet the requirements of this section shall be deemed incomplete for the purpose of Oregon Revised Statutes 227.178 and Milwaukie Municipal Code Chapter 19.1000. The Planning Director shall provide notice to the applicant as to whether an application is complete or incomplete within 30 calendar days of receipt of the application. If the application is incomplete the notice provided for in this section shall specify what information is needed to make the application complete.

B. Applications for actions authorized under this Title shall include the following unless waived in accordance with 19.1001.6:

1. completed application form signed by all owners of property included in the proposal or signed authorization for the applicant to act as agent on behalf of property owners;
2. application fee as adopted by the City Council;
3. completed and signed submission requirements and application checklist forms; and
4. all information specified on the application checklist and submission requirements forms.

C. Time allowed to complete submission. If the Planning Director finds that the application submission is not complete, the missing information shall be submitted within 15 workdays from the date of the Director's notice. If the missing information is not provided within 15 workdays, the application shall be rejected.

D. Reactivation of rejected applications may only be made by resubmission of a complete application and fee.

19.1001.6 Waiver of Submission Requirements

A. Certain application submission requirements may be waived at the discretion of the Planning Director subject to meeting the following conditions:

1. The request is submitted in writing;

2. the applicant shows good cause for the requested waiver;
3. the waiver does not compromise a proper and complete application review; and
4. the information is not material to describing the proposal or demonstrating compliance with approval criteria.

B. Application submission requirements that may not be waived include:

1. signed and completed application form, submission requirements form, and application checklist;
2. authorization of property owner for application to be made;
3. detailed narrative description that specifies how the proposal complies with applicable codes; and
4. required plans, maps, and drawings.

C. Application fees may only be waived by action of the City Council.

Section 1014 Permits, Inspections, and Occupancy Approvals Required

A. The Planning Director shall review all permits for construction or other activity that is authorized under Titles 14, 17, and 19 for compliance with applicable code provisions.

B. The Planning Director may approve or deny applications for building and sign permits based on consistency with applicable code provisions.

C. All development authorized by approved building and sign permits shall be in substantial conformance with plans approved by the Planning Director.

D. Buildings for which permits haven been issued, shall not be occupied without prior occupancy approval in accordance with this section.

E. Occupancy approvals shall not be issued until completion of final zoning inspections and issuance of notice of completion by the Planning Director. Approval criteria for issuance of notice of completion includes:

1. A written statement from the applicant that all improvements have been constructed in accordance with approved plans except as modified and approved by appropriate approval authorities;
2. completion of zoning inspection by the Planning Director and confirmation that the project is in substantial conformance with approved plans; and
3. payment of the final zoning inspection fee as adopted by the City Council.

F. The Planning Director shall complete the final zoning inspection within five working days of receiving the applicant's request for final zoning inspection and the written statement required under Section 19.1014(D).

Section 19.1400 Transportation Planning, Design, Standards and Procedures

19.1403 Applicability

A. Chapter 19.1400 applies to the following forms of development, except as limited by 19.1403.1: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.

B. Application Required. All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.

19.1403.1 Limitations.

A. For all development other than partitions, subdivisions, and single family, new construction or substantial redevelopment, as defined in Section 19.103, is exempt from Section 19.1407.2 Adequacy Requirements, when the estimated value of the construction improvements is less than \$200,000, and when a transportation impact study is not required. The \$200,000 value threshold shall be increased 3 percent annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

B. New single-family residential development and substantial redevelopment of existing single-family structures are exempt from Section 19.1407.2 Adequacy Requirements except for the following requirements when the value of improvements is less than \$90,000. The \$90,000 value threshold shall be increased 3 percent annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter shall comply with the following provisions:

1. Section 19.1409.1(B), Required frontage;
2. Table 19.1409.2, Additional Setbacks in Major Streets;
3. Section 19.1409.2(B), Right-of-way dedication;
4. Section 19.1409.2(E), Vision clearance;
5. Section 19.1410.2, Public sidewalks; and
6. Section 19.1413, Access management.

C. Development in the Downtown Zones. Specific design standards and public area requirements have been adopted for the Downtown Zones; therefore, only the following provisions of Section 19.1400 shall apply in the Downtown Zones:

1. Section 19.1405.4, Notice and coordinated review.
2. Section 19.1408, Transportation impact analysis.
3. Section 19.1413, Access management.

19.1405 Development Review Process

A. The development review process used to confirm compliance with Chapter 19.1400 varies depending on the review procedure applicable to the proposed development.

19.1405.1 Type I Application Review.

A. Compliance Required. Applicants for Type I review shall demonstrate compliance with applicable approval criteria on forms provided by, and in accordance with procedures established by the Planning Director.

B. Type I review procedures are set forth in Section 19.1011.1. Type I review is used to determine compliance with applicable provisions of Chapter 19.1400 for the following unless a concurrent application will require Minor or Major Quasi-Judicial review, in which case the application will be processed under Sections 19.1011.3 and 19.1011.4 respectively:

1. Development of a new detached or attached single-family dwelling on an existing lot;
2. New construction or substantial redevelopment other than single-family, when the estimated value of the construction improvements is less than two hundred thousand dollars; and a transportation impact analysis is not required by Section 19.1408;
3. New construction or substantial redevelopment, other than single family, when the estimated value of the construction improvements exceeds two hundred thousand dollars; and as follows:

a. frontage improvements that meet the design standards of Chapter 19.1400 are in place or will be provided prior to occupancy; and

b. a transportation impact study is not required pursuant to Section 19.1408.

The two hundred thousand dollars value threshold shall be increased three percent annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

Attachment 3
City Council August 20, 2002

Amendments to Milwaukie Municipal Code Chapter 15.32
Public Facilities Improvements

Chapter 15.32.030 Public Facilities Improvements

Article II, 15.32.030 Definitions

H. "Public facilities" means facilities intended to serve the public and consisting of either city-owned or other public service agency-owned, storm drainage systems, water systems, sanitary sewer systems, utility easements, excluding transportation related facilities including but not limited to rights-of-way, streets, curbs, sidewalks, bike lanes, traffic controls, street lighting, and other transportation improvements that are governed under Chapter 19.1400.

Attachment 4
City Council August 20, 2002

COMPLIANCE WITH
APPROVAL CRITERIA FOR ZONING TEXT AMENDMENTS

19.904.1 Proposals for zoning text amendments must provide written evidence that the following requirements are satisfied:

A. Applicable requirements of Section 19.1003;

Section 19.1003 requires that rezoning applications be submitted on forms required by the City. City staff completed the applicable forms, which are included in the application file ZA-02-02.

B. Reasons for requesting the proposed text amendments;

1. Flag Lot Design and Development.

After many years of concern about the impacts of flag lot development on neighboring properties and the effects on established neighborhoods, the City Council directed staff to develop improved standards.

2. House Design Standards.

New design standards have been developed to improve the architectural appearance of new housing.

3. Zoning and Subdivision Ordinance, Procedures.

The new provisions including Planning Director Determinations of Non-conforming Situations and Interpretations, and application procedures improve ordinance administration and the quality of application submissions.

4. Limitations on the Size of Accessory Structures

The size of recent constructed accessory structures has been incompatible with the scale of neighborhood development. The purpose of the size limitations is to allow reasonably sized accessory structures that support traditional residential development and to avoid structures that dominate neighborhood housing.

5. Final Zoning Inspections

The requirement for final zoning inspections prior to occupancy of buildings supports the city inspection process and ensures

that construction is consistent with approved plans, and compliance with conditions of approval.

6. *Revisions to Transportation Planning, Design Standards, and Procedures.*

The revisions correct a technical loophole in regulations adopted under Ordinance 1893 that allowed new single-family development to avoid required transportation improvements at the time of development. The amendment is consistent with the intent of Ordinance 1893.

7. *Pergolas, Arbors, and Trellises*

Customary architectural landscape features including pergolas, arbors, and trellises are presently prohibited in yard setbacks. The amendments relax present zoning restrictions that prohibit.

C. Explanation of how the proposed text is consistent with other provisions of this title:

Other sections that apply to this action are 19.1003 and 19.905. Explanation is provided herein.

D. The approval criteria of Section 19.905.

See below.

19.905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:

A. The proposed amendment must conform to applicable comprehensive plan goals, policies, and objectives and be consistent with the provisions of city ordinances, metro urban growth management functional plan, and applicable regional policies.

The proposed flag lot and house design standards are consistent with Comprehensive Plan Chapter 2, Neighborhood Element as follows:

1. *Goal: To preserve and reinforce the stability and diversity of the City's neighborhoods in order to attract and retain long-term residents and ensure the City's residential quality and livability.*
2. *Objective 1, Policy 4: Require new residential development to be consistent in type, style, and density with the existing in the neighborhood area, unless as otherwise designated on the land use map.*

3. *Objective 2, Neighborhood Needs, Ardenwald Neighborhood, Guideline #1: New housing should be constructed at higher design standard to ensure aesthetic factors are considered.*
4. *Objective 2, Neighborhood Needs, Hector Campbell & Linwood Neighborhoods, Guideline #2 Housing Quality: To ensure high quality construction and design standards are applied to all new development within the neighborhood.*

- B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weight these factors in determining the intent of the proposed zone.

This section is not applicable.

- C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

Metro Urban Growth Management Plan Title 1 establishes targets for future housing within the City. Title 1 disallows cities from prohibiting partitions that are at least two times the minimum lot size. Based on the pattern of land platting in Milwaukie, historical flag lot development has greatly relied on variances of dimensional standards even though lot size of partitioned land has been adequate. The effect of increased lot area provisions for flag lots and prohibitions of certain variances are needed to ensure future development is compatible with existing neighborhoods. The proposed regulations allow the City to accomplish Title 1 in a manner that is consistent with neighborhood preservation.

- D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

This section does not apply.

- E. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation

system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.

This section does not apply.

19.1011.5 Legislative Actions. Legislative actions provide for the establishment and modification of legislative land use policies and plans. This includes, but is not confined to a zoning ordinance or comprehensive plan text amendment, adoption of a neighborhood plan or area design guidelines, or establishment of a plan district.

- A. Public Notification. Notice of a hearing shall be published once each week for two consecutive weeks in a newspaper of general circulation in the city, of which the second publication shall not be less than five days prior to the date of the hearing. Preliminary neighborhood meetings or other public meetings may be held, as appropriate, prior to the public hearing.

Public notification has been provided in accordance with this section

- B. Decision. The planning commission shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The planning commission shall prepare a recommendation to the city council. If the commission denies the proposal, and it was the initiator of the proposal, the matter shall be terminated. If the proposal was initiated by the city council and the commission denies it, the proposal shall be forwarded to city council with a report and recommendation of denial. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to council. The city council shall conduct a public hearing. Public notification of this hearing shall be given as per subsection A above.

The Planning Commission conducted a public hearing on July 23, 2002 and recommended that the City Council approve the proposal. Public notification of the Council's August 20, 2002 public hearing was made in accordance with this section.

On October 17, 2003 the city recorder noted corrections to Ordinance 1907 adopted by the Milwaukie City Council on August 20, 2002 by an addendum to the original/record copy as signed by Mayor James Bernard on August 20, 2002. These corrections have been made to the Milwaukie Municipal Code as published on behalf of the City by LexisNexis.

The authority to do so is found in MMC 1.01.080 Section 1.01.080 -- Editing the code.

In preparing adopted ordinances for codification and distribution, the city recorder shall not alter the sense, meaning, effect or substance of any ordinance, but, with such limitations, may correct manifest clerical or typographical errors. (Ord. 1902 § 2, 2002)

These corrections are as follows:

Correction 1. Attachment 1, page 5 of 21

To be consistent in naming, the following change is made:

17.08.200. *Partition Land* is changed to read:

17.08.200. *Partitioning*

Correction 2. Attachment 1, page 12 of 21

To be consistent with the numbering system in other sections of this ordinance, the following corrections are made:

17.16.070 -- *Final plat for partition and subdivision.*

The following shall accompany applications for partition:

- A. A completed application form signed by all owners of property included in the proposal;
- B. The application fee as adopted by the city council;
- C. Completed and signed "submission requirements" and "final plat checklist" forms;
- D. All information specified on the "submission requirements" and "final plat checklist";
- E. A survey prepared by registered land surveyor showing setbacks to existing structures with sufficient detail to demonstrate compliance with yard requirements;
- F. Requirements and information specified in Chapter 17.24; and
- G. Any additional information as may be needed to demonstrate compliance with approval criteria.

Correction 3. Attachment 1, page 18 of 21

To correct a numbering error, the following change is made:

17.28.070 *Public open spaces* is changed to read:

17.28.080 *Public open spaces*

Correction 4. Attachment 1, page 20 of 21

For reading clarity, paragraph spacing is added between 17.32.010.D and 17.32.010.E (the text of these sections is not changed):

- D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.
- E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city.

Correction 5. Attachment 2, pages 5, 6 and 7 of 12

To correct a numbering error, the following changes are made to the chapter heading and all subsequent sections:

Chapter 19.425 – *Flag Lot Design and Development Standards* is changed to:

Section 19.4.26 *Flag lot design and development standards.*

19.426.1 Applicability. Flag lots in all zones are subject to the development standards of this section.

19.426.2 Development Standards.

- A. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.
- B. Yard Setbacks for Flag Lots.
 - 1. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is thirty (30) feet.
 - 2. Side Yard. The minimum side yard for principal and accessory structures in flag lots is ten (10) feet.

19.426.3 Variances Prohibited. Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

19.426.4 Frontage, Accessway, and Driveway Design.

A. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is twenty-five (25) feet.

B. Abutting flag lots shall have a combined frontage and accessway of thirty-five (35) feet. For abutting accessways of two (2) or more flag lots, the accessway of any individual lot shall not be less than fifteen (15) feet.

C. Driveway Design and Emergency Vehicle Access.

1. Driveways shall be designed and constructed in accordance with standards adopted by the engineering director.

2. Driveways serving single flag lots shall have a minimum paved width of twelve (12) feet.

3. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this section.

4. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.

5. Driveways serving two (2) flag lots shall be consolidated and have a minimum shared driveway width of sixteen (16) feet.

6. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. Driveway location and design is subject to clear vision and driveway spacing provisions of Chapter 19.1400-Transportation Planning, Design Standards, and Procedures.

7. Design standards for shared driveways serving more than three (3) lots shall be specified by the engineering director after consultation with the fire marshal.

8. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

19.426.5 Protection of Adjoining Properties.

A. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties.

B. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the city attorney is provided. Screening and landscaping shall be installed within six (6) months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

C. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows:

1. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within three (3) years of planting is allowed.
 2. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
 3. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.
- D. Tree Mitigation. All trees six (6) inches or greater in diameter, as measured at the lowest limb or four (4) feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of two (2) inches caliper and evergreen trees shall be a minimum of five (5) feet tall.

19.426.6 Landscape Plan Required. A landscaping plan shall be submitted to the planning director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

- A. A list of existing vegetation by type, including number, size, and species of trees;
- B. Details for protections of existing trees;
- C. List of existing natural features;
- D. Location and space of existing and proposed plant materials;
- E. List of plant material types by botanical and common names;
- F. Notation of trees to be removed;
- G. Size and quantity of plant materials; and
- H. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway. (Ord. 1907 (Attach. 2), 2002)

By: Pat Duval, City Recorder

Date: 10/17/03