CITY OF MILWAUKIE
CITY COUNCIL MEETING
MAY 5, 2009

CALL TO ORDER

Mayor Ferguson called the 2053rd meeting of the Milwaukie City Council to order at 7:05 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Deborah Barnes, and Councilors Greg Chaimov, and Joe Loomis. Councilor Susan Stone excused.

Staff present: City Manager Mike Swanson, City Attorney Tim Ramis, Community Development and Public Works Director Kenny Asher, Light Rail Design Coordinator Wendy Hemmen, Engineering Director Gary Parkin, Planning Director Katie Mangle, and Community Services Director JoAnn Herrigel

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Safety Break of Oregon

Mayor Ferguson read a proclamation naming May 13, 2009 as *Workplace Safety Awareness Day* in the City of Milwaukie.

Milwaukie High School Student of the Month

Milwaukie High School Principal Mark Pinder recognized Kelley Tallman as Student of the Month for May 2009.

B. Harmony Road Presentation

Board of County Commissioners (BCC) **Chair Lynn Peterson** and **Dan Johnson** provided an update on the proposed road project that would allow Clackamas Community College and OIT to grow and become a green campus. She discussed the relationship with the Clackamas Town Center Regional Center Plan and build out. She discussed a curriculum that would allow students to work in green economy jobs and the non-profit Active Space and its concept for start-up companies.

Mr. Johnson reviewed the Environmental Impact Study (EIS) process and the scale of the discussions. There was direction from the BCC to transition out of that process and scale things down and deal with existing issues. He commented on community transportation values, neighborhood integrity, safe streets, adequate transportation alternatives, and environmental awareness. Mr. Johnson provided copies of the near-term (0 – 5 years) and far-term (5 years plus) Harmony Community Campus Conceptual Master Plan. One of the key elements was that the Plan coordinated but did not dictate who would carry things out. The final Plan would be considered in June and contain a lot of information about development guidelines and objectives. He reviewed the Sunnybrook extension conceptual plan developed about 10 years ago. That was changed to some degree during the EIS process. One concept was to use the existing roadway as much as possible to provide access. He pointed out the particular points of interest including the Fuller Road intersection and proposed roundabout to preserve the Oak tree which an arborist assessed as being healthy. He pointed out the pinch point

through the Oak stand with bike and pedestrian facilities on the north side of a 2-lane road. The road would transition around to the north side of the Oak trees to a 3-lane corridor. The intent was to get the road up and out of the habitat. He discussed the feasibility of widening of the 82nd Avenue corridor. The goal was to provide a plan that balanced concerns while dealing with issues of the region and local community.

Councilor Chaimov asked what the effect would be on the City of Milwaukie if this project were built.

Chair Peterson heard from the citizens of Milwaukie that they were worried about cut-through traffic in their neighborhoods which would happen anyway over time as the Clackamas Town Center Regional Center grew. They needed to discuss how the City and County dealt with the neighborhood and put measures in place to keep speeds down. Although people cannot be prohibited from driving through neighborhoods they can be told how to behave. There will be better access to the park and the green campus someday. It was important to grow the grid so no one neighborhood had to deal with continual road widening.

Mr. Johnson added they were committed to fiber optic signal operation. He discussed grade separation and interim improvements to deal with capacity issues.

Councilor Chaimov asked on the subject of capacity issues if the planning for the campus improvements included a study on what the traffic effects may be on Harmony Road leading to the Linwood – Railroad Avenue intersection.

Mr. Johnson replied in regards to this planning effort there was no traffic study; it would be done during the land use process. He was waiting to see what capacity was gained through some of the improvements including signals and future widening. It was difficult to gauge traffic needs and depended on when Clackamas Community College and OIT expanded.

Chair Peterson added there were two ways to look at this project. Portland, for example, would believe that if Harmony were a collector that it would stay that way since that was what it was when people purchased their property. If people begin using it differently, Portland puts measures in place to make people change their behavior. The rest of the region would rebuild the road. If the decision was made now that Harmony was a collector and put measures in place like a roundabout, then there was a conscious effort to keep it a collector forever. She discussed the 2030 model and unpredictable variables and commented on the use of fiber optics to manage the system cohesively rather than dealing only with single intersections each of which had its own problems.

Councilor Barnes asked if there were an estimate of how many additional cars would travel onto Harmony.

Mr. Johnson replied it depended on the land use. In 2005 there were 17,000 vehicles, and Metro showed that would likely double. Redirection of traffic depended on development and density. This option provided parts of the system. There was a lot of density in the regional center plan.

Councilor Barnes asked how traffic would be managed as people turned into the parking lots.

Mr. Johnson did not have a design speed at this time. It would probably be 35 mph, but they will try to get it lower. Today the road achieved the goal of moving traffic, but they would also eventually look at access. There would likely be a lot of right-in / right-out. The only full intersection was east of the Aquatic Park and the rest would be limited. It was big nodes/little roads with limited left-turn movements.

Councilor Loomis asked why the road needed to be built.

Mr. Johnson replied it was planned for today to deal with safety and congestion issues on 82nd/Sunnyside, 82nd/Sunnybrook, and Fuller/Harmony. The County needed to provide systems and not segments. This was one of the last legs to deal with the 20-year plan although it was a difficult discussion. There was a decision 20 years ago to provide connectivity, but who knows what will happen in the next 20 years.

Councilor Loomis appreciated the change although he was hoping for a partnership that would put a boulevard through Milwaukie.

Mayor Ferguson asked how many lanes there would be if 82nd Avenue were expanded.

Mr. Johnson discussed the number of lanes and said to get the turning movements it could take up to 10 lanes. They had also heard a lot about pedestrian connectivity.

Mayor Ferguson noted much of the area was elevated from 3-Creeks so if it was expanded how much would it encroach?

Chair Peterson responded there would be a lot of fill.

Mayor Ferguson asked if there were plans for a tree survey.

Mr. Johnson replied the County planned to do so and would study the overall impacts. Based on rough numbers with the EIS alignment about 6% to 10% of the total trees would come out of the estimated 2,200 trees.

Chair Peterson had walked the area with Commissioner Lehan, and she requested a tree survey by a professional arborist to determine the types and sizes of trees in the corridor that could or should be saved.

Councilor Chaimov asked Mr. Swanson what role if any the City had to play in these discussions.

Mr. Swanson responded the improvements were in the unincorporated area. The City's role was at the sufferance of the County and their inclusion of the City in its process. Councilor Barnes had been attending lots of meetings, so the City's role was one of participating and giving input.

Councilor Chaimov asked Chair Peterson at the time of rebuttal what role the City would play.

Mr. Parkin said the City had no official position at this time, but he was well informed on the process.

Mr. Johnson pointed out the newest construction and future development areas.

Mr. Parkin discussed potential future traffic increases and levels of service (LOS) at the intersections. The municipal code calls for an LOS of D, and currently the Linwood/Harmony intersection was at LOS E during peak hours. The neighborhood association identified a number of short-term fixes, and he outlined potential issues with the railroad.

Ms. Mangle discussed how Milwaukie was impacted downstream in terms of environment and traffic. A lot of work was being done on restoring Kellogg Creek and protecting habitat in riparian areas. The City was trying to be better stewards of the environment which had a direct connection to the City's drinking water source. Her perspective on the visioning effort was a refreshing change of approach to the earlier plans and allowed good conversations.

Chair Peterson addressed Milwaukie's role. The first was advisory because the site was outside the City limits at this time. There was also joint management of the area in terms of traffic, so they might want to talk about what could be done between Milwaukie and the Clackamas Town Center and available management tools when the Regional Center expanded. She would look forward to working jointly in the future.

Mr. Swanson observed that was timely as the Urban Growth Management Agreement (UGMA) had expired some time ago. Lake Oswego had a different UGMA than other cities. He felt the City would welcome a more active plan.

Chair Peterson added the other conversation at the County level was the County's role in the provision of urban services and for the long term how to provide higher levels of service through the cities. One of the issues was changes in land uses and who managed the area and size of road in the long-term.

Beth Kelland, Linwood Neighborhood District Association (NDA) Chair, sat on the PAC for 2 years. In the past it seemed as if politeness was construed as approval. They were opposed to any road in the neighborhood, and the second road would not alleviate the current bottleneck. Neighborhood cut through traffic was not moving fast enough to speed. This would just add to the safety problems near our schools.

Dave Aschenbrenner, Hector Campbell NDA Chair, supported the Linwood NDA's position and expressed concerns with impacts to Railroad Avenue. The amount of traffic now was not neighborhood related. People were also concerned about the proposal's impact to the wetlands and natural area.

Ms. Kelland encouraged the Milwaukie City Council to vote in opposition to the extension for the record. Traffic should go back to Hwy 224 and not into the neighborhood.

Ann Wilson, Milwaukie, moved here from Portland for the small town atmosphere and good walking places. The 3-Creeks area was the Mecca of parks, and she did not understand why a road would be built through the wetland and why 500-year old trees would be cut down. To use the word green and construction in one sentence did not seem appropriate. For the sake of the trees, birds, and people leave it as it is without roads. Connectivity should be about connecting people and not cars.

Chris Runyard, Tsunami Crew/Friends of Kellogg and Mt. Scott Creeks. The 3-Creeks area was his second home as he had spent thousands of hours in stewardship with the Crew planting 21,000 native trees and shrubs and working on wetland and streamside riparian zones. Little upland Oak remained in the Willamette Valley which they were aggressively defending. When one talked of removing only 2,200 trees some Oaks would not be replaced in our lifetimes or our great-great grandchildren's lifetimes. To touch this area for a pet road project, Sunnybrook, was shocking. He understood the intersection was nearly failing at LOS E. Water Environment Service (WES) says the watershed was failing which Mr. Runyard believed should take precedence over a failing intersection. Most hours of the day one can move right through, so it should be acceptable. Paving any of it was absolutely unacceptable. Cutting down an Oak tree was forever. This one sliver of green was all that was left after paving, and we were fighting over the scraps. They believed a small road would end up a big road. He believed the ODOT and Toy R Us property were fair options for campus expansion. He expressed concern about Milwaukie and the downstream traffic. Each of the large Oak trees can intercept up to 5,000 gallons of water and if cut there would be more flooding.

James Thompson, Portland, Tsunami 3-Creeks Restoration volunteer. He had worked on restoration projects for the past 11 years with the Nature Conservancy and Friends of Trees. He spoke at this meeting as a Tsunami volunteer and urged the City to move forward with the Kellogg Lake restoration project and recognize the 3-Creeks area was

part of a strong watershed. He urged the Milwaukie City Council to come out against the Harmony Road Master Plan as proposed with the Sunnybrook Road extension. He urged that the City Council recognize the volunteer efforts and incorporate those into the campus plan rather than cutting the campus off from the rare habitat with a road. Move forward and let the campus be truly green rather than one that extended and depended on unsustainable growth patterns and outdated transportation goals.

Charlie Ferranti, Portland, Tsunami volunteer for 9 years. The 3-Creeks area was an ecosystem and did not work if segments were removed. The upland Oak habitat was an essential piece of a functioning stream system, and the dead and dying trees were some of the most important as they provided food and habitat. The impact of Sunnybrook extension on the entire creek system would be extensive and could not be avoided. The 52-foot road would have a significant impact on the upland habitat that would in turn impact the whole 3-Creeks system. This was an essential component of the natural area.

Pat Russell, President-Secretary North Clackamas Citizens Association (CPO). He stated this was a natural area and not a park. He was disappointed that County Chair Peterson was representing herself of behalf of the Commission as he understood the body had not voted on this matter. She may be speaking about the Comprehensive Plan. Mr. Russell would ask his CPO to authorize him to ask the County for a Comprehensive Plan amendment to change the map and get rid of the road. The City of Milwaukie and County should communicate with the neighborhood associations and the CPOs since all were partners. He was concerned about the significant changes resulting from the Sunrise Corridor, the regional center, and this project. What was the hurry to build this road? He supported the concept of growing inward, and the regional center should take the density and be a people place. The relative policies needed to be revisited, and he hoped the City of Milwaukie would participate in the growth management update that included the Regional Transportation Plan (RTP). He encouraged the City tell the BCC not to move so fast because there was no overarching pressure.

Steve Berliner, Director Friends of Kellogg and Mt. Scott Creeks Watershed. Normally his group did not weigh in on public works projects because the Friends were watershed advocates. But in this case there were many reasons for opposition because of watershed health. He thanked the City Council for its guidance and staff for its work on restoring Kellogg Lake. This proposed road project would pretty much neutralize the efforts downstream. Most of the impacts would be on this wonderful natural area, and some would filter down to the current Kellogg Lake area. This project would invite significant litter to the area. Why do it to wildlife and habitat in the upland Oak area? He discussed future increased traffic near the MarketPlace. He urged getting people to the campus who needed to be there and not separate it from the wonderful natural area. He recommended a 50- to 100-year vision for this area as a real community focal point in Clackamas County. The trees should not be sacrificed for a short-term gain.

Dick Shook, Clackamas County, member of Tsunami and Kellogg and Mt. Scott Creeks Watershed Board. He thanked Councilor Loomis for asking why the road was needed because he did not understand either. When talking about a green campus why was there a road through the middle? Will traffic control really work on the campus? How long would it be before the road was widened and more trees removed? Would this road produce more through traffic although traffic control was discussed? A number of people testified in support of the green area who came down on their weekends to volunteer their labor to improve the watershed. He urged the City Council to vote for trees, the neighborhood, and the environment; not for more pavement.

Rob Kappa, Milwaukie, spoke as an individual. Excellent points were made by those who had a love and passion for protecting a small area like this which in the future will be an even more precious gem. He felt strongly that we needed to go back to the drawing board with this road. Although it was stated that the impact would be minimal, he felt it would be dramatic. Chair Peterson stated one Commission cannot tie the hands of another, and sometime there would be Commission that wanted to expand the road and destroy the watershed. It was a choice between a road and a watershed preserved for future generations. In the past 60-years 74% of the watersheds in Oregon were gone due to agricultural practices and development. Those who spoke were not obstructionists; they wanted to help the City and County look at the environment first and consider other alternatives.

Chair Peterson deeply respected those who spoke. The County Commission was trying to balance partnerships and develop those area slated for development while protecting these gems. While Milwaukie did not have a UGB it was on the County's agenda, and it was not going further out into farm and forest land. It was an honor to work with Clackamas Community College and OIT. She noted she had spent her career trying to rightsize roads and make the entire system to work for connectivity. The County was willing to work with the City on downstream watershed and traffic shed issues.

Mr. Swanson did not schedule this matter for a decision but so the full Council could receive information. He asked what the process would be and how the City would interact. Staff has not had enough time to do a lot of study and respond, but he assumed there was a process that had just begun.

Mr. Johnson replied the process started in 2006 with public outreach and discussions. This was a locally-funded process and was not a federal EIS process. The plan had been to give this presentation when the master plan was finished which he assumed would be completed in June. It was up to the County to spec out how the stakeholders partnered from that point forward, and he had not put form to it yet. Fundamentally there needed to be guidance from the BCC to move forward with construction.

Chair Peterson asked for more specifics from the City in terms of a partnership. Was it traffic, for example, or green streets and other elements? They would try to formulate that into the process Mr. Johnson was developing. This matter was before the Commission Thursday for an update, but they would talk with the City before taking any action.

Mr. Swanson mentioned the map in the front of the room that showed the City's boundary as noted in the UGMA which included this particular area. He understood the UGMAs had expired, but the City did have an interest and held that area dear as it was in the Agreement.

Chair Peterson said it would be helpful to know the specific areas of interest without the County's having to guess.

Councilor Barnes still heard from the community they did not want this to happen. Two neighborhoods and an important segment of the community had come forward in opposition while the BCC wanted the road to go through. She hoped there could be some resolution because there were still many concerns. She did not recall this alternative on the table during the PAC and PRC meetings. Was there a way to do this without impacting the environment?

Chair Peterson understood Councilor Barnes wanted to see a committee formed that would deal with the specific issues left on the table. Or design charrette?

Councilor Barnes did not think a committee. She suggested sitting down together to come up with ideas that might work.

Chair Peterson responded the County had a lot of ideas on the table already. Could County and City staffs meet to talk about what they heard from the neighborhood in terms of the turning movements and signal timing and that sort of thing? Could that be part of the letter?

Councilor Barnes said citizen input would be directed to staff.

Mayor Ferguson called for a recess.

C. Preliminary Engineering Update on Light Rail Status No.1

Ms. Hemmen provided an update on progress and issues related to Preliminary Engineering (PE) on the light rail project in the City of Milwaukie. Nine months ago the region adopted the Locally Preferred Alternative (LPA), and the City of Milwaukie signed an umbrella agreement with TriMet regarding its expectations of the project. At the end of March 2009 the Federal Transit Authority (FTA) granted approval of PE for the project, and TriMet expected to be 30% complete by February 2010. She briefly discussed the Willamette River crossing and the Eastside Portland Streetcar. Ms. Hemmen stressed the importance to Milwaukie of the project's ending at Park Avenue. Public outreach is ongoing with a substantial number of meetings scheduled. Staff is working with TriMet and Metro on mitigation of visual impacts to the Ardenwald Neighborhood. Coordination with the Kellogg for Coho Initiative continues on efforts to obtain federal and state permits for both projects.

Councilor Barnes had been taken off guard with the report in regards to the elevated structure near the Ardenwald Neighborhood. Where were we with the Neighborhood and the concerns that had been raised?

Ms. Hemmen was working to schedule a meeting with Matt Rinker and his group to walk the alignment and a subsequent meeting to review the data with affected residents.

Mr. Asher added there would be impacts close to the structure on the edge of the Ardenwald Neighborhood. Even thought that was disclosed in the DEIS it had not been highlighted. The impact issues were described in broad terms and mitigations had not been suggested in that document. The first thing was to understand the extent of the impacts. The commitment was to gather that information and put it in an understandable form to present to the neighbors. Early suggestions were that the greatest impacts would be near Roswell which would lessen as the train went south. Staff would provide drawings for the neighborhood and get people's reactions.

Councilor Barnes noted there had been discussions with former Police Chief Larry Kanzler regarding live video feeds and asked if there were any updates.

Mr. Asher reported there were ongoing discussions with TriMet and that he and Ms. Herrigel were going to meet with Chief Jordan. Live feeds were not currently common practice in the TriMet system, and there were monitoring complications. That idea had been talked about repeatedly but without any resolution as to how to carry it out. Safety and security were the focus of the project, and he thought there would be more to say on that subject before PE was done.

Councilor Chaimov asked who prepared attachment 1, SDEIS of Milwaukie issues and why.

Ms. Hemmen replied she prepared the attachment which began as her notes to track the issues.

Mayor Ferguson and **Councilor Loomis** had no comments or questions. Mayor Ferguson called for public comment on light rail.

Les Poole, Clackamas County. His family donated property for Robert Kronberg Park and his was a familiar face on regional issues. It was ironic they were talking about the 3-Creeks that flowed down to Kellogg Lake. He had a lot of concerns about Kellogg Lake. This was not an attack on the County Commissioner, but she was understandably evasive. He commented on what had gone on a couple of years ago with Kellogg Lake. He thought about how originally the LPA was at Southgate. He thought about how he and others were treated at the hands of Councilor Barnes and former Councilor Collette. He referred to the big stack of emails he had with him. Excluding other Councilors. Backdoor meetings. Attacks on him and others calling them the idiot fringe. He had no confidence whatsoever in the light rail process. He did not come down here for political purposes but because it was time to take care of the environment. He was talking about everything. He did not trust Councilor Barnes to help make that happen. He began to read the emails that were public record.

Councilor Barnes said as part of the code personal attacks toward staff and Council should not be made, and asked Mayor Ferguson if he would allow this attack to continue as it had nothing specifically to do with the business on the agenda.

Mr. Poole said it did not have to have anything to do with tonight's business. It was pertinent to what has been an ongoing fiasco. He began reading an email which was a public record anyone could read. If he could not read the material he would go to the press or an attorney. He was not there to threaten anyone individually. He stopped talking as he did not wish there to be any more commotion or confusion; he was not a combative person. Anyone who looked at the public record or video and saw how citizens had been treated in the past would probably agree it was time for Councilor Barnes to resign. He hoped he would not have to wait 3 months for the minutes.

CONSENT AGENDA

It was moved by Councilor Chaimov and seconded by Councilor Barnes to adopt consent agenda as presented:

A. Resolution 26-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for the Construction of Main Street Wastewater Line Extension (Jefferson Street to Scott Street)

Resolution 27-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Transferring Appropriation Authority.

Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

Adoption of Transportation Code Amendments, Land Use File ZA-09-02 – Ordinances

Mayor Ferguson called the hearing to order at 9:16 p.m.

Councilor Chaimov said given that Councilor Stone was excused and absent from this evening's meeting and has indicated a desire to participate on this agenda

item, and given that staff has at City Council's direction provided alternatives that City Council members desire to study further, and given that the public hearing on the Transportation code Amendments, Land Use file ZA-09-02 was properly noticed for this evening and may be continued to a future hearing upon motion and approval by the City Council he moved that the public hearing on the Transportation Code Amendments, Land Use File ZA-09-02 be continued to the June 2, 2009, Regular Council meeting at 7:00 p.m. in City Hall. Mayor Ferguson seconded the motion. Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]

OTHER BUSINESS

A. Council reports

Councilor Barnes announced the Friends of the Library Plant Sale and opening day of the Milwaukie Farmers' Market.

Mayor Ferguson announced Speaker of the House Dave Hunt's Town Hall.

ADJOURNMENT

It was moved by Councilor Chaimov and seconded by Councilor Barnes to adjourn the meeting. Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]

Mayor Ferguson adjourned the regular session at 9:18 p.m.

Pat DuVal

Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL
MAY 5, 2009

MILWAUKIE CITY HALL **2053RD MEETING**
10722 SE Main Street

REGULAR SESSION – 7:00 p.m.

1. CALL TO ORDER **Page #**
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS **1**

A. Safety Break of Oregon -- Proclamation **2**
B. Harmony Road Presentation
C. Update on Light Rail Status (Wendy Hemmen) **2-1**

3. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)* **3**

A. Award of the Main Street Wastewater Line Extension Project – Resolution **4**

4. AUDIENCE PARTICIPATION *(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)*

5. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)* **15**

A. Adoption of Transportation Code Amendments, Land Use File ZA-09-02– Ordinances (Susan Shanks) **16**

6. OTHER BUSINESS *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

A. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

PROCLAMATION

Proclamation by *Mayor* Jeremy Ferguson

Workplace Safety Awareness Day in City of Milwaukie

Wednesday, May 13, 2009

WHEREAS, the City of Milwaukie, Oregon OSHA and other organizations in Oregon recognize that ensuring safe workplaces in our state is a responsibility we all share; and

WHEREAS, Oregon's safety community has made significant progress in reducing worker deaths and injuries in the thirty-four years since the passage of the Oregon Safe Employment Act in 1973; and

WHEREAS, safe workplaces in Oregon result from business, labor and government collaborating to reduce the human and economic toll of workplace injuries and deaths.

Now, therefore, I, Jeremy Ferguson, *Mayor* of the City of Milwaukie, hereby proclaim Wednesday, May 13, 2009, as Workplace Safety Awareness Day in Milwaukie and urge all citizens to recognize employers and workers for their important work and continued dedication to safety.

_____
Jeremy Ferguson, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenneth Asher, Community Development and Public Works Director

From: Wendy Hemmen, Light Rail Design Coordinator

Subject: Preliminary Engineering Update on Light Rail Status No.1

Date: April 22, 2009 for the May 5, 2009 Meeting

Action Requested

None. This is an informational update on progress and issues related to Preliminary Engineering on the light rail project in the City of Milwaukie.

History of Prior Actions and Discussions

2007- 2008 - Various actions and discussions related to the South Corridor Phase 2 Light Rail Project, also called Portland-to-Milwaukie Light Rail, including adoption of a locally preferred alternative and an Umbrella Agreement with TriMet regarding transit improvements and expectations in the City of Milwaukie over the next ten years.

Background

It's been nine months since the region adopted the Locally Preferred Alternative (LPA) for the Portland-to-Milwaukie Light Rail project. Since then TriMet prepared and submitted an application to the Federal Transit Administration (FTA) to enter Preliminary Engineering (PE) phase of the project. Approval was expected in March.

On March 31, 2009, FTA granted approval of Preliminary Engineering for the Portland-Milwaukie Light Rail Project. Because of the FTA's lengthy approval process, TriMet has ramped up efforts to complete the PE in less time than originally planned. PE will be 15%

complete in July 2009, 25% by November 2009 and 30% by February 2009. Engineering consultants, surveyors, biologists, and architects have begun developing the LPA as depicted in the July 31, 2008 plan set (5%), and progressing the design to 30% complete.

The SDEIS was completed May 2008. A summary of important Milwaukie issues is attached. The FEIS work has begun and will be completed during PE, as the plan set reaches 30% completion. The FEIS must be complete and accepted by April 2010 for the FTA to issue a Record of Decision (ROD) which will allow the project to progress to additional phases.

The Willamette River Crossing is a focus for the project. At the City of Milwaukie staff are watching and reminding project partners that the light rail must get to Park Ave. The East Side Portland Street Car project was recently approved for funding and will need integration with the Portland-to-Milwaukie Light Rail as the streetcar will use the same crossing and tracks as the LRT on the new bridge.

Station and Park and Ride Planning are just beginning. Milwaukie staff is coordinating closely with TriMet and Portland staff to begin planning for Tacoma station area. Two public workshops are planned for early summer. Milwaukie downtown station planning which will build off of the South Downtown planning will get under way in May and June. Park Ave Station area planning is being led by Clackamas County and will have Milwaukie staff input.

A Trolley Trail meeting was held on April 23, 2009 where the coordination of the trail construction and light rail were discussed. North Clackamas Parks, Milwaukie, TriMet and various consultants attended. Follow up meetings were requested to make the best use of public funds and meet public needs for both projects.

The Technical Advisory Committee East Side is meeting twice a month and working through all issues on the east side. Currently most issues focus on the Portland sections.

The Citizens Advisory Committee met April 16th. Project staff delivered presentations regarding train horn noise and quiet zones, station locations at 17th Avenue and Harbor Drive, an update on the Willamette River Crossing, and a recap of public outreach efforts. The CAC will continue to meet on a monthly basis to raise and track concerns from each members' constituencies.

Public Outreach is ongoing. A light rail meeting was held on April 27, 2009 where the City of Milwaukie presented the alignment in as much detail as is currently known, large maps depicting the alignment and structures were presented. Monthly community outreach meetings will continue on the third Monday of each month. Other public meetings will be held in Milwaukie as necessary.

TriMet expects additional visual impacts analysis to begin in August 2009 after PE reaches 15%. The City of Milwaukie is reviewing the visual impacts to the Ardenwald Neighborhood and is compiling a brief explanation and map. City staff is working with TriMet and Metro in this process.

Coordination with the Kellogg for Coho Initiative continues with LRT staff and City staff collaborating on efforts to obtain federal and state permits to sample data for geotechnical and environmental reports for both projects.

Concurrence

None, as no action is requested at this time.

Fiscal Impact

None, as no action is required at this time.

Work Load Impacts

Per the June 2008 Umbrella Agreement with TriMet, the City has hired the project-funded position to assist the City on this project. This position fills a vital role in Community Development by working closely with many City staff and outside jurisdictions and project team members. Other city staff continue to work with TriMet on LRT to an extent manageable within existing work plans.

Alternatives

None listed, as this is a discussion item only.

Attachments

1. SDEIS Summary

SDEIS Summary of Milwaukie issues

Economic issues appear to be balanced with some initial lost tax revenue for COM.

Visual impacts to various neighborhoods are shown in the appropriate section. Ardenwald is listed as moderate (Tillamook no change), McLoughlin Industrial moderate to high (Tillamook low to moderate), Historic Milwaukie moderate to high (Tillamook moderate). The question I have is why no change to Ardenwald. The SDEIS states that transportation and industrial separates the areas with the Tillamook line. Based on the reading of the report it is not accurate to actual conditions. Transportation element is currently adjacent to Ardenwald however no structures, per the SDEIS elevated structures are high visual impact.

Identified Natural Resource permits required from:

Federal

NEPA (EIS) from FTA,
CWA 404 individual permit from ACE,
ESA from NMFS and USFWS,
FWCA from USFWS, NMFS, ODFW,
MSFCMA from NMFS,
MBTA from USFWS,

State

Oregon Removal-Fill from DSL,
Oregon ESA from ODFW and ODA,
CWA section 401 WQ cert from DEQ and USEPA,
OFPS from ODFW,

Local

Portland Greenway Review from COP,
EOZ from COP,
COMNROZ from COM,
Setback Requirements from CC

Other Local not listed

Street r/w permit sidewalks curb etc.
Utility permits
WQ treatment permits
Grading permits
Structure permits for walls and structures on private/public property
Roadway relocation – under 224
ODOT Rail permit for relocation of affected rail lines
Electrical
Quite Zone
Rail traffic control elements on public/private infrastructure
Station elements etc.
New bus elements

Possible street closures
Traffic signal and improvements near project
4(f) pubic lands
Kellogg Creek outlet is listed as Historic Resource

Wetland Creek areas affected in/near Milwaukie:

Johnson Creek
Depressional wetland feeding Johnson Creek
Crystal Creek
Spring Creek
Kellogg Lake
Depressional Wetland on Trolley Trail area
Courtney Springs Creek at Park Ave park and ride

Locations for wetland mitigation need identification.
Fish passage allowed/restored if stream crossings impact streams where native fish reside.

Flood plain issues at Tacoma Station/Johnson Creek and Kellogg Lake
Kellogg Creek noted to clear span, no piers.

Noise and Vibration

No severe Noise impacts were identified. Identified moderate noise impacts are three residences just north of Harrison St.; and two county residences north of Park Ave Station. along 27th Ave. Noise impacts at Waldorf and Trolley Trail locations are below FTA regulated criteria.

Vibration impacts were noted at 5 residences north of Harrison St. due to efficient propagation in the area; one at Portland Waldorf School; 6 between Harrison St. and Lake Rd.; 2 impacts south of downtown.

Additional testing will be done during preliminary design stages to further refine mitigation measures.

Short term impacts (construction) must comply with City ordinances, variance may be requested in some cases.

Noise mitigation measures include: 4 to 8 foot tall walls, track lubrication, insulating affected structures, special track connectors, reduced train speeds.

Vibration mitigation measures include: Ballast Mats, resilient fasteners, Tire Derived Aggregate (shredded tires), special trackwork, and reduced train speed.

Air Quality

With the light rail project the air quality is projected to increase as a result of this project, thereby reducing the pollutants in the air.

Energy Consumption

Less energy consumption for the region occurs with the light rail project in place.

3.
CONSENT AGENDA

To: **Mayor and City Council**

Through: **Mike Swanson, City Manager**
Kenneth Asher, Community Development/Public Works Director
Gary Parkin, Engineering Director

From: **Jason Rice, Associate Engineer**

Subject: **Award of the Main Street Wastewater Line Extension Project**

Date: **April 16, 2009 for May 5th Regular Session**

Action Requested

Authorize the City Manager to sign a contract for the construction of Main Street Wastewater Line Extension (between Jefferson Street and Scott Street), with Canby Excavating Inc., in the amount of $455,365.25.

Authorize an increase to the 2008/09 budget for this project by $295,365.25 using funds from the Wastewater SDC fund (fund 545) as planned for in the adopted budget (FY 2008-09) and proposed in the FY 2009-10 budget (per the adopted Capital Improvement Plan).

Adopted 2008/09 Budget (Design and Construction)	$ 180,000.00
Project Design	$ (20,000.00)
Bid from Canby Excavating	$ (455,365.25)
Transfer Amount Required to Sign Contract	$ (295,365.25)

History of Prior Actions and Discussions

March 2009: Staff briefed Council on this project before recommending a grant program to help with the cost of re-connecting laterals to the new project main. City Council directed that the additional cost (up to $80,000) be included in the 2009/2010 budget (Wastewater SDC fund the "reimbursement portion").

December 2008: During a presentation to Council on Community Development Block Grants (CDBG), the Main Street wastewater work was mentioned as a possible applicant for funds. Council directed Staff to seek CDBG funds that could be directed to the Main Street Project. Staff applied for such funds, but did not receive a CDBG award for this particular project.

June 2008: Staff presented the 2009-2013 Capital Improvement Plan along with the 08/09 City Budget for adoption. Both were adopted by resolution (58-2008). This project, under the title "Main Street Main", was included in the 2009-2013 Capital Improvement Plan as a two-phase project.

Background

The blocks immediately east of McLoughlin Boulevard, between Scott Street and Jefferson Street, are served by a badly aging sewer main. This area contains about fifteen buildings, several with multiple tenants. The existing main is an 8-inch vitrified clay pipe, which was installed in the 1920's. Because of its current location, material and age, maintenance of the pipe is increasingly difficult and there is potential for serious failure.
Replacing this pipe is an important investment in preventative maintenance.
The original sewer main was constructed mid-block in what used to be a public alley. However, that alley was vacated and several buildings have been constructed over the top of the pipe. (The main was constructed under an emergency ordinance, passed in 1926.)

The current situation leaves the City vulnerable to liability if the main were to fail underneath a building and damage the building. In addition, this situation limits new investment or re-development in the area because of large potential costs and uncertainty.

The current City Capital Improvement Plan (CIP) includes a project to correct this situation by constructing a new main in Main Street from Jefferson Street to Scott Street, with additional mains down Monroe, Jackson, Harrison and Scott. The primary main would be a 10-inch PVC pipe and would accommodate future potential increases in capacity. The planned project includes service laterals, the portion of the sewer

lateral in the public right-of-way, which have been located to serve the existing buildings.

The project allows the City to abandon the sewer main block by block as the property owners connect. The design also allows the City to immediately abandon the main on the Town Center block.

Originally this project was scheduled to be completed in two phases over two budget years. Prior to designing the project, staff estimated a total project cost of $340,000 over the 2008/09 and 2009/10 fiscal years. After completing the design phase, and discovering the depth required for tying into the existing main was deeper than originally thought, it was apparent that staff had underestimated the project cost. Once the project was completely designed, the cost was re-estimated at $640,000 (reflected in table below).

The current state of the economy has led to lower construction costs, although that may change as Federal Stimulus projects begin. To take advantage of the current economic situation and complete the project in a shorter timeframe, staff prepared the bid package to include both phases of the work. The additional work is described in the bid documents as “Bid Alternate” work. The bids received verified the lower cost assumption, and enabling the City to complete the entire project in one phase.

Contractors were pre-qualified for this project because of the difficult conditions presented by the depth of the main and the downtown setting. Pre-qualification requirements included experience working in similar conditions, verification of bonding capacity, and a reference check. Seven companies submitted request for qualification packets prior to the March 26, 2009 5:00 PM deadline. Of the 7 packets submitted, 4 met the minimum qualification of having completed at least 5 municipal projects within in the last 10 years with at least one being in a downtown setting.

A mandatory pre-bid meeting with the 4 pre-qualified contractors was also held. The intent of this meeting being held on site was to ensure that the bid amounts accounted for the proximity to the surrounding businesses and high level of traffic control concerns.

The project went through a competitive bidding process in accordance with Chapter 30 of the City’s Public Contracting Rules. The City received 3 bids by the April 8, 2009 1:30 PM bid opening. The following table is a summary of all bid amounts as well as the engineer’s estimate.

	Contractor	Base Bid	Bid Alternate	Total Contract Price
1	Canby Excavating	$166,209.00	$289,156.25	$455,365.25
2	Dunn Construction	$237,606.00	$344,966.00	$582,572.00
3	K&R Plumbing	$246,500.00	$423,447.01	$669,947.01
***	Engineers Estimate	$220,000.00	$420,000.00	$640,000.00

The Community Services Department has sent out multiple informational sheets to the downtown business owners, updating them about project timelines as well as the expected impacts at the time of construction. One more mailing will go out once the contract is awarded and Staff can better prepare the downtown for the construction.

Additional outreach to the broader downtown business community is planned once a construction schedule is fixed. There will be some impacts from construction, however sidewalk access to businesses will be maintained throughout the project.

Concurrence

Engineering staff coordinated with Operations on both concept and design phases of the project.

Project budgeting was discussed with the Finance Director, and he concurs with the funding allocations.

The parking plan was developed by the Engineering Department is conjunction with Community Services (Parking Enforcement).

Fiscal Impact

This project is a part of the 2008-09 CIP (Phase 1 at $180,000 in FY 2008-09 and Phase 2 at $160,000 in FY 2009-10). The approved budget includes $160,000.00 for construction of phase one along with $20,000 for design which has already been spent. Prior to bidding, Staff was going to include the phase two cost in 09/10 budget, but is now requesting that these funds be added to the 08/09 budget so that Canby Excavating can be under contract for the entire project.

The proposed 2009/2010 budget will includes $400,000 for phase two (estimate prior to bid opening). All funding for this project will come from the Wastewater SDC Fund (reimbursement portion of the fund). The current fund is about $1.3 mil.

This project will extend into the next fiscal year, with a likely completion date of September 2009.

Work Load Impacts

Engineering staff will provide “in-house” inspections on this project. This will reduce the cost of the project and increase the workload of the Engineering Staff over the course of the project.

Alternatives

1) Do not award project (defer indefinitely)
    - If council wishes not to award the project and remove it from the CIP list.
2) Re-bid project without amendments
    - If council approves of the project design but thinks the project should be re-bid for any reason.
3) Direct Staff to modify project and re-bid
    - If council does not approve of the project design and/or thinks that re-bidding could reduce cost.

Attachments

1) Project Vicinity Map
2) Latest Informational mailer sent out by Community Services
3) Parking Plan
4) Sample of letter to be sent with Parking Plan
5) Resolution for Contract to construct Main Street Wastewater Line Extension Project
6) Resolution for Budget Amendment



MILWAUKIE
Dogwood City of the West

Main Street Wastewater Line Extension

Project Vicinity Map

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Milwaukie Main Street Wastewater Line Extension Project

MILWAUKIE
Dogwood City of the West

Main Street Construction and Related Impacts

Project Background:

The blocks immediately east of McLoughlin Boulevard, from Scott Street to Jefferson Street, are served by an aging sewer main. The existing main is an 8-inch vitrified clay pipe, which was installed in the 1920's. The main was constructed mid-block in what used to be a public alley. However, that alley was vacated and buildings have been constructed over the top of the pipe. Because of the location, material and age of the pipe, maintenance is increasingly difficult and there is potential for serious failure.

Replacement Main:

The City will construct a new primary main in Main Street, with additional mains down Scott, Harrison, Jackson and Monroe. The primary main will be a 10-inch PVC pipe and would accommodate future potential increases in capacity. The City will continue to maintain the existing line as long as it is fiscally prudent to do so, but the intent is to get the new main in the ground as soon as possible to maximize the opportunities for a gradual transition to the new main as properties redevelop or have significant improvements made.

Construction Schedule:

City Council has provided staff direction to move forward with this project and is expected to award the contract at its May 5th Regularly Scheduled Meeting.

Once the contract is awarded construction will begin at the south end of the project at Jefferson Street, and move north to Scott Street.

- Construction to begin: May '09
- Projected completion: Before October '09

Traffic and Parking Impacts:

Construction will take place on one block face at a time.

Work is expected to take about a week at each block face.

While work is underway on a particular block the east travel lane will remain open. Parking spaces will be temporarily unavailable because of construction equipment will be in the area.

Traffic will be limited to one direction, and detours will be in place during construction. Flaggers will be on site to direct traffic.

Work in each intersection will take about a week, and traffic will be detoured around the intersections during these times.

The City apologizes for the traffic and parking disruptions this work will cause. The City is developing a parking plan to recover temporarily lost parking.

The City will be in contact with Downtown businesses in the near future as the project schedule firms up and parking alternatives are determined.

Questions:

Jason Rice, City of Milwaukie Associate Engineer
Office: 503.786.7605 ✦ Cell: 971.793.3906
email: ricej@ci.milwaukie.or.us

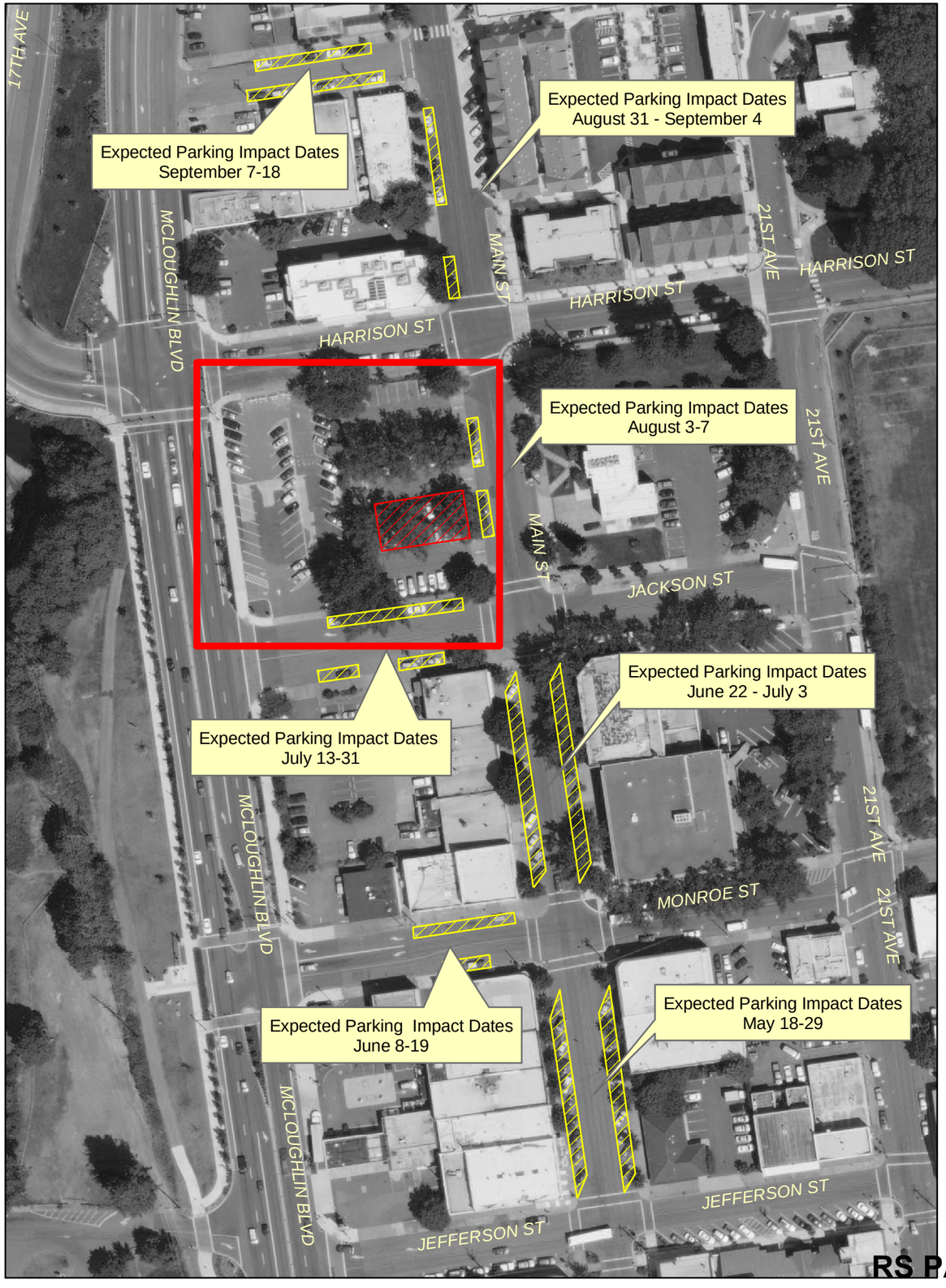
Main Street Sewer Concept Plan

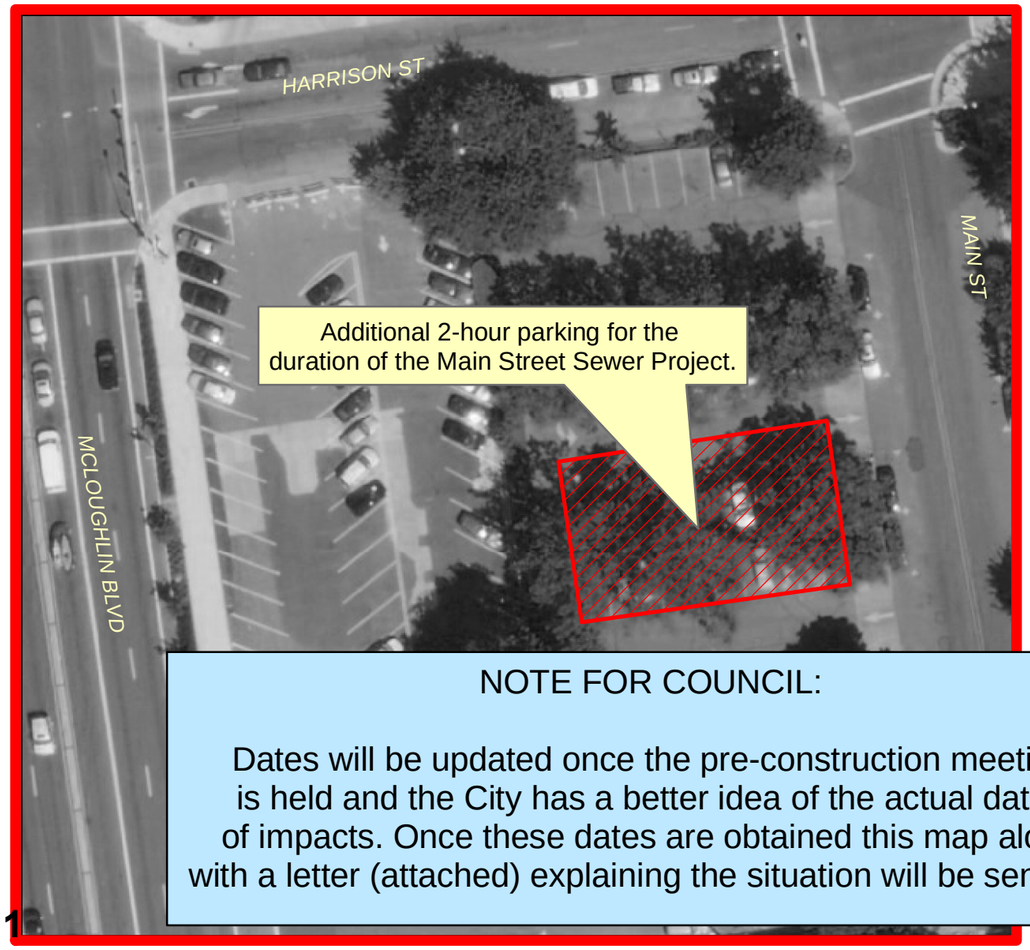


1 inch equals 100 feet

Main Street Wastewater Line Extension Project
Parking Plan with Expected Impact Dates

Please direct your customers having trouble finding parking to the temporary 2-hour parking shown below.





NOTE FOR COUNCIL:

Dates will be updated once the pre-construction meeting is held and the City has a better idea of the actual dates of impacts. Once these dates are obtained this map along with a letter (attached) explaining the situation will be sent out.

<Date>

<Owner>
<Address>
<City><State><zip>

RE: Main Street Wastewater Line Extension Project

Dear <Owner>,

This letter serves as notification that a project to construct a new wastewater main in Milwaukie's Downtown has recently been approved for award. In the pursuit of minimizing the affects to the downtown, the City will be converting 18 permit parking stalls to 2-hour parking for the duration of the project. Included is a map which can be handed out to direct your customers to the newly available parking spaces. On the map you will also find the expected dates of the construction impacts.

The City hopes that the downtown businesses understand the necessity of this construction and if there are any questions regarding this letter or the project in general, please call me at (503) 786-7605.

Sincerely,

Jason Rice
Project Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR THE CONSTRUCTION OF MAIN STREET WASTEWATER LINE EXTENSION (JEFFERSON ST. TO SCOTT STREET).

WHEREAS, the wastewater main located between Main Street and McLoughlin Boulevard, running from Jefferson Street to Scott Street, is deficient in structure and poses risk to the City and the adjacent businesses; and

WHEREAS, the project was included in the 2009-2013 Capital Improvement Plan; and

WHEREAS, the project was approved for funding in the 2008/2009 budget; and

WHEREAS, a pre-qualification process was conducted;

WHEREAS, four companies met the minimum project requirements; and

WHEREAS, a pre-bid meeting was conducted with the four qualified companies where the site location and proximity to the downtown businesses was witnessed prior to bid submittal; and

WHEREAS, Canby Excavating Inc. is the lowest responsive and responsible bidder;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie authorizes the City Manager to sign a contract for the construction of Main Street Wastewater Line Extension with Canby Excavating, in the amount of $455,365.25.

Introduced and adopted by the City Council on April 21, 2009.

This resolution is effective on April 21, 2009.

_____
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TRANSFERING APPROPRIATION AUTHORITY.

WHEREAS, the wastewater main located between Main Street and McLoughlin Boulevard running from Jefferson Street to Scott Street is deficient in structure and poses risk to adjacent businesses; and

WHEREAS, phase one of the project was approved for funding in the 2008/2009 budget for $180,000; and

WHEREAS, phase two of the project is in the City's current Capital Improvement Plan for 2009/2010 budget for $160,000; and

WHEREAS, completing the two phases together in the current 2008/2009 fiscal year is fiscally and logistically prudent; and

WHEREAS, the City Council has authorized the City Manager to sign a contract for the construction of both phases of the Main Street Wastewater Line Extension with Canby Excavating Inc., in the amount of $455,365.25; and

WHEREAS, $295,365.25 additional funding is needed in the 2008/09 budget to fund the project;

NOW, THEREFORE, BE IT RESOLVED that the transfer of appropriation of $295,365.25 from the Wastewater SDC Fund to the 2008/09 budget for the completion of the Main Street Wastewater Line Extension Project.

Introduced and adopted by the City Council on April 21, 2009.

This resolution is effective on April 21, 2009.

_____
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney

5.
PUBLIC HEARING

To: **Mayor and City Council**

Through: **Mike Swanson, City Manager**
Kenneth Asher, Community Development and Public Works Director
Katie Mangle, Planning Director
Gary Parkin, Engineering Director

From: **Susan P. Shanks, Senior Planner**
Zachary Weigel, Civil Engineer

Subject: **Adoption of Proposed Transportation Code Amendments (Land Use File ZA-09-02)**

Date: **April 28, 2009 for May 5, 2009 Public Hearing**

Action Requested

Adopt the proposed amendments to Title 17 (Land Division) and Title 19 (Zoning) of the Milwaukie Municipal Code with the recommended findings in support of approval (see Attachment 1).

Adopt the proposed amendments to Title 12 (Streets, Sidewalks, and Public Places) and Title 15 (Buildings and Construction) of the Milwaukie Municipal Code (see Attachment 2).

Adopt the proposed fee changes (see Attachment 3) to make the Fee Schedule consistent with the proposed amendments to Titles 17 and 19 of the Milwaukie Municipal Code.

History of Prior Actions and Discussions

- **April 2009** –Council discussed the proposed transportation code amendments and how they would apply to single-family home expansions.
- **March 2009** – Staff briefed Council on the proposed transportation code amendments to Titles 17 and 19. Planning Commission recommended adoption of these amendments at their March 10, 2009 meeting.
- **October 2008** – Staff briefed Council on the status of the Transportation Code Amendment (TCA) project, including changes to the downtown public area

requirements (PAR) code section, and discussed the organizational and policy changes being proposed. Council agreed with staff's preliminary proposal to: (1) replace the City's dollar value-based approach with an impacts-based approach for determining transportation improvements, (2) treat downtown and non-downtown projects the same with respect to applicability, impact evaluation, proportionality analysis, and the fee in lieu of construction option, and (3) retain downtown's street design standards as identified in the Downtown Milwaukie and Riverfront Plan for Public Area Requirements.

- **April 2008** – Council approved a contract with Angelo Planning Group to assist staff with the TCA/PAR Project.
- **January 2008** – In the decision on Mr. Parecki's appeal of the Planning Director's interpretation of the City's PAR code section, Council directed staff to draft amendments to this code section so that it could be applied in a manner that was constitutional, consistent, and balanced without need of the Planning Director's formal interpretation.
- **October 2007** – During the Transportation System Plan (TSP) Council briefings, staff stated that one of the key steps for implementing the plan would be to update the City's transportation regulations and street design standards to accurately reflect and implement the goals and policies contained in the TSP.
- **March 2007** – Staff briefed Council on the City's fee in lieu of construction (FILOC) practices and sought direction regarding FILOC program improvements. The TCA/PAR project refines the FILOC program per Council's direction.

Background

Over the past year, the Planning and Engineering Departments have been working to update the City's transportation regulations, including the City's public area requirements for downtown Milwaukie. The majority of the proposed amendments are to Milwaukie Municipal Code (MMC) Chapter 19.1400, as this chapter contains the majority of the City's regulations that define what transportation improvements are required when development occurs. The proposed amendments are intended to improve the City's transportation regulations by:

- Making the code more clear and consistent.
- Ensuring that transportation improvements are required in a manner that is fair, consistent, and constitutional.
- Implementing policy recommendations from the Transportation System Plan related to street design, street safety, and multi-modal transportation facilities.

There is a great need for transportation improvements in Milwaukie, both to improve safety and livability. Most streets in Milwaukie have paved travel lanes but no pedestrian or bicycle improvements. The Transportation System Plan sidewalk inventory in 2007 revealed that 70% of the City's streets have no sidewalks. Since alternative funding sources have proven to be either unobtainable or inadequate, the City has long required

that development projects of all kinds contribute to the improvement of these incomplete streets. Implementation of the City's code is one of the few means by which the City can facilitate the completion of these streets.

Existing Code History
Chapter 19.1400 was first adopted in 1994. It underwent a major overhaul in 2001 and some minor changes in 2002. Staff began this code amendment project by reviewing the City's existing and past transportation regulations and the project files associated with them. A review of these regulations and associated project files revealed the following information:

- The City has been exacting street improvements from single-family residential (SFR) development projects (e.g. remodels and additions) since 2002 and from non-SFR development projects since 1994.
- The City has consistently relied on permit value as a way to trigger street improvements.
- Neighborhood leaders wanted all new development, including SFR development, to provide street improvements at the time of development and were concerned about cut-through traffic.
- Planning Commission wanted all new development, including SFR development, to provide street improvements at the time of development or pay a fee in lieu of construction of the required improvements.
- City Council wanted to avoid placing too much of a financial burden on small businesses and small projects.

New Code Development
Planning staff developed a detailed scope of work to guide the development of the proposed code amendments. The scope involved conducting extensive research into past policies and practices, clearly defining the problems to be addressed, and identifying and evaluating a range of different solutions.

During problem identification and solution development, staff considered all comments and questions raised at the various public meetings where the TCA/PAR project was discussed. Those meetings are described in the Public Outreach section of this report. Additionally, since transportation regulations affect nearly every land use and development application, staff has had numerous formal and informal conversations on this topic with a wide variety of people over the past several years. This ad hoc feedback has helped staff understand how the code could be improved to better respond to real-world situations.

Public Outreach
As staff developed the proposed amendments, they were broadly discussed in a variety of public forums. The Planning Commission and City Council each had four work sessions on the TCA/PAR project each. Staff presented elements of the proposed amendments at two meetings with downtown business owners and at three meetings

with the Neighborhood District Association (NDA) leadership. Additionally, staff contacted individual members of the development community during the problem identification phase of this project and sent them a copy of the problems and solutions report for review and comment. Staff also informed key interested persons when the project was being discussed with Planning Commission or City Council.

The proposed code amendments for Titles 17 and 19 were made available to the public on January 27, 2009. The proposed code amendments for Titles 12 and 15 were made available to the public on April 28, 2009. All proposed amendments were posted on the Planning Department web page and available at City offices. All proposed amendments are summarized and explained with commentary pages to explain the meaning and effect of the new code language. See Attachments 4 and 5 for the commentary version of the proposed amendments. Staff distributed the draft proposal for Titles 17 and 19 to many agencies and stakeholders for review and comment. See Attachment 10 for a complete referral list.

Proposed Code Amendments
The proposed code amendments are substantive in nature. They include minor text additions and deletions and a range of proposed policy changes. The majority of the proposed amendments are to MMC Chapter 19.1400, which is the City's primary regulatory document for determining what transportation improvements are required when development occurs. However, since the City's transportation regulations and standards are dispersed among, and referenced in, many different code sections, amendments are proposed to all of the following code sections. (See Attachment 6 for a diagram showing the proposed reorganization scheme.)

- MMC Section 19.103 (Title 19 Definitions)
- MMC Subsection 19.312.5 (Downtown Transportation Facility Requirements)
- MMC Chapter 19.400 (Supplementary Development Regulations)
- MMC Chapter 19.1400 (Citywide Transportation Facility Requirements)
- MMC Title 17 (Land Division Transportation Facility Requirements)
- MMC Title 12 (Streets, Sidewalks, and Public Places)
- MMC Chapter 15.32 (Public Facilities Improvements)
  (This section is proposed to be relocated to Chapter 19.1400 and contains no policy changes. Therefore, it is not discussed in this staff report.)

No amendments are proposed to the following documents:

- Milwaukie Downtown and Riverfront Plan Public Area Requirements
- Public Works Standards

Key Issues and Analysis
Staff identified four key issues related to the proposed transportation code amendments that are discussed in more detail below. Each key issue is framed as a question and followed by a response.

1. *Are the proposed amendments to Chapter 19.1400 constitutional, consistent, and fair as requested by Planning Commission and City Council?*

   The proposed amendments have been crafted by staff to meet the multiple objectives of being constitutional, consistent, and balanced. The proposal does this by resolving four key problems with the existing code, which are listed below in no particular order.

   - The existing code uses value-based triggers to exact transportation improvements. Value-based triggers are more apt to exact improvements from development projects with no transportation-related impacts and to fail to exact improvements from all projects with transportation-related impacts.

     The proposed code replaces value-based transportation improvement triggers with impact-based triggers so that only those development projects with transportation impacts trigger the City's transportation facility requirements contained in Chapter 19.1400 and Subsection 19.312.5. The rationale for using an impacts-based approach is discussed in more detail in Key Issue #2 below and in the attached memorandum from the Engineering Department (see Attachment 7).

   - Though the existing code requires a proportionality analysis for off-site improvements, it does not require the City to demonstrate that frontage improvements are proportional to a development project's transportation impacts. The City is constitutionally required to exact only those transportation improvements that are proportional to a project's impacts.

     The proposed code requires a proportionality analysis for all transportation-related exactions for both off-site and frontage transportation improvements.

   - The existing code has different triggers for downtown and non-downtown development projects. As it currently stands, all downtown development projects are required to contribute at least ten percent of their building permit value to transportation facility improvements. Because the permit trigger threshold is higher for projects outside of downtown, however, a similar non-downtown project may not have to contribute anything to transportation facility improvements.

     The proposed code uses the same transportation improvement triggers for downtown and non-downtown development projects.

   - The existing code only allows a fee in lieu of construction of required improvements as an option for non-downtown development projects.

     The proposed code allows a fee in lieu of construction option for all development projects regardless of location.

2. *Do the proposed amendments to Chapter 19.1400 implement the community's desire to complete the City's streets in an effective and reasonable manner?*

The proposed amendments implement the community's desire to complete the City's streets in an effective and reasonable manner. The amendments are both effective and reasonable because they:

- Revamp the section that defines when the code applies so that only those development projects with impacts to the transportation system trigger transportation improvements.
- Empower the Engineering Director to develop and apply street design standards in a way that is safe and responds to existing conditions.
- Clarify when the City would require construction of street improvements instead of a fee in lieu of construction.
- Clarify when the City would accept a fee in lieu of construction of required street improvements and how the City would spend and track any collected fees.

Which Projects Would Trigger Street Improvements?

The proposed amendments to the section that defines which projects trigger transportation improvements, known as the "applicability" section (Section 19.1402), replace value-based triggers with impact-based triggers. An impacts-based approach to requiring street improvements is the norm for most jurisdictions, regardless of size. In large part this is because no other approach ensures that a jurisdiction's legal obligation is met with respect to demonstrating a relationship, or nexus, between a development project's impacts and required street improvements.

The proposed applicability language ensures that only those development projects with impacts to the transportation system would be subject to Chapter 19.1400. As a result, development projects with no impacts would no longer be subject to the requirements of Chapter 19.1400, such as façade improvements, maintenance projects, or single-family home remodels that do not increase floor area.

Not every development project captured by the applicability section would be required to construct street improvements. The applicability section merely identifies those development projects that would be evaluated for impacts to the transportation system. This section works in conjunction with other sections of Chapter 19.1400, such as Section 19.1405 Rough Proportionality, to determine what, if any, transportation improvements are needed by, warranted by, and proportional to a development project's impacts.

How Would the Proposed Code Apply to Single-Family Homes?

As proposed, the following types of projects would not be required to construct any street improvements:

- Home expansions adding less than 200 square feet.
- Remodeling and maintenance projects that add no additional floor area.
- Finishing of existing basements.

In response to Council's discussion about whether expansions of single-family homes should trigger street improvements, staff revised how the proposed code would apply to single-family home expansions that added more than 200 square feet. The Planning Commission recommended that expansions adding more than 200 square feet should construct some street improvements. As currently proposed, however, the amendments would only require right-of-way dedication for small to moderate home expansions, i.e. expansions adding between 200 and 1499 square feet, and full street improvements for very large home expansions, i.e. expansions adding more than 1500 square feet.

Obtaining right-of-way at the time of a home expansion project facilitates the completion of the City's streets by removing one of the barriers to executing larger streetscape projects. Treating very large home expansions, i.e. those adding more than 1500 square feet, the same as new home construction provides for a consistent approach to exacting street improvements from residential properties.

Staff believes that the proposed approach is appropriately tailored to Milwaukie's unique set of circumstances and is clear, objective, and reasonable. Staff recommends this approach for a number of reasons.

- The vehicle trip generation data for single-family homes in the Institute of Transportation Engineers manual indicates that larger homes generate more trips and, as a result, have more impacts on the transportation system. The proposed approach balances the need for street improvements with reasonable and proportional exactions when warranted by impacts to the City's transportation system. The City Attorney has stated that the proposed exaction approach is both proportional and legally defensible.
- This approach would implement current and past policy direction, which is embodied in the Municipal Code and the Transportation System Plan, to complete the City's streets to better support multiple modes of travel.

<u>How Would the Proposed Code Apply to Downtown Projects?</u>
In 2008, Council directed staff to improve how the City requires street improvements of downtown development projects, and the proposed code amendments achieve this in several ways. The City would still require that development projects in downtown contribute to street improvements to implement the City's Public Area Requirements plan. However, the proposed code would improve the process for exacting this requirement in three primary ways: (1) by ensuring that only development projects with transportation impacts are required to make street improvements, (2) by limiting required improvements to those that are proportional to the impacts generated by the development, and (3) by allowing applicants to pay a fee in lieu of construction. The proposed impacts-based approach to exacting street improvements would reduce the types of development projects that would trigger the requirement to construct street improvements. Allowing applicants to pay a fee in lieu of construction would simplify the development process for developers and

would also create a funding source the City could use to construct the planned public area improvements in downtown.

Street Design Flexibility

The proposed amendments to the street design standards section (Subsection 19.1408.2) represent a significant policy change in the way that street cross sections would be determined. In general, the City's existing street design standards are more suited to the creation of new streets, not the retrofitting of existing streets. This is problematic given that the majority of required street improvements in Milwaukie involve improvements to existing streets. The proposed new standards would introduce a range of allowed street element widths and would allow the Engineering Director to eliminate individual street elements on one or both sides of the street in accordance with Figure 10-1 of the TSP entitled Street Design Cross Sections by Functional Classification (see Attachment 8). This could, for example, result in a street with a sidewalk on only one side of the street if the Engineering Director determined that a sidewalk on both sides of the street was not feasible.

Timing of Street Improvements

The proposed amendments would codify existing City policies and practices and explicitly require the construction of transportation improvements at the time of development (Subsection 19.1403.3.B). The code would still include a fee in lieu of construction option, which is more fully described in the following section.

This approach has resulted in and would continue to result in isolated transportation improvements, such as sidewalks that don't connect to other sidewalks. However, the Planning Commission and staff believe that isolated improvements are an acceptable by-product of requiring construction at the time of development when considered within the broader context of the community's desire to improve the City's streets, and within the legal constraints and financial realities in which the City is operating to exact improvements.

Since the City can never require a development project to pay a fee in lieu of construction, the only way to *eliminate* the potential for isolated improvements is to not exact any improvements.

Fee in Lieu of Construction of Street Improvements

The proposed amendments would require the construction of transportation improvements at the time of development except when the Engineering Director determines that it is neither safe nor feasible to build the required improvements and when the applicant offers to pay a fee in lieu of construction. The existing code allows the City to collect fees in lieu of construction of required improvements but provides no guidance on how to administer such a program. The proposed amendments would remedy this by clarifying when the City could accept a fee in lieu of construction and how the fees would be tracked, spent, and reported (Section 19.1406). The proposed amendments would codify the City's existing practice of spending fees in the neighborhoods in which they were collected, thus ensuring that

both the contributing properties and the neighborhood as a whole benefit from the development that occurred within its boundaries. See Attachment 9 for a summary of fees collected to date and how they have been spent.

3. *Do the proposed amendments to Title 12 allow for adequate and safe access?*

   The proposed amendments to Title 12 would allow for adequate and safe access by:

   - Allowing existing nonconforming accesses to come into conformance as much as practicable.

     The existing code requires that all development conform to the City's access standards. This has caused difficulties in the north industrial district and with some commercial properties, specifically with regard to the need for large truck access.

   - Requiring shared access on collector and arterial streets.

     Although the City can currently require adjacent lots to share access as part of an access study, the proposed new code would specifically require that shared access easements be provided wherever practicable for properties that access collector and arterial streets when access spacing requirements cannot be met. Sharing access with neighboring properties reduces the number of conflict points between vehicles, pedestrians, and bicycles at access points.

   - Limiting the number of residential access points on local streets and neighborhood routes.

     The existing code allows one driveway approach or accessway per site frontage for single-family residential properties. Additional accessways are allowed with the use of a mountable curb. The access standards for residential properties need to be updated to limit the number of conflict points between vehicles, pedestrians, and bicycles at access points and provide space for on-street parking. The proposed new code would allow one accessway for single-family residences. Where a residence takes access from a local street or neighborhood route, one additional accessway would be allowed when the accessways can be located 50 feet away from each other.

   - Increasing the maximum allowed width for residential driveway approaches to better accommodate a standard two-car garage width.

     The existing code allows for a maximum driveway approach width of 18 feet for single-family residential properties. This is problematic given that the standard garage width for a two-car garage is 20 feet. The proposed new code would allow for a maximum driveway approach width of 20 feet, which would accommodate a standard two-car garage width without significantly impacting safety.

   - Making clear vision area standards consistent with industry standards.

     The existing code defines the clear vision area as the 20-foot radius of the lot corner nearest the street intersections. The proposed new code would update the

City's clear vision standards to meet the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Street. AASHTO standards are based on vehicle speed and reaction time, not on an arbitrary 20-foot radius standard.

- Prohibiting variances from clear vision standards.

  The existing code allows clear vision standards to be varied by the traffic safety commission. Unlike other types of transportation-related standards, however, clear vision standards implement the minimum requirements for safe travel on City streets and should not be varied.

4. *Are the proposed amendments clear and complete?*

   The existing version of Chapter 19.1400 is unclear about how the City determines what transportation improvements to exact. The proposed amendments would remedy this by providing a comprehensive overview, both graphically and in writing, of the multi-step process the City would follow in arriving at a final determination of what, if any, improvements to exact from a development project (Subsection 19.1403.4 and Figure 19.1403). In addition to an overview of the determination process, the proposed amendments include more guidelines and criteria for the City to follow in making its determinations.

   The proposed amendments improve the organization and clarity of the code in the following ways:

   - Internal references have been updated within and between code sections.
   - New definitions have been added and existing definitions are refined (Section 19.103).
   - New flowchart has been added that graphically summarizes the transportation improvements determination process in Chapter 19.1400 (Figure 19.1403).
   - The organizational structure of Chapters 19.1400, 19.400, and 12.16 have been updated and simplified.

Conclusions

Planning Commission recommends that City Council adopt the proposed code amendments. The proposed amendments remedy problems identified by Councilors, Commissioners, staff, and the community. They also implement key TSP policies. Stakeholders have been engaged in the development of the amendments and are supportive of the proposed three main policy changes, which are as follows:

- Replacement of value-based triggers with impact-based triggers.
- Introduction of more flexibility into the street design determination process.
- Reduction in the process and expense currently associated with transportation improvement determinations.

Code Authority and Decision-Making Process

Amendments to Titles 17 and 19

The proposed amendments to Titles 17 and 19 are land use decisions and therefore subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- MMC 19.900 Amendments
- MMC 19.1011.5 Legislative Review

The proposed amendments to Titles 17 and 19 are subject to legislative review, which requires both the Planning Commission and City Council to consider whether the proposal complies with the code sections shown above. For legislative actions, the Planning Commission assesses the application against the review criteria, evaluates testimony and evidence received at a public hearing, and makes a recommendation to City Council. City Council holds another public hearing to consider the Commission's recommendation, evaluates any additional testimony and evidence, and makes the final decision on the proposal.

The Planning Commission recommended approval of the proposed amendments to Titles 17 and 19 at a public hearing on March 10, 2009.

Amendments to Title 12 & 15

The proposed amendments to Titles 12 and 15 are not land use decisions and therefore not subject to Planning Commission review. They require only the approval of City Council.

Concurrence and Comments

Planning Commission had four work sessions on the proposed amendments to Titles 17 and 19. They recommended adoption of these amendments on March 10, 2009. Their deliberations included a review of the City's current and past policies, including the policy direction contained in the recently adopted Transportation System Plan (TSP).

The recently adopted TSP had broad public participation and support. It documents the need and the community's desire to complete the City's streets to better support all modes of travel. Requiring development with impacts to the transportation system, including single-family home expansions, to contribute to the completion of the City's streets is one of the only means by which the City can facilitate street completion and work toward meeting the goals and objectives of the TSP.

The proposed code amendments for Titles 17 and 19 were referred to many agencies and stakeholders for review and comment. See Attachment 10 for a complete referral list. Additionally, all proposed code amendments were made available for public viewing on the City's website and at City offices. See Attachment 11 for a summary of all comments received and Attachment 12 for the full text of all comments received. The summary includes staff's response, if any, to the comments received.

Planning, Engineering, and Community Development staff developed the project's scope of work and actively worked together to develop the proposed code amendments. See Attachment 13.1 for a letter of support from Angelo Planning Group, the City's consultant on this code amendment project, and Attachment 12.2 for a letter of concurrence from the City of Milwaukie Community Development Department.

Fiscal Impact

The requested action may have a small fiscal impact to the City. Funds collected through the fee in lieu of construction program could decline due to both the proposed approach to largely exempt single-family residential expansions from street improvements and the exemption of projects that do not have impacts to the transportation system. However, code language that is constitutional, consistent, and fair should reduce the incidence of land use appeals and lawsuits.

In addition to the code amendments described in this report, staff is also proposing changes to the Fee Schedule. See Attachment 3 for the adopting Resolution and Exhibits A and B for strikeout and clean versions of the proposed Fee Schedule changes. Most of the changes are in response to the proposed code amendments to MMC Chapter 19.1400 to ensure that the Fee Schedule and the Municipal Code are consistent with one another. Changes were also made to clarify fees related to existing City policy. See Attachment 14 for a full explanation.

Work Load Impacts

Preparing the proposed amendments has been a significant project for the Planning and Engineering departments over the past year. Completion of the project will allow staff to direct resources to other needs. Staff believes that the proposed code amendments would enable staff to more efficiently implement the code on a regular basis.

Alternatives

City Council has the following decision-making options:

1. Approve the proposed amendments and ordinance.
2. Approve the proposed amendments and ordinance with modifications.
3. Continue the hearing to further evaluate the proposed amendments and ordinance.
4. Deny the proposed amendments and ordinance. This would have the effect of deciding to continue to implement the code in its current state.

Attachments

1. Ordinance for Adoption (Titles 17 and 19)

   Exhibit A. Recommended Findings in Support of Approval

   Exhibit B. Proposed Code Amendments (strikeout version)

   Exhibit C. Proposed Code Amendments (clean version)

2. Ordinance for Adoption (Titles 12 and 15)
   Exhibit A. Proposed Code Amendments (strikeout version)
   Exhibit B. Proposed Code Amendments (clean version)
3. Resolution for Adoption (Fee Schedule)
   Exhibit A. Proposed Fee Schedule Amendments (strikeout version)
   Exhibit B. Proposed Fee Schedule Amendments (clean version)
4. Proposed Amendments to Titles 12 and 15 (commentary version)
5. Proposed Amendments to Titles 17 and 19 (commentary version)
6. Proposed Code Reorganization Diagram
7. Engineering Department Impacts-Based Rationale Memorandum
8. TSP Figure 10-1 Street Design Cross Sections by Functional Classification
9. Preliminary Fee in Lieu of Construction Report
10. Titles 17 and 19 Referral List
11. Summary of Comments with City Response
12. Comments
13. Letters of Concurrence and Support
    13.1. Letter from Angelo Planning Group dated Feb 24, 2009
    13.2. Memorandum from Community Development Department staff dated Feb 26, 2009
14. Fee Schedule Amendment Proposal

Draft Ordinance for Adoption

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE FOLLOWING TITLES OF THE MILWAUKIE MUNICIPAL CODE: TITLE 17 LAND DIVISION AND TITLE 19 ZONING. THE AMENDMENTS IMPLEMENT TRANSPORTATION SYSTEM PLAN POLICY RECOMMENDATIONS RELATED TO STREET DESIGN, STREET SAFETY, AND MULTI-MODAL TRANSPORTATION FACILITIES (FILE #ZA-09-02).

WHEREAS, it is the City's goal to provide a safe, convenient, and economic transportation system; and

WHEREAS, the amendments implement policy recommendations from the 2007 Transportation System Plan (TSP) related to street design, street safety, and multi-modal transportation facilities; and

WHEREAS, the amendments to Titles 17 and 19 make the City's transportation regulations easier to understand, use, and defend; and

WHEREAS, the Planning Commission conducted a public hearing on March 10, 2009, as required by Zoning Ordinance Section 1011.5 Legislative Actions, and adopted a motion in support of the amendments; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, City Council finds that the amendments are in the public interest;

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

Section 1. Findings of fact in support of the amendments are attached as Exhibit A.

Section 2. Titles 17 and 19 of the Milwaukie Municipal Code are amended as described in Exhibit B (strikeout version) and Exhibit C (clean version).

Section 3. All sections not amended as described in Exhibits B and C remain as written.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

_____
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney

Document1 (Last revised 2/6/2008)

Recommended Findings in Support of Approval
Land Use File ZA-09-02

1. The City of Milwaukie proposes to amend various transportation regulations that are contained in Title 17 Land Division Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code. The land use application for these amendments is ZA-09-02.

2. The purpose of the proposed code amendments is to make the City's transportation regulations easier to understand, use, and defend. The majority of the proposed amendments are to Milwaukie Municipal Code (MMC) Chapter 19.1400, which is the City's main regulatory document for transportation improvements. However, since the City's transportation regulations and standards are dispersed among and/or referenced in many different code sections, amendments are proposed to all of the following code sections:

   - MMC Section 19.103 (Title 19 Definitions)
   - MMC Subsection 19.312.5 (Downtown Transportation Facility Requirements)
   - MMC Chapter 19.400 (Supplementary Development Regulations)
   - MMC Chapter 19.1400 (Citywide Transportation Facility Requirements)
   - MMC Title 17 (Land Division Transportation Facility Requirements)

   No amendments are proposed to the following documents:

   - Milwaukie Downtown and Riverfront Plan Public Area Requirements
   - Public Works Standards

3. The proposed amendments are subject to the following provisions of the Milwaukie Municipal Code (MMC):

   - MMC Chapter 19.900 Amendments
   - MMC Subsection 19.1011.5 Legislative Actions

4. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this land use application.

5. Public notice was provided in accordance with MMC Subsection 19.1011.5 Legislative Actions.

6. Milwaukie Municipal Code (MMC) Chapter 19.900 – Amendments.

   A. MMC Section 19.901 requires that a text amendment to the Milwaukie Zoning Ordinance be initiated by the City Council, Planning Commission, or by a property owner.

      The amendments are proposed by the City of Milwaukie and were initiated by the Planning Commission prior to the first public hearing. City Council finds that this criterion is met.

   B. MMC Section 19.902 – Amendment Procedure.

i) MMC Subsection 19.902.1.A requires that proposed amendments be heard at a public hearing and follow the procedures outlined in MMC Subsection 19.1011.5 – Legislative Actions.

The Planning Commission held a public hearing on the proposed amendments on March 10, 2009. A public hearing before City Council is scheduled for May 5, 2009. Public notice was provided in accordance with MMC Subsection 19.1011.5. City Council finds that this criterion is met.

ii) MMC Subsection 19.902.1.B establishes standards for providing notice to Metro of any proposed amendments to the City's Comprehensive Plan or Zoning Ordinance.

Metro was provided notice of the proposed amendments on January 27, 2009, which exceeds the 45-day notification requirement. An analysis demonstrating compliance with the Metro Urban Growth Management Functional Plan will be sent to Metro no later than fourteen days prior to the final City Council hearing on the proposed amendments. City Council finds that this criterion is met.

iii) MMC Subsection 19.902.1.D requires that the Planning Director forward the Planning Commission's recommendation to City Council within forty days of the final Planning Commission hearing on the proposed amendments.

The Planning Commission held their final hearing on the proposed amendments on March 10, 2009. The Planning Director forwarded the Planning Commission's recommendation to City Council at a work session on March 17, 2009, which meets the 40-day requirement. City Council finds that this criterion is met.

C. MMC Subsection 19.904.1 requires that proposals for zoning text amendments provide written evidence that the following requirements are satisfied:

i) Applicable requirements of MMC Section 19.1003, which specify the form of petitions, applications, and appeals.

The Planning Director submitted an application on the prescribed form. Because no development is proposed, the other portions of MMC Section 19.1003 are not applicable. City Council finds that this requirement is met.

ii) Reasons for requesting the proposed text amendments.

The City of Milwaukie seeks to update its transportation regulations to ensure that the code remains current with best professional practices, complies with Metro requirements, and reflects the community's vision for how development should look and function. The proposed amendments are intended to:

- Make the code more clear and consistent.
- Ensure that transportation improvements are being required in a manner that is fair, consistent, and constitutional.
- Implement policy recommendations from the 2007 Transportation System Plan related to street design, street safety, and multi-modal transportation facilities.

See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). City Council finds that this requirement is met.

iii) Explanation of how the proposed code amendments are consistent with other provisions of this title.

The proposed code amendments to Titles 17 and 19 are designed to ensure that they are consistent with the provisions of Title 19. The main focus of the proposed code amendments is to update the City's transportation regulations, which are primarily contained in MMC Chapter 19.1400 and Subsection 19.312.5. Both of these code sections were modified so that they appropriately reference and do not conflict with one another. The remaining amendments, which are to MMC Section 19.103, Chapter 19.400, and Title 17, are primarily proposed in response to Chapter 19.1400 amendments. They are intended to ensure that all internal code references are consistent and accurate, all new and existing terms are clearly defined, and all affected code sections are appropriately located. See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). City Council finds that this requirement is met.

iv) The approval criteria of MMC Section 19.905.

The applicable approval criteria of MMC Section 19.905 are addressed below.

D. MMC Section 19.905 contains the approval criteria for zoning ordinance text amendments.

i) The proposed code amendments must conform to applicable comprehensive plan (Comp Plan) goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan (Functional Plan), and applicable regional policies.

Compliance with Milwaukie Comp Plan

The proposed code amendments conform to the following applicable Comp Plan goals, policies, and objectives.

- Policy 1 of Objective 2 of Chapter 2 requires that existing ordinances be amended and new ordinances be adopted to implement the Comp Plan. The proposed amendments implement policy recommendations from the 2007 Transportation System Plan (TSP) related to street design, street safety, and multi-modal transportation facilities. See below for more detail.
- The Transportation Element of Chapter 5 identifies the TSP as the City's guiding transportation document that contains its long-term transportation goals and policies for pedestrians, cyclists, drivers, transit users, and freight carriers. The proposed amendments implement TSP policy recommendations related to street design, street safety, and multi-modal transportation facilities as follows:
  - The proposed amendments incorporate more flexibility into the street design determination process, which allows the Engineering Director to develop cross sections that better respond to existing conditions. This approach replaces the existing practice of applying rigid street design standards and requiring a separate adjustment or variance process to deviate from those standards.

- The existing code states that a proposed development should "not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated." The proposed amendments describe in detail what that means.
- The proposed amendments update the pedestrian, bicycle, and transit facility code sections within MMC Chapter 19.1400 so that they are consistent with the TSP. Of note is the allowance for alternative sidewalk designs and bike boulevard treatments.

Compliance with City Ordinances

- See Findings 6 and 7 for findings related to compliance with all applicable City ordinances.

Compliance with Functional Plan

The proposed amendments are consistent with the following applicable titles of the Functional Plan.

- Title 8 requires that the City's comprehensive plan and land use regulations comply with the Functional Plan. As required by Metro Code Section 3.07.820.A, the City provided notice of the proposed amendments to Metro's Chief Operating Officer on January 27, 2009.

  In processing the proposed amendments, the City followed its own requirements for citizen involvement. The proposed amendments were referred to the City's Neighborhood District Associations for review and were discussed at several business, neighborhood, Planning Commission, and City Council meetings.

City Council finds that this criterion is met.

ii) The anticipated development must meet the intent of the proposed zone.

The proposed code amendments are legislative in nature and do not involve a specific development proposal in a particular zone. City Council finds that this criterion is not applicable.

iii) The proposed code amendments will meet or can be determined to reasonably meet applicable regional, state, and federal regulations.

The proposed amendments will comply with all applicable regional regulations. Almost all suggestions made by Metro and ODOT were incorporated into the proposed amendments thus ensuring that the City's code will remain in compliance with the Regional Transportation Plan.

The proposed amendments will comply with the following applicable Oregon Statewide Planning Goals.

- Goal 1 directs local jurisdictions to develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

  The proposed amendments were broadly discussed in a variety of public forums. The Planning Commission and City Council discussed the proposed amendments at four work sessions each. They were also discussed at two

meetings with downtown business owners/developers and at three meetings with the Neighborhood District Association (NDA) leadership.

The proposed code amendments were made available for public viewing on January 27, 2009 and referred to many agencies and stakeholders for review and comment.

The Planning Commission and City Council each held at least one public hearing on the proposed amendments. All hearings were published pursuant to MMC Section 19.1011.5.A.

- Goal 2 directs local jurisdictions to adopt implementing ordinances that conform to their comprehensive plan. See Finding 6.D.i for findings related to this goal.
- Goal 12 directs local jurisdictions to provide a safe, convenient, and economic transportation system through the adoption of a transportation system plan (TSP). The City adopted a TSP in 2007 in conformance with this goal. The proposed amendments implement key policy recommendations from the TSP. See Finding 6.D.i for more findings related to this goal.

iv) The proposed code amendments demonstrate 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.

The proposed code amendments are legislative in nature and do not involve a specific development proposal at a particular site. City Council finds that this criterion is not applicable.

v) The proposed code amendments are consistent with the functional classification, capacity, and level of service of the transportation system.

The proposed code amendments are legislative in nature and do not involve a specific development proposal at a particular site. City Council finds that this criterion is not applicable.

7. MMC Subsection 19.1011.5 outlines the procedures for processing legislative land use policies and plans. Specifically, it requires the City to do the following:

A. Public Notification. Publish a notice of a hearing once each week for two consecutive weeks in a newspaper of general circulation in the city. The second publication shall not be less than five days prior to the date of the hearing.

The City provided the required published notice. City Council finds that this requirement is met.

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 approves the proposal, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing.

The Planning Commission held a public hearing on March 10, 2009 and approved a motion to recommend approval of the proposed amendments to City Council. The

Planning Director will forward the Commission's recommendations and findings to City Council in advance of the scheduled public hearing on May 5, 2009. City Council finds that this requirement is met.

8. The application was referred to various City departments, governmental agencies, neighborhood district associations, and stakeholders. Additionally, the most up-to-date draft of the proposed code amendments and commentary version of the document was posted on the City's web site staring on January 27, 2009. All verbal and written comments made on the proposed amendments were summarized and made available to the Planning Commission and City Council in advance of the public hearings.

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Proposed Code Amendments

File No. ZA-09-02
Strikeout Copy

New text is underlined.
Deleted text is shown as ~~strikethrough text~~.

Title 19 Zoning Ordinance
Chapter 1400
Chapter 300
Section 103
Chapter 400

Title 17 Land Division Ordinance
Chapter 08
Chapter 20
Chapter 28
Chapter 32

~~**Chapter 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, AND PROCEDURES**~~

Chapter 19.1400 PUBLIC FACILITY IMPROVEMENTS

This chapter contains standards and procedures for both public transportation facilities and public utilities. Transportation facilities include elements of the public right-of-way such as streets, sidewalks, bicycle lanes, street trees, and benches. Public utilities include water, sewer, and storm infrastructure. Collectively, transportation facilities and public utilities are referred to as "public facilities." Public facilities that are built as a requirement of this chapter shall be designed and constructed in accordance with the Public Works Standards.

The main focus of this chapter is to ensure the provision of safe, convenient, and adequate public transportation facilities consistent with the adopted City of Milwaukie Transportation System Plan (TSP). The TSP outlines the community's vision for transportation facilities, which, among other things, includes a desire for complete streets with a multimodal emphasis. This chapter implements that vision by addressing the need for transportation facility improvements in a way that is consistent and equitable.

Provisions of this chapter coordinate with Title 12 Streets, Sidewalks, and Public Places; Chapter 13.28 Capital Improvements; Chapter 13.30 Reimbursement Districts; and Chapter 15.36 Public Works Standards. Any conflict between this chapter and another shall be resolved by administrative determination of the Engineering Director and Planning Director, as appropriate. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by another provision of this title or any other ordinance, resolution, or regulation, the provision which is most restrictive shall govern. Unless specifically defined in Section 19.103, words or phrases used in this chapter are intended to be interpreted with the meaning they have in common usage to give this chapter its most reasonable application.

19.1401 Purpose~~.~~

The purpose of Chapter 19.1400 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this ~~Chapter~~ chapter include the following:

19.1401.1 For transportation facilities:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.

B. ~~Implement performance measures to protect~~ Protect the functional classification, capacity, and level of service of transportation facilities.

C. Ensure that transportation facility improvements are provided in rough proportion to development impacts. ~~Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.~~

D. Provide an equitable and consistent method of requiring transportation facility improvements.

~~D.~~E. ~~Assure~~ Ensure that transportation facility improvements ~~are designed and connected to~~ accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.1401.2 For public facilities:

A. Ensure that public facility improvements are safe, convenient, and adequate.

B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.

C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.

D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

~~19.1402 Administration.~~

~~A. The Planning Director shall administer provisions of this chapter that apply to property excluding public rights-of-way. The City Engineer shall administer provisions that apply to public rights-of-way.~~

~~B. The City Engineer shall prepare and administer a Transportation Design Manual including the following subject to any limitations of this Code:~~

~~1. Design standards for transportation facilities located in public rights-of-way.~~

~~2. Policies, programs, or procedures related to neighborhood traffic management, school trip safety, capital improvements planning, and system development charges.~~

~~3. Traffic impact analysis methods, procedures, and submission requirements that implement Section 19.1408 Transportation Impact Analysis.~~

~~4. Facility maintenance policies and procedures.~~

~~5. Other provisions or requirements as needed or desired to manage the City's transportation system and its components.~~

~~The manual shall be adopted by resolution of the City Council.~~

~~C. Provisions of this Chapter shall be coordinated with Title 12 Street, Sidewalks, and Public Places; Chapter 15.32 Public Facilities Improvements; Chapter 15.36 Public Works Standards; Chapter 13.28 Capital Improvements; and Chapter 13.30 Reimbursement Districts. Any conflict between this Chapter and another shall be resolved by administrative determination of the City Engineer and Planning Director as applicable.~~

~~D. The City shall implement a system to collect and administer fees collected in lieu of constructing improvements required under provisions of this Title.~~

~~19.1403 Applicability.~~

~~A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: 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 two hundred thousand dollars ($200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars ($200,000.00) value threshold shall be increased~~

~~three percent (3%) 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 ninety thousand dollars ($90,000.00). The ninety thousand dollars ($90,000.00) value threshold shall be increased three percent (3%) 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.~~

~~D. The following activities and uses are exempt from the requirements of this section:~~

~~1. Operation, maintenance, and repair of existing transportation facilities.~~

~~2. Public capital improvement projects.~~

19.1402 Applicability

19.1402.1 General

Chapter 19.1400 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure (including single-family residential expansions as described in Subsection 19.1402.2) or a change or intensification in use that results in any one of the following:

1. A new dwelling unit.

2. Any increase in gross floor area.

3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.1402.2 Single-family Residential Expansions

Chapter 19.1400 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1500 square feet or more, all of Chapter 19.1400 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 square feet, but not more than 1499 square feet, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.1408.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 square feet, none of Chapter 19.1400 applies.

D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.1409.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.1402.3 Exemptions

Chapter 19.1400 does not apply to the following types of development in all zones:

A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.

B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.1402.2.E above.

C. Replats that do not increase the number of lots.

D. Property line adjustments.

E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.

2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within two years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.1402.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.1400.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

~~**19.1404 Exception, adjustment, or variance.**~~

~~A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.~~

~~B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2 Type II Administrative Review procedures concurrent with the application for land use approval.~~

~~C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgement and accepted engineering practices:~~

~~1. In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;~~

~~2. The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;~~

~~3. Strict compliance with the design standard will result in a potentially hazardous condition;~~

~~4. Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or~~

~~5. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.~~

~~Cost of required improvements shall not be a basis for granting an adjustment.~~

~~D. Exceptions. The City Engineer may waive compliance with transportation~~ public ~~facility design standards for improvements located in the right-of-way in the following cases:~~

~~1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;~~

~~2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or~~

~~3. A local improvement district, which includes the development site, has been approved.~~

~~E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700 Variance, Exceptions, and Home Improvements.~~

19.1403 Review Process

19.1403.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.1400 per Section 19.1402, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

19.1403.2 Application Submittal

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, one of the following types of applications is required.

A. Development Permit Application. If the proposed development does not require a land use application, compliance with Chapter 19.1400 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application. If the proposed development triggers a Transportation Impact Study (TIS) per Section 19.1404, a TFR land use application shall be required. Compliance with Chapter 19.1400 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Chapter 19.1000. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

C. Non-TFR Land Use Application. If the proposed development requires a land use application but does not trigger a TIS per Section 19.1404, compliance with Chapter 19.1400 will be reviewed as part of the land use application submittal, pursuant to the review procedures associated with that land use application as set forth in Chapter 19.1000.

~~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 subsections 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 ($200,000.00); 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 ($200,000.00); 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 ($200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.~~

~~**19.1405.2 Type II Review.**~~

~~Type II review procedures are set forth in Section 19.1011.2. Type II application review process shall be used to confirm compliance with Chapter 19.1400, 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 or 19.1011.4 as applicable.~~

~~A. Type II review is required in the following situations:~~

~~1. When a transportation impact analysis is required by Section 19.1408, or~~

~~2. When an adjustment or exception to a transportation facility design standard of Chapter 19.1400 or the Transportation Design Manual is requested.~~

~~**19.1405.3 Minor or Major Quasi-Judicial Review.**~~

~~Review procedures for Minor and Major Quasi-Judicial Review are set forth in Sections 19.1011.3 and 19.1011.4, respectively. A separate application and fee is required for the Chapter 19.1400 compliance review; however, the application will be consolidated and reviewed concurrent with the Minor or Major Quasi-Judicial Review.~~

~~**19.1405.4 Notice and Coordinated Review.**~~

~~A. Specific notice requirements. In addition to the general notice provisions set forth in Chapter 19.1100, the City shall provide notice of applications submitted for Chapter 19.1400 review as outlined below:~~

~~1. Notice to the Oregon Department of Transportation (ODOT) if the proposed development generates more than two hundred (200) vehicle trips per day, is within two hundred (200) feet of a State highway, or is within one thousand three hundred twenty (1,320) feet of a State highway interchange ramp.~~

~~2. Notice to Metro and Clackamas County if the proposed development is within two hundred (200) feet of a designated arterial or collector roadway, as identified in Figure 6.1 of the Milwaukie Comprehensive Plan.~~

~~3. Notice to Metro if the proposed development is within two hundred (200) feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.~~

~~4. Notice to Tri-Met if the proposed development (excluding single family development on an existing lot) is within two hundred (200) feet of an existing transit route.~~

~~B. Maps of areas subject to notice. The Transportation Design Manual includes maps that outline the areas subject to the specific notice requirements described above.~~

~~C. Coordinated review. The City shall coordinate the development application review conditions with the agencies listed above. If there is a deadline for agency submittal of comments and suggested conditions, it shall be included in the original notice provided by the City. The agency shall indicate if additional permits or approvals are required for access or transportation improvements separate from the City of Milwaukie requirements.~~

~~19.1405.5~~ 19.1403.3 Approval Criteria

~~Criteria for decisions under Chapter 19.1400 are as follows:~~

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submission.

A. Procedures, Requirements, and Standards. ~~The proposed d~~ Development and related ~~transportation~~ public facility improvements ~~will~~ shall comply with procedures, requirements, and standards of Chapter 19.1400 and the Public Works Standards. ~~Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.~~

B. ~~If a transportation impact analysis is required, the findings of the analysis ensure that the development.~~ Transportation Facility Improvements. Development shall ~~will~~ provide transportation improvements and mitigation at the time of development in rough proportion to the potential ~~identified~~ impacts of the development per Section 19.1405 Rough Proportionality, except as allowed by Section 19.1406 Fee in Lieu of Construction.

~~C. All required improvements identified under city review of a transportation impact study analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4 Mitigation.~~

~~D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.~~

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

1. Adequate street drainage, as determined by the Engineering Director.

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

3. Adequate public utilities, as determined by the Engineering Director.

4. Access onto a public street with the minimum paved widths as stated in Subsection 19.1403.3.C.5 below.

5. Adequate frontage improvements as follows:

   a. For local streets, a minimum paved width of 16 feet along the site's frontage.

   b. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage.

   c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.

6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:

   a. Level of Service F for the first hour of the morning or evening two-hour peak period.

   b. Level of Service E for the second hour of the morning or evening two-hour peak period.

19.1403.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.1403.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation. For development that is subject to Chapter 19.1400 per Subsection 19.1402.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.1404. Pursuant to Subsection 19.1404.1, the Engineering Director will also determine whether a Transportation Impact Study (TIS) is required. If a TIS is required, a Transportation Facilities Review land use application shall be submitted pursuant to Subsection 19.1403.2.B.

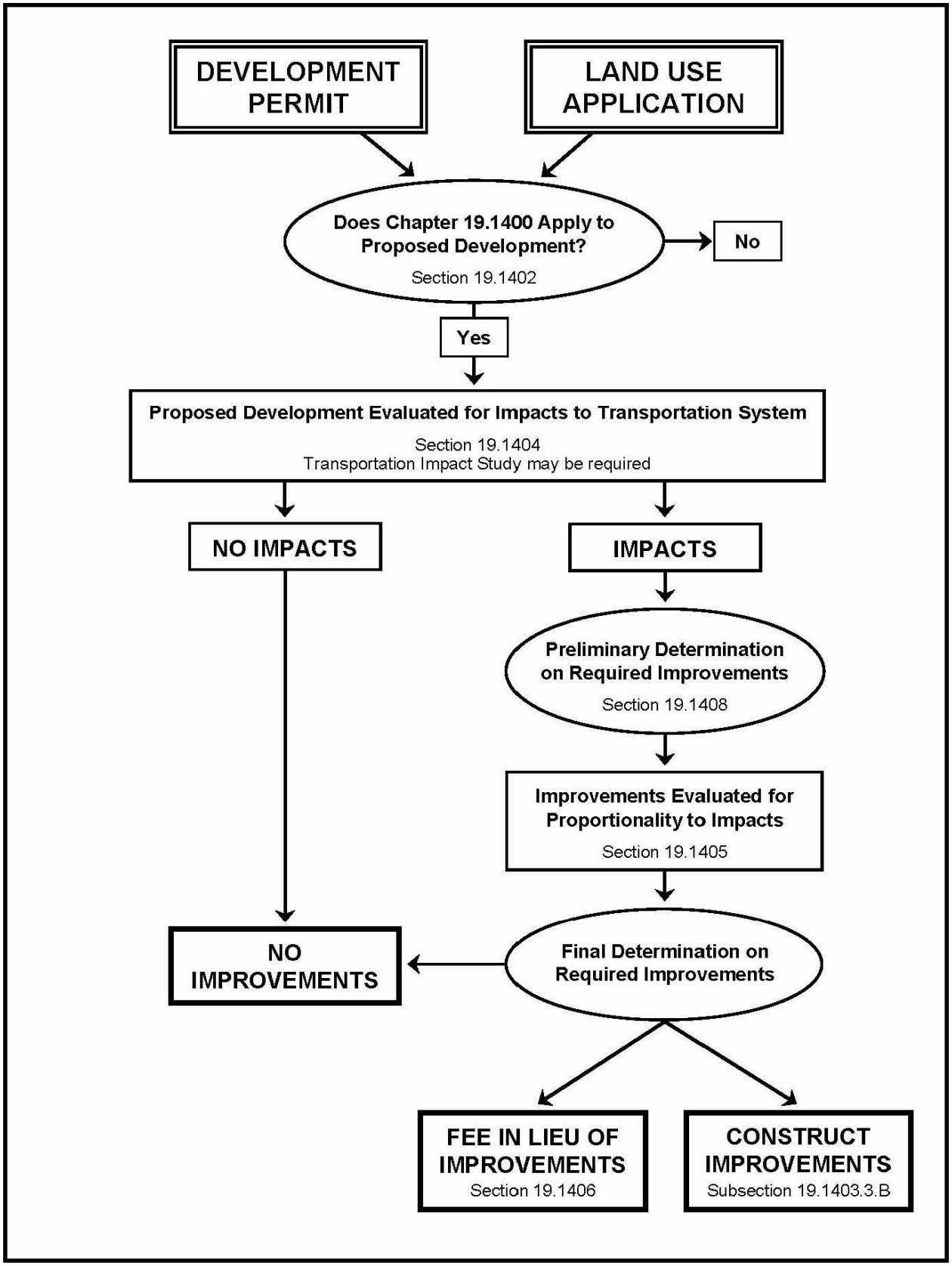
For development that is subject to Chapter 19.1400 per Subsection 19.1402.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 square feet.

B. Street Design. Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.1408.

C. Proportional Improvements. When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.1405 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.1405.2.

D. Fee in Lieu of Construction (FILOC). If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.1406.1.

Figure 19.1403.4
Process for Determining Transportation Facility Improvements



19.1403.5 Remedies

A. Variances. Relief from any transportation facility improvement requirement in Section 19.1408 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

B. Appeals. Appeal of a land use decision is subject to the provisions of Chapter 19.1000. Appeal of a rough proportionality determination (Subsection 19.1402.2 and Section 19.1405) or street design standard determination (Subsection 19.1408.2) not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

19.1404 Transportation Impact Evaluation

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

19.1404.1 TIS Determination

A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

B. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination.

C. A TIS determination is not a land use action and may not be appealed.

19.1404.2 TIS General Provisions

A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

C. The TIS shall be submitted with a Transportation Facilities Review (TFR) land use application pursuant to Subsection 19.1403.2.B and associated application materials pursuant to Subsection 19.1403.3. The City will not accept a TFR application for processing if it does not include the

required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.

D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.1403.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.1408 and to mitigate transportation impacts identified in the TIS.

19.1404.3 TIS Requirements

A. TIS Scope. The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a one-half-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than one-half mile from the development site, a larger study area may be required.

2. If notice to ODOT or Clackamas County is required pursuant to Section 19.1407, the City will coordinate with these agencies to provide a comprehensive TIS scope.

B. TIS Content. A project-specific TIS Checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

1. Introduction and Summary. This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

2. Existing Conditions. This section should include a study area description, including existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

4. Mitigation. This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.1405.

5. Appendix. This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

C. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

D. Neighborhood Through-Trip Study. Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will

require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.

2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.

3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.1405 Rough Proportionality and Subsection 19.1404.4 Mitigation.

19.1404.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.

2. Development of a transportation demand management program.

3. Payment of a fee in lieu of construction.

4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

19.1405 Rough Proportionality

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.1403.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.1402.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.1402.2.

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

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

19.1405.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.1404. When no TIS is required, potential impacts will be determined by the Engineering Director.

19.1405.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a one-half-mile radius of the proposed development. If a TIS is required pursuant to Section 19.1404, the impact area is the TIS study area.

B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.

D. The most recent use when a change in use is proposed that does not involve new construction.

E. Applicable TSP goals, policies, and plans.

F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.

G. Accident history within the impact area.

H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.

J. Other considerations as may be identified in the review process.

19.1406 Fee in Lieu of Construction

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

19.1406.1 FILOC Criteria

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

A. Required improvements are not feasible due to the inability to achieve proper design standards.

B. Required improvements would create a safety hazard.

C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development.

19.1406.2 FILOC Findings

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.1406.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

19.1406.3 FILOC Fees

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.

B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

19.1406.4 FILOC Administration

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following:

A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.

   1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.

   2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.

B. Fees shall be used within ten years of the date on which they were collected. Fees that have not been used within ten years of collection will be returned to the owner of the development property at the time the refund is issued.

C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.1406.4.A and that can be constructed within the 10-year time period per Subsection 19.1406.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

19.1407 Agency Notification and Coordinated Review

19.1407.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.1400 to the following agencies:

A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 feet of a State highway, or is within 1,320 feet of a State highway interchange ramp.

B. ODOT Rail Division: If the proposed development is within 300 feet of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.

C. Metro and Clackamas County: If the proposed development is within 200 feet of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.

D. Metro: If the proposed development is within 200 feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 feet of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

19.1407.2 Coordinated Review

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

~~19.1406 Neighborhood Through-trip Study.~~

~~Any nonresidential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:~~

~~A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the existing counts for the same streets.~~

~~B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3 Rough Proportionality and 19.1408.4 Mitigation.~~

~~This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study.~~

~~19.1407 Adequate Transportation Facility Requirement.~~

~~19.1407.1 Purpose.~~

~~The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or~~

redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan, Transportation System Plan, and Capital Improvement Plan.

19.1407.2 Adequacy Requirement.

Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site.

The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.

19.1407.3 Definition of Necessary Improvements.

As used in 19.1407.2, "necessary improvements" are:

A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or

B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.

19.1407.4 Definition of Adequacy.

As used in 19.1407.2, "adequate" means the following:

A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:

   1. Level of Service F for the first hour of the morning or evening two-hour peak period; and

   2. Level of Service E for the second hour of the morning or evening two-hour peak period; and

B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:

   1. Right-of-way width;

   2. Functional classification cross section;

   3. Transportation facility design standards;

   4. Pedestrian, bicycle and transit standards; and

   5. Access management standards.

19.1407.5 Determination of Level of Services.

Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.

19.1407.6 Definition of Timely.

As used in 19.1407.2, "timely" means the following:

A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or

the developer shall provide the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:

1. Final city inspections for occupancy approval; and/or

2. Recording of the plat in the case of a subdivision or partition; and/or

B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued.

19.1408 Transportation Impact Analysis.

19.1408.1 Intent.

A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.

19.1408.2 Applicability.

A. All projects that require development review under Chapter 19.1400 shall schedule a preapplication conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.

B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual.

C. The City may also require a preapplication conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.

D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.

E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.

F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.

G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.

H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.

I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.

~~19.1408.3 Rough Proportionality.~~

~~A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.~~

~~B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.~~

~~C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgement and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:~~

~~1. Condition and capacity of existing facilities within the impact area in relation to city standards.~~

~~2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.~~

~~3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.~~

~~4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.~~

~~5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.~~

~~6. Accident history within the impact area.~~

~~7. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.~~

~~8. Other considerations as may be specified in the development review process and communicated in writing by the City.~~

~~19.1408.4 Mitigation.~~

~~A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.~~

~~B. Mitigation options include, but are not limited to, the following:~~

~~1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.~~

~~2. Demand management programs may be used as mitigation when applied as conditions of land use approval.~~

~~3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.~~

4. Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements.

19.1409 Street Requirements and Design Standards.

19.1409.1 General Provisions.

A. Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

B. Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.

C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1407.

D. No development permit shall be issued unless the development has frontage or approved access to a public street. For lots that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.

E. All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.

F. Cross sections for street improvements by functional classification are included in the Transportation Design Manual.

G. Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.

H. Transportation facility design standards shall be provided in accordance with the dimensions shown as "required" on Table 19.1409.3.

I. Under provisions of Section 19.1404 Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions in Table 19.1409.3.

19.1409.2 Street Functional Classification and Improvement Standards.

A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.

B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for improvements identified as needed by the Milwaukie Transportation System Plan or a transportation impact study analysis conducted under Section 19.1408.

C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.

1. ~~Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.~~

2. ~~New development shall be connected to the street network by a paved street.~~

3. ~~Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.~~

4. ~~To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a transportation impact analysis.~~

5. ~~Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:~~

    a. ~~These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.~~

    b. ~~A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.~~

    c. ~~Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.~~

    d. ~~In order to assure the eventual continuation or completion of the street, reserve strips may be required.~~

    e. ~~Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.~~

19.1408 Transportation Facility Requirements

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

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the city and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.1408.1 General Street Requirements and Standards

A. Access Management. All development subject to Chapter 19.1400 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision. All development subject to Chapter 19.1400 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones. Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Unless specifically stated otherwise, the standards in this section do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.312.5.

D. Development in Non-Downtown Zones. Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements is subject to the street design standards and right-of-way dedication requirements contained in that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements and for development that is not in any of the downtown zones listed in Subsection 19.1408.1.C above:

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

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

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.1408.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with this section and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

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

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

6. The following provisions apply to all new public streets and extensions to existing public streets.

   a. All new streets shall be dedicated and improved in accordance with this chapter.

   b. Dedication and construction of a half street is generally not acceptable. However, a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate two travel lanes pursuant to Subsection 19.1408.2.

~~D.~~ 7. Traffic calming may be required for existing or new streets. ~~in the design of a proposed street through the development review process or through the Neighborhood Traffic~~

~~Management Program for existing streets.~~ Traffic calming devices shall be designed in accordance with ~~to the standards in~~ the Public Works Standards or with the approval of the Engineering Director. ~~Transportation Design Manual~~.

~~E. Vision Clearance. No signs, structures, or vegetation in excess of three feet in height shall be placed in "vision clearance areas" at intersections of streets, driveways, and alleys based on the guidelines in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" (Green Book). The City Engineer may vary sight distance standards in the interest of preserving significant vegetation, or other valued features, where the variance will not cause undue safety hazards.~~

~~F. Additional Setbacks from Major Streets. Yards abutting a major street are subject to additional yard requirements. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of a building shall be in accordance with Table 19.1409.2.~~

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

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

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

~~19.1409.3 General Street Design Standards.~~

E. Street Layout and Connectivity

~~A.~~ 1. ~~General.~~ The length, width, and shape of blocks shall take ~~into account the need for adequate~~ lot size standards, ~~convenient~~ access~~,~~ and circulation needs, ~~and~~ traffic safety, and ~~shall recognize the limitations of the topography~~ topographic limitations into consideration.

~~B.~~ 2. ~~Street layout and connectivity.~~ The street network ~~Street layouts~~ shall be generally rectilinear but may vary due ~~and may be aligned to physically adapt streets~~ to topography or other natural conditions. ~~; or to provide a variety of alignments or grid patterns within an interconnected street system.~~

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

a. Temporary turnarounds shall be constructed for street stubs in excess of 150 feet in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

~~C. Block length and perimeter. For parcels of land to be subdivided with a total size of three acres or larger, no block may be more than 530 feet in length between intersecting street~~

~~lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~For sites to be subdivided with a total size of less than three acres, no block may be more than 800 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~The average perimeter of blocks formed by streets shall not exceed 1,600 feet.~~

~~For the purpose of this section, "existing development" means built improvements including streets, associated utilities, and permanent residential, commercial, or institutional structures. Modification of the block length and perimeter standards shall only be permitted under variance provisions of Zoning Ordinance Chapter 19.700.~~

~~D.~~ 4. ~~Cul-de-sacs~~ Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. ~~cul-de-sac.~~ For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ three acres or larger, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 200 feet, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ less than three acres, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 400 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic. ~~A cross section for cul-de-sacs is provided in the Transportation Design Manual.~~

~~E. Pedestrian/bicycle accessways shall be required to provide mid-block connections between blocks that exceed 600 feet, or to link the end of a cul-de-sac with a nearby collector or arterial street or activity center. The standards for accessways are provided in Sections 19.1410 and 19.1411.~~

~~F.~~ 5. Closed end street systems~~, as defined in Section 19.103~~ may serve no more than 20 dwellings.

~~G. Alleys. Alleys are encouraged in commercial and industrial developments. Alleys are allowed in residential districts with the approval of the Planning Commission, subject to the standards in the Transportation Design Manual.~~

~~H. Street design details. Standards for design speed, horizontal/vertical curves, grades and curb return radius are specified by street functional classification in the Transportation Design Manual.~~

~~I. Street names. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.~~

~~J. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution subject to Section 19.1407-~~

~~Adequate Transportation Facilities and 19.1408 Transportation Impact Analysis as applicable.~~

~~K. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.~~

~~L. Traffic signals. The location of traffic signals shall be noted on approved development plans. Where a proposed intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed.~~

~~M. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with regulations adopted by the City.~~

~~19.1409.4 General Intersection Design Standards.~~

F. Intersection Design and Spacing

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

~~B.~~ 2. Street and intersection alignments for local streets shall ~~should~~ facilitate local circulation but avoid alignments that encourage ~~non-local~~ nonlocal through traffic.

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

~~D.~~ 4. New streets shall intersect ~~with~~ at existing street intersections so that centerlines are not offset ~~except as provided in Table 19.1409.1~~. Where existing streets adjacent to a proposed development do not align properly, conditions shall ~~may~~ be imposed on the development to provide for proper alignment.

5. Minimum and maximum block perimeter standards are provided in Table 19.1408.1.

6. Minimum and maximum intersection spacing standards are provided in Table 19.1408.1.

Table ~~19.1409.1.~~ 19.1408.1 Street/Intersection Spacing

Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530 feet	1000 feet	2600 feet
Collector	300 feet	600 feet	1800 feet
Neighborhood Route	150 feet	~~400~~ 530 feet	1650 feet
Local	100 feet	530 feet	1650 feet

Table 19.1409.2 Additional Yard Requirements.

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet
37th Avenue (Lake Road to Grogan)	25 feet
40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

Table 19.1409.3 Transportation Facility Design Standards *Dimensions are shown in feet*

Classification	Right of Way	Travel Lane		On-street Parking		Sidewalks		Landscape Strips		Bike Lane/ Combined Bike & Travel Lane	
		Req'd.	Min. Allowed	Req'd.	Min. Allowed[1]	Req'd.	Min. Allowed	Req'd.	Min. Allowed	Req'd.	Min. Allowed
Arterial[2]	73	12	11	8	7/6	10	5	5	0	6/16	5/14
Collector[3]	60	11	10	8	7/6	8	5	5	0	6/16	5/14
Neighborhood	52	10	10	8	7/6	6	4	5	0	6/16	5/14
Local	50	10	10	8	7/6	6	4	5	0	6/16	5/14
Truck Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14
Bus Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14

Arterials[3]	Collectors		Neighborhood Routes	
OR Highway 99E*	Johnson Creek Blvd.*	Main Street	Roswell Street	Logus Road
OR Expressway 224*	17th Avenue*	Stanley Avenue	Olsen Street	27th Avenue
Linwood Avenue*	32nd Avenue	Oak Street	Harvey Street	37th Avenue
Lake Road*	Washington Street	Monroe Street	Brookside Drive	Wood Avenue
King Road*	Jefferson Street	Jackson Street	Regents Street	Washington Street/Ida Lane
Harrison Street*	34th Avenue	Railroad Avenue	Willow Street	Furnberg Drive/71st Avenue
River Road*	42nd Avenue	Rusk Road	Mason Lane	Cedar Crest Drive
	43rd Avenue	37th Avenue	Howe Street	Home Avenue

*A street shown with an asterisk indicates the route is a regional facility in accordance with the Regional Transportation Plan.

[1] Minimum residential on-street parking is 6 feet. Minimum commercial on-street parking is 7 feet.

[2] Right-of-way requirements for Oregon Highway 99E and Expressway 224 shall be determined by Oregon Department of Transportation. Required right-of-ways for the following arterials supersede Table 1409.3: 60 feet for Oatfield Road, 64 feet for Linwood Avenue.

[3] Right-of-way requirements are 72 feet for 17th Avenue between Highway 99E and Expressway 224; 60 feet for 17th Avenue north of Expressway 224; and 50 feet for the following: Monroe Street west of 224, Stanley Avenue, 34th Avenue 600 feet north of Lake Road, 32nd Avenue, and the conjunction of 43rd Avenue-Howe Street-42nd Avenue.

[4] Minor arterials include Linwood Avenue, Lake Road, Harrison Street, King Road, and Oatfield Road. McLoughlin Blvd. south of Harrison is a major arterial; north of Harrison it is a principal arterial.

19.1408.2 Street Design Standards

Table 19.1408.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.1408.2.A augment the dimensional standards contained in Table 19.1408.2. The Engineering Director will rely on Table 19.1408.2 and Subsection 19.1408.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.1408.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.1408.2 Street Design Standards (Dimensions are shown in feet)

Street Classification	Full-width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per Street Classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per Street Classification	Per Street Classification

A. Additional Street Design Standards. These standards augment the dimensional standards contained in Table 19.1408.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

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

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

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

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

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

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

7. On-street parking in industrial zones shall have a minimum width of eight feet.

8. On-street parking in commercial zones shall have a minimum width of seven feet.

9. On-street parking in residential zones shall have a minimum width of six feet.

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

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

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

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

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

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.1408.2 and the additional street design standards in Subsection 19.1408.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.

2. Multimodal street improvements identified in the TSP.

3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically with regarding to sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.

5. Existing right-of-way dimensions and topography.

~~19.1410 Pedestrian requirements and standards.~~

19.1408.3 Sidewalk Requirements and Standards

~~19.1410.1 General Provisions.~~

A. General Provisions

~~A.~~ 1. ~~Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. transportation design manual.~~

~~B.~~ 1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the ~~Milwaukie~~ TSP ~~Comprehensive Plan~~ and provide the context for needed pedestrian improvements ~~the pedestrian requirements and standards~~. Figure 5-1 ~~3.1~~ of the TSP ~~Comprehensive Plan~~ illustrates the ~~Walkways Network~~ Pedestrian Master Plan and ~~Figure 3.2 illustrates the Walkways Action Plan.~~ Table 5-3 contains the Pedestrian Action Plan.

~~C.~~ 2. Americans with Disabilities Act (ADA) requirements for public sidewalks ~~pedestrian facilities~~ shall apply where there is a conflict with ~~c~~City standards.

~~19.1410.2 Public sidewalks.~~

B. Sidewalk Requirements

~~A.~~ 1. Requirements. ~~Public sidewalks~~ Sidewalks shall be provided ~~are required~~ on the public street frontage of all ~~new~~ development per the requirements of this chapter. ~~(including detached and attached single family dwellings on existing lots), all land divisions, and~~

~~substantial redevelopment of commercial, industrial, multifamily and institutional uses.~~ ~~Public~~ ~~s~~Sidewalks shall ~~are~~ generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a~~n~~ public easement with the approval of the Engineering Director. ~~city engineer~~.

~~B.~~ 2. Design Standards. Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. ~~Standards and cross section details for the location, width and design of public sidewalks are included in the transportation design manual.~~

~~C.~~ 3. Maintenance. Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04. ~~Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.~~

~~19.1410.3 On-site walkways and circulation.~~

~~A. Requirement. All new development (excluding single family) and substantial redevelopment of commercial, industrial, multifamily and institutional uses shall provide a system of walkways that encourage safe and convenient pedestrian movement within the site and connections to off-site destinations. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.~~

~~B. Location. A walkway into the site shall be provided for every three hundred (300) feet of street frontage.~~

~~C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.~~

~~D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.~~

~~E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than five (5) feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a seven (7) foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five-tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.~~

~~19.1410.4 Pedestrian/bicycle accessways.~~

~~A. Intent. Pedestrian/bicycle accessways are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses are unavailable.~~

~~Public street connections for cars, pedestrians and bicycle circulation are preferable to accessways. Pedestrian/bicycle accessways should only be used to ensure connectivity to nearby neighborhood activity centers in areas where no other public street options are available.~~

~~B. Requirement. Pedestrian/bicycle accessways shall be required in the following situations:~~

~~1. In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by four hundred (400) feet or more, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.~~

~~2. In commercial and community service use districts where addition of an accessway would reduce walking or bicycling distance by two hundred (200) feet, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.~~

~~3. For purposes of subsections (B)(1) and (2) of this section, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface and is unobstructed.~~

~~4. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.~~

~~C. Design Standards. An accessway shall have a minimum right-of-way width of fifteen (15) feet and shall be improved to a minimum width of ten (10) feet and paved with a hard surface material. If an accessway also provides secondary fire access or a public utility corridor, its right-of-way width shall be at least twenty (20) feet with a minimum fifteen (15) foot wide paved surface. Additional standards relating to entry points, maximum length, visibility, and lighting of accessways are provided in the Design Manual.~~

~~D. Ownership, liability and maintenance of accessways. To enable access and allow maintenance over time for all pedestrian/bicycle accessways, the city engineer can require one of the following:~~

~~1. That the accessways be dedicated to the public and accepted by the city as public right-of-way prior to the final approval of the development.~~

~~2. That approval of the development shall be contingent upon granting to the public access easements to such accessways.~~

~~3. That the developer incorporate the accessway into recorded easements or tract(s) of common ownership which specifically requires the property owners and future property owners who are subject to such easements or are owners of such tracts to provide for the ownership, liability and maintenance of the accessway.~~

~~19.1411 Bicycle requirements and standards.~~

~~19.1411.1 General Provisions.~~

19.1408.4 Bicycle Facility Requirements and Standards

A. General Provisions

~~A.~~ 1. Bicycle facilities~~, including on-street bike lanes, off-street~~ include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths. ~~bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.~~

~~B.~~ 2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. ~~Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.~~ Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

~~**19.1411.2 Bike Lanes and Bikeways.**~~

B. Bicycle Facility Requirements

~~A.~~ 1. Requirements. ~~Bike~~ Bicycle facilities ~~lanes and bikeways~~ shall be provided in accordance with this chapter, Chapter 19.500, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion. ~~the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.~~

~~B.~~ 2. Timing of Construction. To assure continuity and safety, required bicycle facilities shall ~~bike lanes and bikeways will~~ generally be constructed ~~as part of the~~ at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities. ~~construction or improvement of collector and arterial streets.~~

~~C.~~ 3. Design Standards. Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.500 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. ~~Bike lanes shall be six (6) feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.~~

~~**19.1411.3 Bicycle Parking.** Bicycle parking requirements are set forth in Chapter 19.500.~~

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

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

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

B. Pedestrian/Bicycle Path Requirements

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

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

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 feet when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

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

C. Design Standards

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

D. Ownership and Maintenance

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

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.

2. Creation of a public access easement over the path prior to final development approval.

3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

~~19.1412 Transit requirements and standards.~~

19.1408.6 Transit Requirements and Standards

~~19.1412.1 General Provisions.~~

A. General Provisions

~~A~~1. Transit facilities include~~, including~~ bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement. ~~, shall be designed and improved in accordance with Tri-Met standards and the requirements and standards of this chapter and the Transportation Design Manual.~~

~~B~~2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. ~~Chapter 5 of the Milwaukie Comprehensive Plan.~~ Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

~~19.1412.2 Transit Facilities.~~

B. Transit Facility Requirements

~~A~~1. ~~Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred (200) feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.~~

~~B~~1. ~~Factors Determining Transit~~ Requirements. ~~The f~~Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on ~~in~~ adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ~~anticipated~~ ridership, and transit needs of ~~a~~ the development. Required improvements may include provision of an easement or dedication of land for transit facilities, ~~a bus stop,~~ benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting~~s~~. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.1405.

~~C~~2. Location of ~~Transit~~ Facilities. Transit facilities shall be located at controlled street intersections, wherever possible. ~~A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route.~~ Where a bus stop has already been established within 500 feet of ~~the affected~~ a proposed development, a new bus stop shall only be provided if recommended by TriMet ~~Tri-Met~~ and required by the Engineering Director ~~director~~. Otherwise, the development ~~developer~~ shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping. ~~through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).~~

3. Design Standards. Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination. The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.1407. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

19.1412.3 Building Orientation to Transit.

The following requirements apply to all new multifamily, commercial, office, and institutional development within five hundred (500) feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

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

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321, Community Service Use, shall be set back no more than thirty (30) feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than thirty (30) feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the thirty (30) foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than one hundred (100) feet.

3. If the proposed building is part of an institutional campus, the director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one (1) street served by transit, then the maximum setback requirement need only apply to one (1) street.

19.1413 Access management standards.

19.1413.1 General Provisions.

A. Access Permit Required. Access to a public street requires an access permit in accordance with the following:

1. Permits for access to city streets shall be subject to review and approval by the city engineer based on the adopted city standards contained in this chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to state highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the city or Clackamas County. Decisions regarding access permits to state highways shall be based on access standards adopted by ODOT.

3. Permits for access to county highways shall be subject to review and approval by Clackamas County, except where the county has delegated this responsibility to the city. Decisions regarding access permits to county highways shall be based on access standards adopted by Clackamas County.

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public. and/or private), driveways, and easements shall be as set forth in other sections of these

design standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty (530) feet of the adjacent property. The access study shall include the following:

1. Review of site access spacing and design.
2. Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.
3. Review of all modes of transportation to the site.
4. Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the city engineer or designee.

D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.

Table 19.1413.1 Access Spacing Targets.

Street Classification	**Minimum Feet**
Arterial	600
Collector	300
ODOT Facilities (ORE 99E, ORE 224)	Per Appendix C of Oregon Highway Plan

E. Access Study Requirements. The city or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.

F. Authority to Restrict Access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the city engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:

1. Cause or increase existing hazardous traffic conditions;
2. Provide inadequate access for emergency vehicles; or
3. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

G. Conditions of Approval. The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

19.1413.2 Location of Driveway Access.

A. Double Frontage. When a lot has frontage onto two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

B. Distance from Property Line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and one half (7½) feet from the property line in residential districts and at least ten (10) feet from the property line in all other districts.

C. New Single-Family Development Fronting Arterials or Collectors. Direct individual access to arterial or collector streets from detached or attached single-family dwellings and lots shall be discouraged. Direct access shall be considered only if there is no practical alternative way to access the site and only if the driveway is designed to allow for vehicles to turn around on-site (via a hammerhead or loop).

D. Backing into the Right-of-Way Prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single-family uses on local streets.

E. Minimum Distance from Driveway to Intersection Curb Return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:

1. For local and neighborhood streets, driveways for detached or attached single-family residential shall be located at least forty-five (45) feet from the intersection curb return, or located as far away from the curb return as possible.

2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred (100) feet from the intersection curb return.

3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred (400) feet for arterials and three hundred (300) feet for collectors, whichever is greater.

19.1413.3 Number and Size of Driveways.

A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.

1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.

2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty (150) feet may request an additional driveway, if needed.

B. Shared Driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.

~~C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in Section 19.426.~~

~~1. Single-family attached and detached uses shall have a minimum driveway width of nine (9) feet and a maximum width of eighteen (18) feet.~~

~~2. Three-family uses shall have a minimum driveway width of sixteen (16) feet and a maximum width of twenty (20) feet.~~

~~3. Multiple family uses with between four (4) and seven (7) dwellings shall have a minimum driveway width of twenty (20) feet, and a maximum width of twenty-four (24) feet.~~

~~4. Multiple family uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway width of twenty-four (24) feet, and a maximum width of thirty (30) feet.~~

~~5. Commercial, office and institutional uses shall have a minimum driveway width of twelve (12) feet, and a maximum width of thirty-six (36) feet.~~

~~6. Industrial uses shall have a minimum driveway width of fifteen (15) feet, and a maximum width of forty-five (45) feet.~~

~~Maximum driveway widths for commercial and industrial uses may be increased if the city engineer determines that more than two (2) lanes are required based on the number of trips generated or the need for turning lanes.~~

19.1409 Public Utility Requirements

19.1409.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.1400 per Section 19.1402 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

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

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

19.1409.2 Public Utility Improvements

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

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

1. Exceeds the design capacity of the utility.

2. Exceeds Public Works Standards or other generally accepted standards.

3. Creates a potential safety hazard.

4. Creates an ongoing maintenance problem.

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

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

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

19.1409.3 Design Standards

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

19.1409.4 Oversizing

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

19.1409.5 Monitoring

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

19.303.3 Standards. In an R-5 zone the following standards shall apply:

J. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

I. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

K. Transition Area. A transition~~al~~ area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

L. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.311.3 Standards. In a C-L zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.312.3 Uses.

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.312.3.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section ~~19.425~~ 19.407 of this title.

19.312.5 Public Area Requirements.

A. Purpose. The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design. ~~The design of streets, sidewalks, and public spaces is critical to the overall character and vitality of the downtown zones. The public area requirements prescribe specific details and design criteria for improvements within the public right-of-way, to establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.~~

B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone. ~~The downtown and riverfront public area requirements shall apply as follows:~~

~~1. All new development in the downtown zones shall comply with the public area requirements.~~

~~2. Any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent of the value of the land and existing improvements, as determined by the county assessor, shall comply with the public area requirements. The building official shall determine development permit value.~~

~~3. If the development permit value is less than fifty percent of the value of the land and existing improvements, as determined by the county assessor, then an amount equal to at least ten percent of the development permit value shall be utilized to meet the public area requirements. For example, if a one hundred thousand dollar improvement is proposed for a site with land and improvements valued at two hundred fifty thousand dollars, at least ten thousand dollars shall be dedicated to meet the public area requirements. Priorities for public area improvements shall be determined at a preapplication conference with community development department staff. In general, the public area requirements will be prioritized to benefit the pedestrian as follows:~~

~~First priority: Sidewalk improvements~~

~~Second priority: Street trees~~

~~Third priority: Streetlights~~

~~Fourth priority: Street furniture and bicycle parking~~

C. Review Process. All downtown development projects that meet the applicability provisions of Section 19.1402 shall submit all appropriate applications per Subsection 19.1403.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use

applications for downtown development projects shall be submitted in accordance with Subsection 19.1403.2 and processed in accordance with Chapter 19.1000.

D. Street Design Standards. If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.1404, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.1405. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.1403.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.1403.5.B.

19.313.3 Standards. In a C-G zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.323.5 Alteration and Development.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

10. Buffering. An appropriate buffer or screen, as provided under Subsection ~~19.416~~ 19.403.7, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

"Abandonment" means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of ~~six (6)~~ months.

"Access" means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

"Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within ~~two hundred (~~200~~)~~ feet (measured in a straight line) of the building or use it is intended to serve.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Accidental destruction" means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Airport" or "aircraft landing facility" means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

"Alley" means a ~~minor~~ right-of-way that provides access ~~which is used primarily for vehicular service~~ to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

"Alteration" means ~~a change in construction or a change in~~ ~~occupancy. Where the term "alteration" is applied to a change in construction, it is intended to apply to~~ any change, addition, or modification ~~in construction~~ to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include "routine maintenance and repair." ~~When the term is used in connection with a change in use occupancy, it is intended to apply to changes in occupancy from one use to another~~. See also "improvements."

~~Alteration, Structural. "Structural alteration" means a change or repair which would tend to prolong the life of the supporting member of a building or structure. A change in the external dimension of the building shall be considered a structural alteration.~~

"Antenna" means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

"Antenna support structure" means a structure on which a wireless antenna is or may be placed.

"Alternative support structure"~~:~~ means an ~~An~~ existing building, water tower, utility pole in the ~~right of way~~ right-of-way, or an antenna support structure that meets stealth design criteria.

"Existing ~~antenna~~ support structure"~~:~~ means any ~~Any~~ support structure existing at the time of the application.

"Application" means all forms, materials, and information required for submission for action authorized under this title.

"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.~~

"Automobile service station" means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

"Bankful stage" means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

"Basement" means a portion of a building, not deemed a story, which has more than one half of its height (but not more than ~~six (6)~~ feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

"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.

~~"Bikeways"~~ "Bicycle facility" means any ~~road,~~ street~~,~~ or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. ~~The term "bikeway" includes bike lane, bike path, and bike route:~~ Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

~~1.~~ "Bike lane" means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

"Shared lane" means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

"Bike boulevard" means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher

priority to through bicyclists, with secondary priority assigned to motorists. A bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

~~2.~~ "Bike path" means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, ~~and~~ pedestrians, and other nonmotorized modes of travel.

~~3. "Bike route" means a system of bikeways designated by route markers. Bike routes include shared roadways open to motor vehicles and upon which no bicycle lane is designated.~~

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

"Buffer area" means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

"Building" means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding ~~eighteen (~~18~~)~~ inches in height above the average grade of the adjoining ground.

"Building height" means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

"Building line" means a line that coincides with the front side of the main building.

"Build-to line" means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

"Cellar" means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

"Change in use" means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this section or the City's use zones as a guide. A proposal to change or add new uses may require land use approval. See also "use."

"City" means the City of Milwaukie, Oregon.

~~"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the roadway network. "Closed-end street system" does not include street systems, where more than one street connection to the roadway network is made by roadway construction, or is planned by dedication of right-of-way, or where other permanent reservations are made for future street extension to the roadway network.~~

~~"Collector street" means a roadway that carries local traffic from local streets to arterial streets within the city. Collectors also serve local community uses and serve as circulation magnets for local streets. Local public transit may use collector streets.~~

"Co-location" means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

"Commercial parking facility" means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory

to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

"Commercial recreation" means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

"Congregate housing facility" means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all ~~R-zones which~~ residential zones that permit multifamily apartments, and they require conditional use approval in those ~~R-zones which~~ residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

"Constructed wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

"Corridor design plan" means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

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

"Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

"Daycare center" means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

"Debris" means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

"Department of Environmental Quality (DEQ) Water Quality Standards" means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

"Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer's agreement is not a Development Agreement as defined by ORS 95.504.

"Development" means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: ~~any man-made change defined as buildings or other structures,~~ mining, dredging, ~~paving,~~ filling, or grading in amounts greater than ~~ten (~~10~~)~~ cubic yards ~~on any lot or excavation~~. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (~~a~~1) ~~Stream~~ stream enhancement or restoration projects approved by cities and counties; (~~b~~2) ~~Farming~~ farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; ~~and~~ (~~c~~3) ~~Construction~~ construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

"Development permit" means any permit, such as a building permit, issued by the City's Building Department for action authorized under this title. Land use approval by the City's Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

"Disturb" means to make ~~man-made~~ changes to the existing physical status of the land~~, which~~ that are made in connection with development. The following ~~uses~~ changes are excluded from the definition: enhancement or restoration of the Water Quality Resource Area~~;~~ and planting native cover identified in the Milwaukie Native Plant List.

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

"Dormitory" means a room which is rented for sleeping purposes for more than ~~four (~~4~~)~~ persons.

"Downtown zones" means the ~~five (~~5~~)~~ zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan ~~downtown and riverfront land use framework plan~~ – Downtown Storefront ~~downtown storefront~~ (DS), Downtown Commercial ~~downtown commercial~~ (DC), Downtown Office ~~downtown office~~ (DO), Downtown Residential ~~downtown residential~~ (DR), and Downtown Open Space ~~downtown open space~~ (DOS).

"Drinking establishment" means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

"Drive-through facility" means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

"Driveway" means the portion of the accessway located on private property or public lands outside of the public right-of-way.

"Driveway approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

"Dwelling" means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this section.

"Dwelling unit" means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle~~:~~.

~~1.~~ "Single-family attached" means ~~two (~~2~~)~~ dwelling units, each occupied as a housekeeping unit, sharing common structural walls.

~~2~~. "Single-family detached" means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.

~~3.~~ "Multifamily apartment" means a single structure containing ~~three (~~3~~)~~ or more dwelling units, usually for rent, and sharing common structural walls.

~~4.~~ "Multifamily condominium" means a single structure containing ~~three (~~3~~)~~ or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.

~~5.~~ "Interior single-family attached, interior multifamily condominium" means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.

~~6.~~ "Accessory dwelling" means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than ~~one (~~1~~)~~ cooking facility. For the purpose of this definition "cooking facility" means an oven, stove, range or other device used or intended for the preparation or heating of food.

~~a.~~ "Type 1 accessory dwelling" means an accessory dwelling unit not less than ~~two hundred twenty-five (~~225~~)~~ square feet gross floor area and not more than ~~six hundred (~~600~~)~~ square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.

~~b.~~ "Type 2 accessory dwelling" means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by ~~subsection~~ Subsection 19.602.10.

"Eating establishment" means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

"Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a ~~pre-disturbance~~ predisturbance condition, but create/recreate processes and features that occur naturally.

"Equipment cabinets" means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

"FAA approval" means demonstration of compliance with all applicable rules and regulations under the FAA's jurisdiction.

"Facade" means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

~~"Facility" means a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.~~

“Family” means any person or group of persons living within a single housekeeping unit as defined in this section.

“Family daycare” means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than ~~thirteen (~~13~~)~~ children, including children of the provider, regardless of full-time or part-time care status.

“Fence” means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

> ~~Fence, Sight-Obscuring.~~ “Sight-obscuring fence” means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least ~~eighty percent (~~80%~~)~~.

“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 (~~2~~)~~ 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.

“Flood management areas” means all lands contained within the ~~one hundred (~~100~~)~~ year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

“Floodway” means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a ~~one hundred (~~100~~)~~ year flood, as defined by the Corps of Engineers.

“Floodway fringe” means that land area which is outside of the stream floodway but is subject to periodic inundation by a ~~one hundred (~~100~~)~~ year flood, as defined by the Corps of Engineers.

“Floor area” means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating two buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 feet 6 inches, regardless of their use or finished state. Floor area does not include the following: ~~the sum of the gross horizontal area of the general floor of a building, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two (2) buildings; but not including:~~

~~1. Attic space providing headroom of less than seven (7) feet;~~

~~2. Basement or cellar;~~

~~3.~~ • Uncovered steps or fire escapes~~;~~.

~~4.~~ • Private garages, carports, or unenclosed porches~~;~~.

~~5.~~ • Accessory water towers or cooling towers~~; or~~.

~~6.~~ • Accessory off-street parking or loading spaces.

“Floor area ratio” means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of ~~two (~~2~~)~~ to ~~one (~~1~~)~~ means ~~two~~ 2 square feet of floor area for every ~~one~~ 1 square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

"Foster home" means any home maintained by a person licensed by the ~~state~~ State to provide care, food, and lodging in such home for not more than ~~ten (~~10~~)~~ children, including his or her own children, under the age of ~~eighteen (~~18~~)~~ years and unaccompanied by a parent or guardian.

"Frontage" means the portion of a property that abuts a public or private street. ~~property abutting on a street.~~

"Frontage improvements" means transportation facility improvements occurring along a property's frontage. See also "improvements."

"Garage" means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

> "Carport" means a stationary structure consisting of a roof, its supports, and not more than one wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:~~, Ground Level.~~

> "Ground-level grade" means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within ~~five (~~5~~)~~ feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

"Green street" means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

"Greenway areas" means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

"Ground floor" means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

"Guyed tower" means a tower which is supported by the use of cables (guy wires).

"Half street" means transportation facility improvements equal to one-half of a street design cross section plus enough additional roadway pavement for at least two travel lanes.

"Hazardous materials" means materials defined by the Oregon Department of Environmental Quality as hazardous.

"High-impact commercial businesses" means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

"Home occupation" means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

"Horticulture" means the cultivation of plants, garden crops, trees or nursery stock.

"Hotel" means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

"Housekeeping unit" means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

"Off-site improvements" means all public facility improvements occurring off the site and not along the site's frontage.

"On-site improvements" means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also "frontage improvements."

Institution:

"Institutional campus" means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.

~~Institution, Higher Educational.~~ "Higher educational institution" means a college or university, accredited by the ~~state~~ State.

"Interior landscaping" means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

"Invasive non-native or noxious vegetation" means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

"Junkyard" means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

"Kennel" means any lot or premises on which ~~four (4)~~ or more dogs, more than ~~four (4)~~ months of age, are kept.

"Kitchen facility" means an area in which something is built, installed, or established to prepare food for eating by a heating process.

"Landscape strip" means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

"Landscaping" means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

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

"Lattice tower" means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

"Lease area" means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

“Limited use” means a use that is permitted subject to specific limitations as described in the zoning ordinance.

“Livestock” means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

“Loading space” means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

~~“Local street” means a roadway that carries residential traffic within residential neighborhoods within the city. Local streets connect to other local streets or collector streets for greater access within or between neighborhoods. Local public transit may use local streets.~~

“Lot” means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one ~~(1)~~ distinct ownership.

~~Lot, Corner.~~ “Corner lot” means a lot abutting on ~~two (~~2~~)~~ or more streets, other than an alley, at their intersection.

“Interior lot” means a lot other than a corner lot.

“Through lot” means an interior lot having frontage on 2 streets.

“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.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line.

~~Lot, Interior. “Interior lot” means a lot other than a corner lot.~~

“Lot line” means the property line bounding a lot~~:~~.

1. ~~Lot Line, Front.~~ “Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.
2. ~~Lot Line, Rear.~~ “Rear lot line” means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line ~~ten (~~10~~)~~ feet in length within the lot parallel to and at the maximum distance from the front lot line.
3. ~~Lot Line, Side.~~ “Side lot line” means any lot line not a front or rear lot line.

~~Lot, Through. “Through lot” means an interior lot having frontage on two (2) streets.~~

“Lot width” means the horizontal distance between side lot lines measured at the building line.

~~“Major arterial street” means a roadway that serves as a regional facility that carries both local and through traffic to destinations within and outside of the city. Public transit serving other communities and different points in the region may use these streets.~~

“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

“Manufactured dwelling park” means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of ~~two (~~2~~)~~ acres, and a minimum of ~~four (~~4~~)~~ manufactured dwellings.

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

"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.

~~"Minor arterial street" means a roadway that carries local traffic from collector streets to regional facilities within the city. Minor arterials provide access to community uses and to neighborhoods within the city. Public transit serving other communities and different points in the region may use these streets.~~

~~"Mitigation" means the reduction of adverse effects of a proposed project by considering, in the order: (a) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (b) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (c) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (d) compensating for the impact by replacing or providing comparable substitute water quality resource areas.~~

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Monopole" means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

"Motel or tourist court" means one or more buildings designed or used as temporary living quarters for transients.

"Native vegetation" means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

~~"Neighborhood street" means a roadway that moves local traffic in and out from residential areas to arterials and collectors. Neighborhood streets are similar to local streets in design (with residential frontage), but carry more traffic and are commonly used by local residents. Neighborhood streets do not provide citywide circulation, but mainly serve an immediate neighborhood. Because their traffic levels are greater than local streets and potential speeding can be higher, neighborhood traffic management techniques can be appropriate.~~

"Net acre" means an area measuring ~~forty-three thousand five hundred sixty (~~43,560~~)~~ square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of ~~twenty-five (~~25~~)~~ percent; and publicly owned land designated for park, open space and resource protection.

"New construction" means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

"Nonconforming structure or use" means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office~~:, Professional and Administrative.~~

> "Professional and administrative office" means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers,

accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

"Off-street parking" means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

"Open space" means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

"Ordinary mean high water line" means as the elevation on the bank or shore to which water ordinarily rises in season.

"Ordinary mean low water line" means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

"Owner" includes an authorized agent of the owner.

"Parking space" means an area available for the parking of a standard American automobile or compact size.

"Perennial streams" means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

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

"Perimeter landscaping" means an area around the edge of a lot that is devoted to a buffer area with plantings.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

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

"Physical characteristics" means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

"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 this title.

"Plaza" means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

"Pleasure craft" means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

"~~Post-construction~~ Postconstruction erosion control" means ~~re-establishing~~ reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

"Poultry" means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

"Preapplication conference" means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application,

and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

"Prefabricated construction" (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

"Primary entrance" means the entrance to a building that most pedestrians are expected to use. Generally, each building has ~~one (~~1~~)~~ primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building's lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

"Protected water feature~~s~~" means the following:

"Primary protected water feature~~s~~" means and includes~~:~~ any of the following:

~~a.~~ • Title 3 wetlands.~~; and~~

~~b.~~ • Rivers, streams, and drainages downstream from the point at which ~~one hundred (~~100~~)~~ acres or more are drained to that water feature (regardless of whether it carries year-round flow).~~; and~~

~~c.~~ • Streams carrying year-round flow.~~; and~~

~~d.~~ • Springs which feed streams and wetlands and have year-round flow.~~; and~~

~~e.~~ • Natural lakes.

"Secondary protected water features" means and includes intermittent streams and seeps downstream of the point at which ~~fifty (~~50~~)~~ acres are drained and upstream of the point at which ~~one hundred (~~100~~)~~ acres are drained to that water feature.

"Public area requirements" means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

"Public facilities" means transportation and public utility improvements as described below.

"Transportation facilities" means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

"Public utilities" means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also "utility facilities."

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

"Railroad facilities" means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

"Recreational vehicle" means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

"Religious institution" means a structure used by a religious organization having a tax-exempt status.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for

the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities ~~re-establish~~ reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

"Retail trade" means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also "alteration."

School:~~, Commercial.~~

> "Commercial school" means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.
>
> ~~School, Primary, Elementary, Junior High, or High.~~ "Primary, elementary, junior high or high school" means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

"Second-floor housing" means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

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

"Shared parking" means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

"Sidewalk" means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

~~"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.~~

"Specified anatomical areas" means and includes any of the following:

~~1.~~ • Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola~~.; or~~

~~2.~~ • Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

~~1.~~ • The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast~~.;~~

~~2.~~ • Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy~~.;~~

~~3.~~ • Masturbation, actual or simulated~~.; or~~

~~4.~~ • Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points ~~subsections 1 through 3~~ of this definition.

"Stealth Design" means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

"Steep slopes" means slopes that are equal to or greater than ~~twenty-five (~~25%~~) percent~~.

"Stormwater ~~pre-treatment~~ facility" or "stormwater pre-treatment facility" means any structure or ~~drainage-way~~ drainageway that is designed, constructed, and maintained to collect, ~~and~~ filter, and retain or detain surface water ~~run-off~~ runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

"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 (~~6~~)~~ feet above grade for more than ~~fifty (~~50%~~) percent~~ of the total perimeter or is more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

> ~~Story, Half.~~ "Half story" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least ~~two (~~2~~)~~ opposite exterior walls are not more than ~~two (~~2~~)~~ feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than ~~six (~~6~~)~~ feet above grade, for more than fifty ~~(~~50%~~) percent~~ of the total perimeter or is not more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river~~. It~~ that flows at least part of the year, including perennial and intermittent streams.

"Street" means the entire width between ~~the~~ right-of-way lines ~~of every way~~ for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

"Street classification" or "functional street classification" means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the provision for federal, State, and regional transportation funding. The City's functional street classification

system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City's Transportation System Plan.

"Street network" means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than one existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

"Through street" means a street that connects to other streets on both ends.

"Street stub" means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

"Street tree" means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

~~"Substantial redevelopment" means any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty (50) percent of the real market value of site improvements as determined by the county assessor. The development permit value includes all labor and material costs associated with the proposed construction. The building official shall determine the value of the development permit.~~

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is ~~sixty (~~60~~)~~ days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

"Title 3 Wetlands" means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

"Tower" means a structure with the sole purpose of serving as an antenna support structure. "Tower" includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

"Townhouse" means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

"Traffic management" means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

"Transit stop" means a site designated by ~~Tri-Met~~ TriMet as the location at which a ~~Tri-Met~~ TriMet bus or light rail train will accept or discharge passengers.

"Transit street" means a street with existing transit service operating at ~~twenty (~~20~~)~~ minute-or-less peak hour frequency.

"Transition area" means an area where new multifamily projects in R-3, R-2, and R-1 ~~zones~~ Zones that are adjacent to areas designated for lower densities have required transition measures.

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

"Turnaround" means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also "change in use."

"Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater ~~pre-treatment~~ facilities.

"Vegetated corridor" means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

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

"Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street ~~highway~~, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Walkway" means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

"Water quality and floodplain management area" means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

~~"Water quality facility" means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales and ponds that are maintained as stormwater quality control facilities.~~

"Water quality resource areas" means vegetated corridors and the adjacent water feature as established in Chapter 19.322.

"Mitigation" means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (3) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and/or (4) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wireless Communication Facility (WCF)" means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

~~1.~~ • Antennas.~~;~~

~~2.~~ • An antenna support structure.~~;~~

~~3.~~ • An equipment cabinet.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.~~:~~

~~1.~~ ~~Yard, Front.~~ "Front yard" means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

~~2.~~ ~~Yard, Rear.~~ "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

~~3.~~ ~~Yard, Side.~~ "Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

~~4.~~ ~~Yard, Street Side.~~ "Street side yard" means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

Chapter 19.400 SUPPLEMENTARY REGULATIONS

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 (5) 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 ten thousand (10,000) square feet or less, the footprint of an accessory structure may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet the footprint of an accessory building may not exceed eight hundred fifty (850) square feet.

2. An accessory structure may not exceed fifteen (15) feet in height as measured from the average finished grade within a ten- (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 (9) feet.

4. The minimum roof pitch for accessory structures with other than a flat or shed roof is four (4) inches rise for every twelve (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 one hundred twenty (120) square feet. For accessory structures greater that one hundred twenty (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 provided as part of the regulations in Chapter 12.24 and clear vision determination process specified in Chapter 19.1409.2.E. 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 (6) feet for rear, street side and side yards, forty-two (42) inches for front yards, except that for flag lots fences in the front yard may be six (6) feet. No electrified, barbed, or razor wire fencing is permitted.

2. Commercial Zones. Maximum height six (6) 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- (6)-foot-high sight-obscuring fence.

3. Industrial Zones. Maximum height eight (8) 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 (6) 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 (3) feet for an uncovered patio, deck, or swimming pool not exceeding eighteen (18) 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 (100) 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 (2) 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 (100) 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.

19.404 Type 1 accessory dwelling unit.

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following.

19.404.1 Purpose.

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or

modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

19.404.2 Approval Required.

Type 1 accessory dwelling units are subject to subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information.

A. Completed application forms;

B. Site plan showing the following:

1. Lot lines and location and dimensions of existing and proposed structures with yard dimensions,

2. Location and dimension of existing and proposed parking,

3. Location of structures on adjoining lots;

C. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

19.404.3 General.

A. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

B. Notwithstanding the maximum allowable gross floor area of six hundred (600) square feet, the accessory dwelling unit shall not exceed forty percent (40%) of the gross floor area of the primary structure.

C. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28, Capital Improvements.

19.404.4 Ownership and Tenancy.

Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

19.404.5 Business License Required.

A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

19.404.6 Use, Alteration or Conversion of Structure.

Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

A. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

B. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

C. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

D. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

E. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

F. No more than one accessory dwelling unit per lot is permitted.

19.404.7 Required Parking.

Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.405 Storage in front yard.

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.406 Clear vision areas.

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

19.407 Maintenance of minimum ordinance requirements.

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

19.408 Dual use of required open space.

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1(C).

19.409 Buildings on the same lot.

A minimum distance of six (6) 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 (1) building designed for dwelling purposes shall be permitted per lot.

19.410 Distance from property line.

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

19.411 Projections from buildings.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to twenty-four (24) inches into a required side yard or thirty-six (36) inches into a required front or rear yard.

19.412 Lot size requirements, general exceptions.

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand (3000) square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.413 Yard requirements, general exceptions.

19.413.1 Exceptions.

The following exceptions to the yard requirements are established for a lot in any one zone:

A. The required front yard need not exceed the average depth of the two (2) abutting front yards within one hundred (100) feet of the proposed structure.

B. The required front yard need not exceed the average depth of the abutting front yard within one hundred (100) feet of the proposed structure and the required front yard depth.

C. (Repealed by Ord. 1893)

~~19.414 Building height limitations, general exceptions.~~

~~Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone.~~

~~19.415 Additional building height.~~

~~One additional story may be permitted in excess of the required maximum standard. An additional ten percent (10%) of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.~~

~~19.416 Transition area.~~

~~19.416.1 Transition Measures.~~

~~In zones where multifamily, commercial, or industrial projects are proposed that are within one hundred (100) feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.~~

~~A. Roadways separating projects;~~

~~B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the six (6) foot level to screen living rooms from direct view across open areas;~~

~~C. Gradual density changes. A new project may not have a density greater than twenty-five percent (25%) of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.~~

~~19.417 Minimum vegetation.~~

~~In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.~~

~~19.418 Density and dedication of park land.~~

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

~~19.419 Density and housing cost.~~

~~For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at twenty-five percent (25%) below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus ten percent (10%). The planned unit development density increase specified in Section 19.319 and this density increase are additive.~~

~~19.420 Temporary structure permits.~~

~~19.420.1 Requirements for Approval.~~

~~Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed six (6) months where:~~

~~A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.;~~

~~B. The applicant has applied for a building permit for a permanent dwelling;~~

~~C. The temporary structure will be owner-occupied;~~

~~D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy;~~

~~E. The use is consistent with the Milwaukie comprehensive plan; or~~

~~F. There is no other reasonable alternative to use of a temporary structure.~~

~~19.420.2 Approval Conditions.~~

~~In addition, the applicant must satisfy the following conditions for approval:~~

~~A. City approval of a sewage disposal system for the structure;~~

~~B. Screening of the structure to minimize any adverse visual impact on surrounding property;~~

~~C. Placement of manufactured skirting around the structure;~~

~~D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.~~

~~19.420.3 Review Process.~~

~~Applications for temporary structures shall be processed according to subsection 19.1011.1, Type I administrative review. Temporary permits that exceed the six (6) month time period allowed under subsection 19.420.1 must be reviewed by the planning commission under subsection 19.1011.3.~~

~~19.421 Manufactured dwelling parks.~~

~~19.421.1 Purpose.~~

~~This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing six (6) to twelve (12) dwelling units per acre.~~

~~19.421.2 Application.~~

~~A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.~~

~~B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.~~

~~19.421.3 General Requirements.~~

~~Manufactured dwelling parks shall be subject to review under subsection 19.1011.3 of the zoning ordinance, Minor Quasi-Judicial Review.~~

~~19.421.4 Development Requirements.~~

~~All manufactured dwelling parks shall meet the following minimum requirements:~~

~~A. The minimum size of a manufactured dwelling park shall be two (2) acres.~~

~~B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after fifteen percent (15%) of the site has been deducted for access drives.~~

~~C. A minimum setback of fifteen (15) feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of six (6) feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.~~

~~D. Each manufactured dwelling unit or accessory structure shall maintain a minimum ten (10) foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back ten (10) feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of fifteen (15) feet.~~

~~E. A minimum of fifteen percent (15%) of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to one hundred (100) square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.~~

~~F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of twenty-four (24) feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of three (3) feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of thirty (30) feet of paving.~~

~~G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500 of the zoning ordinance. If twenty-four (24) foot wide streets are constructed, an additional off-street parking space per each two (2) manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within one hundred (100) feet of the manufactured dwellings they serve.~~

~~H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.~~

~~I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.~~

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.422 Manufactured home placement.

19.422.1 Purpose.

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.422.2 Applicability.

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown on the following table:

Table 2 Manufactured Home Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.422.3 Definitions.

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.422.4 Siting Standards.

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than one thousand (1000) square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than twelve (12) inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. (Repealed by Ord. 1965)

G. The unit shall comply with the definition for manufactured home as identified in this section.

H. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.422.5 Implementation of Siting Standards.

A. For unit placement on an individual lot within all R-zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.420 is not subject to the siting standards of this section.

19.422.6 Occupancy of Units.

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.422.7 Review Processes.

A. Siting standards of this section shall be reviewed as part of the building review procedures of subsection 19.1011.1.

B. Subdivision processes and procedures are those contained in the city subdivision ordinance.

19.423 Multifamily recycling areas.

19.423.1 Purpose.

This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

19.423.2 Definition.

For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

19.423.3 Applicability.

All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

19.423.4 Recycling Collection Area Standards.

Standards for recycling collection areas are as follows:

A. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

B. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

C. Recycling containers must be covered either by roof or weatherproof lids.

D. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

E. The recycling collection area(s) must have a collection capacity of at least one hundred (100) cubic feet in size for every ten (10) dwelling units or portion thereof.

F. The recycling collection area must be easily accessible to collection service personnel between the hours of six a.m. and six p.m.

G. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

H. City fire department approval will be required for all recycling collection areas.

I. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

19.423.5 Review of Recycling Collection Areas.

A. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review.

B. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of subsection 19.1011.1, Type I Administrative Review.

19.424 Home occupations.

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

19.424.1 Home Occupation Use Standards.

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

A. Be incidental and accessory to the residential use of the property;

B. Maintain the residential character of the building and premises;

C. Not have the outward appearance of a business;

D. Not detract from the residential character of the neighborhood; and

E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions.

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two (2) may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four (4) square feet in area, shall not be illuminated, shall not exceed three (3) feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement.

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with subsection 19.424.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises;

B. Use of the home to distribute or receive goods;

C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces;

D. The use of public streets for parking or storage;

E. The time of day that home occupation activities may take place;

F. Equipment or material storage, including vehicles and trailers;

G. Noise, light, fumes, exhaust, and similar impacts.

19.425 Design standards for single-family housing.

A. All new one and two (2) 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 twelve percent (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 (3) 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 (5) feet deep;

2. Entry area recessed at least two (2) 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 (16) inches from one exterior wall surface to the other;

5. Dormer;

6. Roof eaves with a minimum projection of twelve (12) inches from the intersection of the roof and the exterior walls;

7. Roof line offsets of at least sixteen (16) 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 forty percent (40%) of the building elevation that is visible from the street.

19.426 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. Fencing and screening must conform to the clear vision standards of 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

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.

Chapter 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.401 General Exceptions

19.401.1 Lot Size Exceptions

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3000 square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.401.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.401.2 below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.401.2 plus the yard requirement of the underlying zone.

Table 19.401.2 Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet
37th Avenue (Lake Road to Grogan)	25 feet

40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

B. The following exceptions to the yard requirements are established for a lot in any one zone:

1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 feet of the proposed structure.

2. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard**.**

19.401.3 Building Height Exceptions

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

B. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.

19.401.4 Density Exceptions

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

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.319 and this density increase are additive.

19.402 Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

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

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 5 feet, except where other requirements of this title are more restrictive.

F. Alteration or modification of nonconforming accessory structures is 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.

19.402.2 Accessory Structures, Single-Family Residential Provisions

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 9 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 that 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:

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

a. Residential Zones and Residential Uses in All Zones. Maximum height is 6 feet for rear, street side and side yards, 42 inches for front yards, except that for flag lots fences in the front yard may be 6 feet. No electrified, barbed, or razor wire fencing is permitted.

b. Commercial Zones. Maximum height 6 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 6-foot-high sight-obscuring fence.

c. Industrial Zones. Maximum height 8 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 6 feet.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 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 3 feet for an uncovered patio, deck, or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).

19.402.3 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 100 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 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 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.

19.402.4 Accessory Dwelling Unit (Type 1)

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:

A. Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that

the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

B. Approval Required. Type 1 accessory dwelling units are subject to Subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information:

1. Completed application forms.

2. Site plan showing the following:

a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.

b. Location and dimension of existing and proposed parking.

c. Location of structures on adjoining lots.

3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

D. Notwithstanding the maximum allowable gross floor area of 600 square feet, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.

E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.

F. Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

G. Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

H. Use, Alteration, or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

2. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

6. No more than one accessory dwelling unit per lot is permitted.

I. Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.403 Site and Building Design Provisions

19.403.1 Storage in Front Yard

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.403.2 Clear Vision Areas

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

19.403.3 Maintenance of Minimum Ordinance Requirements

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

19.403.4 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1.C.

19.403.5 Buildings on the Same Lot

A minimum distance of 6 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.

19.403.6 Distance from Property Line

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

19.403.7 Transition Area

In zones where multifamily, commercial, or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects.

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the 6 foot level to screen living rooms from direct view across open areas.

C. Gradual density changes. A new project may not have a density greater than 25% of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

19.403.8 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.403.9 Multifamily Recycling Requirements

A. Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

B. Definition. For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

C. Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

D. Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

3. Recycling containers must be covered either by roof or weatherproof lids.

4. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

5. The recycling collection area(s) must have a collection capacity of at least 100 cubic feet in size for every 10 dwelling units or portion thereof.

6. The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.

7. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

8. City fire department approval will be required for all recycling collection areas.

9. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of Subsection 19.1011.3, Minor Quasi-Judicial Review.

F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Subsection 19.1011.1, Type I Administrative Review.

19.403.10 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units 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 5 feet deep.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

7. Roof line offsets of at least 16 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.

19.403.11 Flag Lot Design and Development Standards

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

B. Development Standards.

1. 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.

2. Yard Setbacks for Flag Lots.

a. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.

b. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

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

D. Frontage, Accessway, and Driveway Design.

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

2. 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.

3. Driveway Design and Emergency Vehicle Access.

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

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

c. 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.

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

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

f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

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

h. 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.

E. Protection of Adjoining Properties. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection19.402.2.B.

1. 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.

2. 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:

   a. 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.

   b. 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.

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

F. Tree Mitigation. All trees 6 inches or greater in diameter, as measured at the lowest limb or 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 2 inches caliper and evergreen trees shall be a minimum of 5 feet tall.

G. Landscaping 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:

1. A list of existing vegetation by type, including number, size, and species of trees.

2. Details for protections of existing trees.

3. List of existing natural features.

4. Location and space of existing and proposed plant materials.

5. List of plant material types by botanical and common names.

6. Notation of trees to be removed.

7. Size and quantity of plant materials.

8. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.

19.403.12 On-Site Walkways and Circulation

A. Requirement. All development subject to Chapter 19.1400 (excluding single-family residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.403.13 Building Orientation to Transit

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

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

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321 Community Service Use, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street.

19.404 Temporary Dwelling Unit Provisions

19.404.1 Requirements for Approval

Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 6 months where:

A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.

B. The applicant has applied for a building permit for a permanent dwelling.

C. The temporary structure will be owner-occupied.

D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy.

E. The use is consistent with the Milwaukie comprehensive plan.

F. There is no other reasonable alternative to use of a temporary structure.

19.404.2 Approval Conditions

In addition, the applicant must satisfy the following conditions for approval:

A. City approval of a sewage disposal system for the structure.

B. Screening of the structure to minimize any adverse visual impact on surrounding property.

C. Placement of manufactured skirting around the structure.

D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.404.3 Review Process

Applications for temporary structures shall be processed according to Subsection 19.1011.1 Type I administrative review. Temporary permits that exceed the 6-month time period allowed under Subsection 19.404.1 must be reviewed by the planning commission under Subsection 19.1011.3.

19.405 Manufactured Dwelling Parks

19.405.1 Purpose

This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

19.405.2 Application

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas,

and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.405.3 General Requirements

Manufactured dwelling parks shall be subject to review under Subsection 19.1011.3 Minor Quasi-Judicial Review.

19.405.4 Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

A. The minimum size of a manufactured dwelling park shall be two acres.

B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.

C. A minimum setback of 15 feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.

E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 4 feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500. If 24-foot wide streets are constructed, an additional off-street parking space per each two manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of 6 inches above finished grade, the materials shall be resistant to

decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.406 Manufactured Dwelling Placement

19.406.1 Purpose

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.406.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown in Table 19.406:

Table 19.406 Manufactured Dwelling Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.406.3 Definitions

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.406.4 Siting Standards

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1000 square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least 3 inches rise for every 12 inches of run.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. The unit shall comply with the definition for manufactured home as identified in this section.

G. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.406.5 Implementation of Siting Standards

A. For unit placement on an individual lot within all residential zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.404 is not subject to the siting standards of this section.

19.406.6 Occupancy of Units

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.406.7 Review Process

A. Siting standards of this section shall be reviewed as part of the building review procedures of Subsection 19.1011.1.

B. Subdivision processes and procedures are contained in Title 17 Land Division.

19.407 Home Occupation Provisions

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

19.407.1 Home Occupation Use Standards

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

A. Be incidental and accessory to the residential use of the property.

B. Maintain the residential character of the building and premises.

C. Not have the outward appearance of a business.

D. Not detract from the residential character of the neighborhood.

E. Be owned and operated by an occupant of the dwelling.

19.407.2 Prohibitions and Use Restrictions

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.407.3 Permitted Signage

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

19.407.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.407.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises.

B. Use of the home to distribute or receive goods.

C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.

D. The use of public streets for parking or storage.

E. The time of day that home occupation activities may take place.

F. Equipment or material storage, including vehicles and trailers.

G. Noise, light, fumes, exhaust, and similar impacts.

Chapter 17.08 DEFINITIONS

17.08.330 ~~Transportation Design Manual.~~ (Repealed by Ord. ___.)

~~"Transportation Design Manual" means the document authorized under Ordinance 1893, which is maintained and administered by the engineering director for the purpose of execut-ing the purposes of Ordinance 1893, implementing the Transportation System Plan, and providing transportation design standards and policies.~~

Chapter 17.20 PRELIMINARY PLAT

17.20.060 Proposed conditions.

A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

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

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

3. Approximate acreage and square feet under a single ownership, or if more than 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 one hundred (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 ~~city~~; whether ~~if~~ roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

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 this title, ~~and~~ Title 19, and City ~~city~~ design standards, including the Public Works Standards. ~~Milwaukie Transportation Design Manual.~~

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

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards. ~~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 title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval.

Chapter 17.28 DESIGN STANDARDS

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.~~ Public facility improvements.

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.1400 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. ~~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 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 provided in accordance with applicable design standards in the Public Works Standards. ~~at least ten (10) 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 Title 19. 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 ten percent (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~~ Chapter 19.700~~,~~ Variances, Exceptions and Home Improvement Exceptions.

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

F. Measurement of Required Frontage. Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

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 Subsection 19.403.11. ~~Chapter 19.425.~~

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than ~~two (~~2~~)~~ flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than ~~two (~~2~~)~~ 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 (~~18~~)~~ 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

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 in the Public Works Standards and Chapter 19.1400 Public Facility Improvements. ~~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.~~ Utility undergrounding.

~~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, 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 s~~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 (~~50,000~~)~~ volts or above may be placed above ground. 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 (1) 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 Subsection 17.24.060 ~~of this title~~.

ATTACHMENT 1
Exhibit C

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Proposed Code Amendments

File No. ZA-09-02
Clean Copy

Title 19 Zoning Ordinance
Chapter 1400
Chapter 300
Section 103
Chapter 400

Title 17 Land Division Ordinance
Chapter 08
Chapter 20
Chapter 28
Chapter 32

Chapter 19.1400 PUBLIC FACILITY IMPROVEMENTS

This chapter contains standards and procedures for both public transportation facilities and public utilities. Transportation facilities include elements of the public right-of-way such as streets, sidewalks, bicycle lanes, street trees, and benches. Public utilities include water, sewer, and storm infrastructure. Collectively, transportation facilities and public utilities are referred to as "public facilities." Public facilities that are built as a requirement of this chapter shall be designed and constructed in accordance with the Public Works Standards.

The main focus of this chapter is to ensure the provision of safe, convenient, and adequate public transportation facilities consistent with the adopted City of Milwaukie Transportation System Plan (TSP). The TSP outlines the community's vision for transportation facilities, which, among other things, includes a desire for complete streets with a multimodal emphasis. This chapter implements that vision by addressing the need for transportation facility improvements in a way that is consistent and equitable.

Provisions of this chapter coordinate with Title 12 Streets, Sidewalks, and Public Places; Chapter 13.28 Capital Improvements; Chapter 13.30 Reimbursement Districts; and Chapter 15.36 Public Works Standards. Any conflict between this chapter and another shall be resolved by administrative determination of the Engineering Director and Planning Director, as appropriate. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by another provision of this title or any other ordinance, resolution, or regulation, the provision which is most restrictive shall govern. Unless specifically defined in Section 19.103, words or phrases used in this chapter are intended to be interpreted with the meaning they have in common usage to give this chapter its most reasonable application.

19.1401 Purpose

The purpose of Chapter 19.1400 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this chapter include the following:

19.1401.1 For transportation facilities:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.

B. Protect the functional classification, capacity, and level of service of transportation facilities.

C. Ensure that transportation facility improvements are provided in rough proportion to development impacts.

D. Provide an equitable and consistent method of requiring transportation facility improvements.

E. Ensure that transportation facility improvements accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.1401.2 For public facilities:

A. Ensure that public facility improvements are safe, convenient, and adequate.

B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.

C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.

D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

19.1402 Applicability

19.1402.1 General

Chapter 19.1400 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure (including single-family residential expansions as described in Subsection 19.1402.2) or a change or intensification in use that results in any one of the following:

1. A new dwelling unit.

2. Any increase in gross floor area.

3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.1402.2 Single-family Residential Expansions

Chapter 19.1400 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1500 square feet or more, all of Chapter 19.1400 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 square feet, but not more than 1499 square feet, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.1408.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 square feet, none of Chapter 19.1400 applies.

D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.1409.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.1402.3 Exemptions

Chapter 19.1400 does not apply to the following types of development in all zones:

A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.

B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.1402.2.E above.

C. Replats that do not increase the number of lots.

D. Property line adjustments.

E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.

2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within two years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.1402.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.1400.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

19.1403 Review Process

19.1403.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.1400 per Section 19.1402, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

19.1403.2 Application Submittal

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, one of the following types of applications is required.

A. Development Permit Application. If the proposed development does not require a land use application, compliance with Chapter 19.1400 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application. If the proposed development triggers a Transportation Impact Study (TIS) per Section 19.1404, a TFR land use application shall be required. Compliance with Chapter 19.1400 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Chapter 19.1000. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

C. Non-TFR Land Use Application. If the proposed development requires a land use application but does not trigger a TIS per Section 19.1404, compliance with Chapter 19.1400 will be reviewed as part of the land use application submittal, pursuant to the review procedures associated with that land use application as set forth in Chapter 19.1000.

19.1403.3 Approval Criteria

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submission.

A. Procedures, Requirements, and Standards. Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.1400 and the Public Works Standards.

B. Transportation Facility Improvements. Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.1405 Rough Proportionality, except as allowed by Section 19.1406 Fee in Lieu of Construction.

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

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.
3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.1403.3.C.5 below.
5. Adequate frontage improvements as follows:
    a. For local streets, a minimum paved width of 16 feet along the site's frontage.
    b. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage.
    c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.
6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:
    a. Level of Service F for the first hour of the morning or evening two-hour peak period.
    b. Level of Service E for the second hour of the morning or evening two-hour peak period.

19.1403.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.1403.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation. For development that is subject to Chapter 19.1400 per Subsection 19.1402.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.1404. Pursuant to Subsection 19.1404.1, the Engineering Director will also determine whether a Transportation Impact Study (TIS) is

required. If a TIS is required, a Transportation Facilities Review land use application shall be submitted pursuant to Subsection 19.1403.2.B.

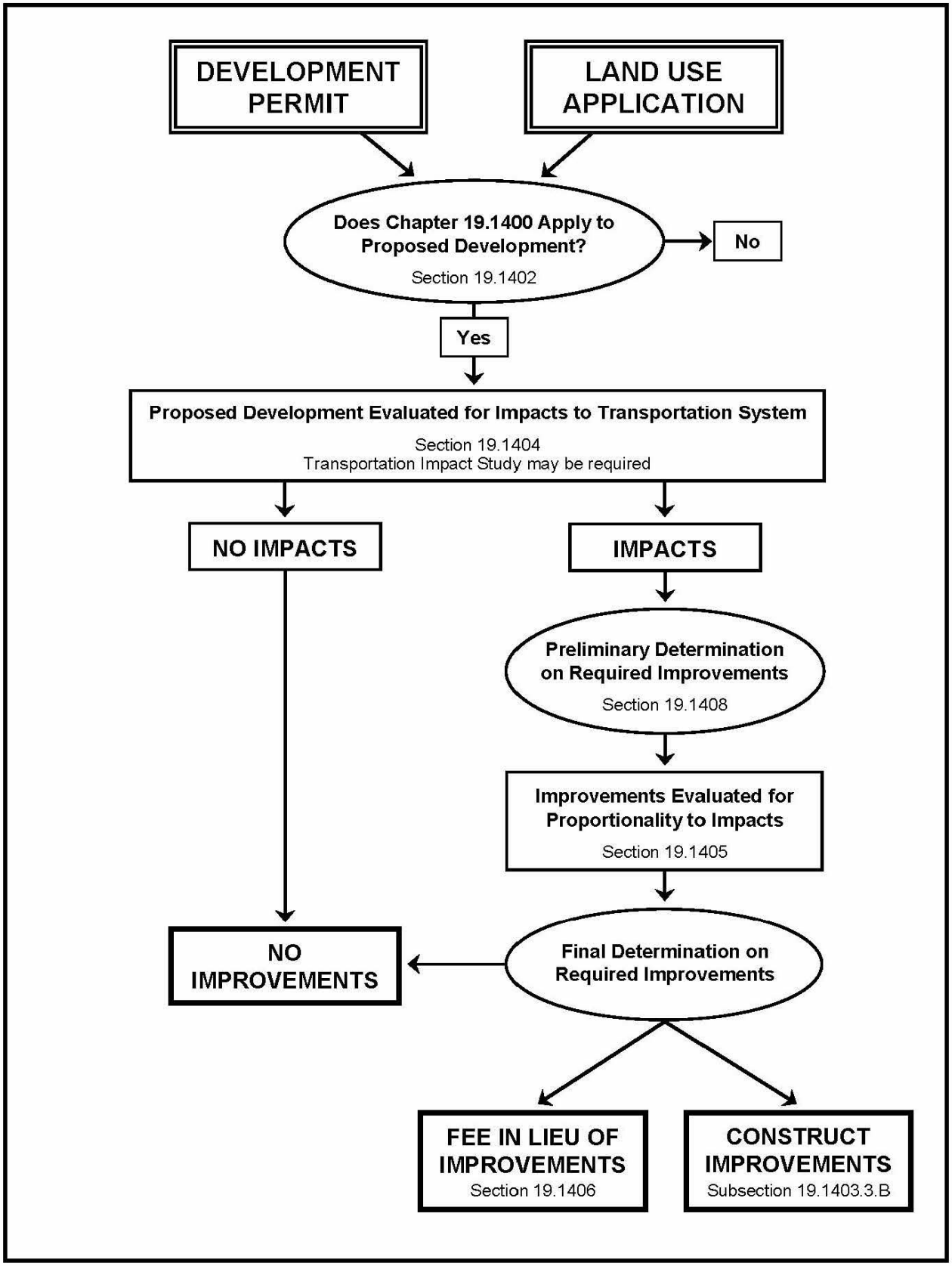
For development that is subject to Chapter 19.1400 per Subsection 19.1402.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 square feet.

B. Street Design. Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.1408.

C. Proportional Improvements. When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.1405 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.1405.2.

D. Fee in Lieu of Construction (FILOC). If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.1406.1.

Figure 19.1403.4
Process for Determining Transportation Facility Improvements



19.1403.5 Remedies

A. Variances. Relief from any transportation facility improvement requirement in Section 19.1408 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

B. Appeals. Appeal of a land use decision is subject to the provisions of Chapter 19.1000. Appeal of a rough proportionality determination (Subsection 19.1402.2 and Section 19.1405) or street design standard determination (Subsection 19.1408.2) not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

19.1404 Transportation Impact Evaluation

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

19.1404.1 TIS Determination

A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

B. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination.

C. A TIS determination is not a land use action and may not be appealed.

19.1404.2 TIS General Provisions

A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

C. The TIS shall be submitted with a Transportation Facilities Review (TFR) land use application pursuant to Subsection 19.1403.2.B and associated application materials pursuant to Subsection 19.1403.3. The City will not accept a TFR application for processing if it does not include the

required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.

D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.1403.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.1408 and to mitigate transportation impacts identified in the TIS.

19.1404.3 TIS Requirements

A. TIS Scope. The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a one-half-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than one-half mile from the development site, a larger study area may be required.

2. If notice to ODOT or Clackamas County is required pursuant to Section 19.1407, the City will coordinate with these agencies to provide a comprehensive TIS scope.

B. TIS Content. A project-specific TIS Checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

1. Introduction and Summary. This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

2. Existing Conditions. This section should include a study area description, including existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

4. Mitigation. This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.1405.

5. Appendix. This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

C. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

D. Neighborhood Through-Trip Study. Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will

require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.
2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.
3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.1405 Rough Proportionality and Subsection 19.1404.4 Mitigation.

19.1404.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

19.1405 Rough Proportionality

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.1403.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.1402.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.1402.2.

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

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

19.1405.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.1404. When no TIS is required, potential impacts will be determined by the Engineering Director.

19.1405.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a one-half-mile radius of the proposed development. If a TIS is required pursuant to Section 19.1404, the impact area is the TIS study area.

B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.

D. The most recent use when a change in use is proposed that does not involve new construction.

E. Applicable TSP goals, policies, and plans.

F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.

G. Accident history within the impact area.

H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.

J. Other considerations as may be identified in the review process.

19.1406 Fee in Lieu of Construction

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

19.1406.1 FILOC Criteria

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

A. Required improvements are not feasible due to the inability to achieve proper design standards.

B. Required improvements would create a safety hazard.

C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development.

19.1406.2 FILOC Findings

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.1406.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

19.1406.3 FILOC Fees

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.

B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

19.1406.4 FILOC Administration

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following:

A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.

   1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.

   2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.

B. Fees shall be used within ten years of the date on which they were collected. Fees that have not been used within ten years of collection will be returned to the owner of the development property at the time the refund is issued.

C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.1406.4.A and that can be constructed within the 10-year time period per Subsection 19.1406.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

19.1407 Agency Notification and Coordinated Review

19.1407.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.1400 to the following agencies:

A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 feet of a State highway, or is within 1,320 feet of a State highway interchange ramp.

B. ODOT Rail Division: If the proposed development is within 300 feet of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.

C. Metro and Clackamas County: If the proposed development is within 200 feet of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.

D. Metro: If the proposed development is within 200 feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 feet of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

19.1407.2 Coordinated Review

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

19.1408 Transportation Facility Requirements

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

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the city and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.1408.1 General Street Requirements and Standards

A. Access Management. All development subject to Chapter 19.1400 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision. All development subject to Chapter 19.1400 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones. Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Unless specifically stated otherwise, the standards in this section do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.312.5.

D. Development in Non-Downtown Zones. Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements is subject to the street design standards and right-of-way dedication requirements contained in that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements and for development that is not in any of the downtown zones listed in Subsection 19.1408.1.C above:

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

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

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.1408.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with this section and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

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

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

6. The following provisions apply to all new public streets and extensions to existing public streets.

    a. All new streets shall be dedicated and improved in accordance with this chapter.

    b. Dedication and construction of a half street is generally not acceptable. However, a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate two travel lanes pursuant to Subsection 19.1408.2.

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

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

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

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

E. Street Layout and Connectivity

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

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

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

   a. Temporary turnarounds shall be constructed for street stubs in excess of 150 feet in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

   b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

   c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

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

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

F. Intersection Design and Spacing

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

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

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

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

5. Minimum and maximum block perimeter standards are provided in Table 19.1408.1.

6. Minimum and maximum intersection spacing standards are provided in Table 19.1408.1.

Table 19.1408.1 Street/Intersection Spacing

Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530 feet	1000 feet	2600 feet
Collector	300 feet	600 feet	1800 feet
Neighborhood Route	150 feet	530 feet	1650 feet
Local	100 feet	530 feet	1650 feet

19.1408.2 Street Design Standards

Table 19.1408.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.1408.2.A augment the dimensional standards contained in Table 19.1408.2. The Engineering Director will rely on Table 19.1408.2 and Subsection 19.1408.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.1408.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.1408.2 Street Design Standards (Dimensions are shown in feet)

Street Classification	Full-width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per Street Classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per Street Classification	Per Street Classification

A. Additional Street Design Standards. These standards augment the dimensional standards contained in Table 19.1408.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

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

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

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

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

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

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

7. On-street parking in industrial zones shall have a minimum width of eight feet.

8. On-street parking in commercial zones shall have a minimum width of seven feet.

9. On-street parking in residential zones shall have a minimum width of six feet.

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

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

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

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

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

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.1408.2 and the additional street design standards in Subsection 19.1408.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.

2. Multimodal street improvements identified in the TSP.

3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically with regarding to sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.

5. Existing right-of-way dimensions and topography.

19.1408.3 Sidewalk Requirements and Standards

A. General Provisions

1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the TSP and provide the context for needed pedestrian improvements. Figure 5-1 of the TSP illustrates the Pedestrian Master Plan and Table 5-3 contains the Pedestrian Action Plan.

2. Americans with Disabilities Act (ADA) requirements for public sidewalks shall apply where there is a conflict with City standards.

B. Sidewalk Requirements

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

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

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

19.1408.4 Bicycle Facility Requirements and Standards

A. General Provisions

1. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

B. Bicycle Facility Requirements

1. Requirements. Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.500, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

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

3. Design Standards. Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.500 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

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

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

B. Pedestrian/Bicycle Path Requirements

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

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

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 feet when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

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

C. Design Standards

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

D. Ownership and Maintenance

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

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.

2. Creation of a public access easement over the path prior to final development approval.

3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

19.1408.6 Transit Requirements and Standards

A. General Provisions

1. Transit facilities include bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement.

2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

B. Transit Facility Requirements

1. Requirements. Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ridership, and transit needs of the development. Required improvements may include provision of an easement or dedication of land for transit facilities, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.1405.

2. Location of Facilities. Transit facilities shall be located at controlled street intersections, wherever possible. Where a bus stop has already been established within 500 feet of a proposed development, a new bus stop shall only be provided if recommended by TriMet and required by the Engineering Director. Otherwise, the development shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping.

3. Design Standards. Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination. The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.1407. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

19.1409 Public Utility Requirements

19.1409.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.1400 per Section 19.1402 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

A. Permit Review. The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards

within ten working days of application submission. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

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

19.1409.2 Public Utility Improvements

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

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

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

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

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

19.1409.3 Design Standards

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

19.1409.4 Oversizing

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

19.1409.5 Monitoring

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

19.303.3 Standards. In an R-5 zone the following standards shall apply:

J. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

I. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

L. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.311.3 Standards. In a C-L zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.312.3 Uses.

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.312.3.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section 19.407 of this title.

19.312.5 Public Area Requirements.

A. Purpose. The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design.

B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.

C. Review Process. All downtown development projects that meet the applicability provisions of Section 19.1402 shall submit all appropriate applications per Subsection 19.1403.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use applications for downtown development projects shall be submitted in accordance with Subsection 19.1403.2 and processed in accordance with Chapter 19.1000.

D. Street Design Standards. If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.1404, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.1405. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.1403.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.1403.5.B.

19.313.3 Standards. In a C-G zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.323.5 Alteration and Development.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

10. Buffering. An appropriate buffer or screen, as provided under Subsection 19.403.7, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

“Abandonment” means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of 6 months.

“Access” means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

“Accessory structure or accessory use” means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.

“Accessway” means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

“Accidental destruction” means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

“Adult entertainment business” means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. “Adult entertainment business” includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

“Agriculture” means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

“Airport” or “aircraft landing facility” means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

“Alley” means a right-of-way that provides access to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

“Alteration” means any change, addition, or modification to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include “routine maintenance and repair.” See also “improvements.”

“Antenna” means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

“Antenna support structure” means a structure on which a wireless antenna is or may be placed.

"Alternative support structure" means an existing building, water tower, utility pole in the right-of-way, or an antenna support structure that meets stealth design criteria.

"Existing support structure" means any support structure existing at the time of the application.

"Application" means all forms, materials, and information required for submission for action authorized under this title.

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

"Automobile service station" means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

"Bankful stage" means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

"Basement" means a portion of a building, not deemed a story, which has more than one half of its height (but not more than 6 feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

"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.

"Bicycle facility" means any street or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

"Bike lane" means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

"Shared lane" means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

"Bike boulevard" means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher priority to through bicyclists, with secondary priority assigned to motorists. A bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

"Bike path" means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, pedestrians, and other nonmotorized modes of travel.

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

"Buffer area" means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

“Building” means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding 18 inches in height above the average grade of the adjoining ground.

“Building height” means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

“Building line” means a line that coincides with the front side of the main building.

“Build-to line” means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

“Cellar” means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

“Change in use” means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this section or the City’s use zones as a guide. A proposal to change or add new uses may require land use approval. See also “use.”

“City” means the City of Milwaukie, Oregon.

“Co-location” means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

“Commercial parking facility” means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

“Commercial recreation” means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

“Congregate housing facility” means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all residential zones that permit multifamily apartments, and they require conditional use approval in those residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

“Constructed wetlands” means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

“Corridor design plan” means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

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

“Curb return” means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

“Daycare center” means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

“Debris” means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

“Department of Environmental Quality (DEQ) Water Quality Standards” means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

“Developer’s agreement” means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer’s agreement is not a Development Agreement as defined by ORS 95.504.

“Development” means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: mining, dredging, filling, or grading in amounts greater than 10 cubic yards. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (1) stream enhancement or restoration projects approved by cities and counties; (2) farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; (3) construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

“Development permit” means any permit, such as a building permit, issued by the City’s Building Department for action authorized under this title. Land use approval by the City’s Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

“Disturb” means to make changes to the existing physical status of the land that are made in connection with development. The following changes are excluded from the definition: enhancement or restoration of the Water Quality Resource Area and planting native cover identified in the Milwaukie Native Plant List.

“Dormer” means a projecting structure built out from a sloping roof usually containing a window.

“Dormitory” means a room which is rented for sleeping purposes for more than 4 persons.

“Downtown zones” means the 5 zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan—Downtown Storefront (DS), Downtown Commercial (DC), Downtown Office (DO), Downtown Residential (DR), and Downtown Open Space (DOS).

“Drinking establishment” means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

“Drive-through facility” means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

“Driveway” means the portion of the accessway located on private property or public lands outside of the public right-of-way.

“Driveway approach” means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

“Dwelling” means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this section.

“Dwelling unit” means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle.

> “Single-family attached” means 2 dwelling units, each occupied as a housekeeping unit, sharing common structural walls.
>
> “Single-family detached” means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.
>
> “Multifamily apartment” means a single structure containing 3 or more dwelling units, usually for rent, and sharing common structural walls.
>
> “Multifamily condominium” means a single structure containing 3 or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.
>
> “Interior single-family attached, interior multifamily condominium” means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.
>
> “Accessory dwelling” means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than 1 cooking facility. For the purpose of this definition “cooking facility” means an oven, stove, range or other device used or intended for the preparation or heating of food.
>
> > “Type 1 accessory dwelling” means an accessory dwelling unit not less than 225 square feet gross floor area and not more than 600 square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.
> >
> > “Type 2 accessory dwelling” means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by Subsection 19.602.10.

“Eating establishment” means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

“Enhancement” means the process of improving upon the natural functions and/or values of an area or feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a predisturbance condition, but create/recreate processes and features that occur naturally.

“Equipment cabinets” means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

“FAA approval” means demonstration of compliance with all applicable rules and regulations under the FAA’s jurisdiction.

“Facade” means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

“Family” means any person or group of persons living within a single housekeeping unit as defined in this section.

“Family daycare” means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than 13 children, including children of the provider, regardless of full-time or part-time care status.

“Fence” means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

> “Sight-obscuring fence” means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least 80%.

“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 2 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.

“Flood management areas” means all lands contained within the 100 year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

“Floodway” means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a 100 year flood, as defined by the Corps of Engineers.

“Floodway fringe” means that land area which is outside of the stream floodway but is subject to periodic inundation by a 100 year flood, as defined by the Corps of Engineers.

“Floor area” means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating two buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 feet 6 inches, regardless of their use or finished state. Floor area does not include the following:

- Uncovered steps or fire escapes.
- Private garages, carports, or unenclosed porches.

- Accessory water towers or cooling towers.
- Accessory off-street parking or loading spaces.

“Floor area ratio” means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means 2 square feet of floor area for every 1 square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

“Foster home” means any home maintained by a person licensed by the State to provide care, food, and lodging in such home for not more than 10 children, including his or her own children, under the age of 18 years and unaccompanied by a parent or guardian.

“Frontage” means the portion of a property that abuts a public or private street.

“Frontage improvements” means transportation facility improvements occurring along a property’s frontage. See also “improvements.”

“Garage” means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

> “Carport” means a stationary structure consisting of a roof, its supports, and not more than one wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:

> “Ground-level grade” means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within 5 feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

“Green street” means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

“Greenway areas” means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

“Ground floor” means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

“Guyed tower” means a tower which is supported by the use of cables (guy wires).

“Half street” means transportation facility improvements equal to one-half of a street design cross section plus enough additional roadway pavement for at least two travel lanes.

“Hazardous materials” means materials defined by the Oregon Department of Environmental Quality as hazardous.

“High-impact commercial businesses” means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

“Home occupation” means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Horticulture” means the cultivation of plants, garden crops, trees or nursery stock.

“Hotel” means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

“Housekeeping unit” means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

> “Off-site improvements” means all public facility improvements occurring off the site and not along the site’s frontage.
>
> “On-site improvements” means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also “frontage improvements.”

Institution:

> “Institutional campus” means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.
>
> “Higher educational institution” means a college or university, accredited by the State.

“Interior landscaping” means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

“Invasive non-native or noxious vegetation” means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

“Junkyard” means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

“Kennel” means any lot or premises on which 4 or more dogs, more than 4 months of age, are kept.

“Kitchen facility” means an area in which something is built, installed, or established to prepare food for eating by a heating process.

“Landscape strip” means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

“Landscaping” means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

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

“Lattice tower” means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

“Lease area” means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

“Limited use” means a use that is permitted subject to specific limitations as described in the zoning ordinance.

“Livestock” means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

“Loading space” means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

“Lot” means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

> “Corner lot” means a lot abutting on 2 or more streets, other than an alley, at their intersection.
>
> “Interior lot” means a lot other than a corner lot.
>
> “Through lot” means an interior lot having frontage on 2 streets.

“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.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line.

“Lot line” means the property line bounding a lot.

> “Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.
>
> “Rear lot line” means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.
>
> “Side lot line” means any lot line not a front or rear lot line.

“Lot width” means the horizontal distance between side lot lines measured at the building line.

“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

“Manufactured dwelling park” means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of 2 acres, and a minimum of 4 manufactured dwellings.

“Manufactured home” means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

“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.

“Mobile home” means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

“Monopole” means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

“Motel or tourist court” means one or more buildings designed or used as temporary living quarters for transients.

“Native vegetation” means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

“Net acre” means an area measuring 43,560 square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of 25 percent; and publicly owned land designated for park, open space and resource protection.

“New construction” means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

“Nonconforming structure or use” means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office:

> “Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

“Off-street parking” means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

“Open space” means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

“Ordinary mean high water line” means as the elevation on the bank or shore to which water ordinarily rises in season.

“Ordinary mean low water line” means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

“Owner” includes an authorized agent of the owner.

“Parking space” means an area available for the parking of a standard American automobile or compact size.

“Perennial streams” means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

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

“Perimeter landscaping” means an area around the edge of a lot that is devoted to a buffer area with plantings.

“Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

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

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

“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 this title.

“Plaza” means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

“Pleasure craft” means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

“Postconstruction erosion control” means reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

“Poultry” means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

“Preapplication conference” means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application, and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

“Prefabricated construction” (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

“Primary entrance” means the entrance to a building that most pedestrians are expected to use. Generally, each building has 1 primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building’s lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant’s outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

“Protected water feature” means the following:

“Primary protected water feature” means and includes any of the following:

- Title 3 wetlands.
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow).
- Streams carrying year-round flow.
- Springs which feed streams and wetlands and have year-round flow.
- Natural lakes.

"Secondary protected water features" means and includes intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

"Public area requirements" means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

"Public facilities" means transportation and public utility improvements as described below.

"Transportation facilities" means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

"Public utilities" means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also "utility facilities."

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

"Railroad facilities" means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

"Recreational vehicle" means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

"Religious institution" means a structure used by a religious organization having a tax-exempt status.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

"Retail trade" means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also "alteration."

School:

"Commercial school" means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

"Primary, elementary, junior high or high school" means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

"Second-floor housing" means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

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

"Shared parking" means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

"Sidewalk" means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

"Specified anatomical areas" means and includes any of the following:

- Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola.
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

- The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- Masturbation, actual or simulated.
- Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points of this definition.

"Stealth Design" means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

"Steep slopes" means slopes that are equal to or greater than 25%.

"Stormwater facility" or "stormwater pre-treatment facility" means any structure or drainageway that is designed, constructed, and maintained to collect, filter, and retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

"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 6 feet above grade for more than 50% 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.

"Half story" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 feet above grade, for more than fifty 50% 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.

"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river, that flows at least part of the year, including perennial and intermittent streams.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

"Street classification" or "functional street classification" means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the provision for federal, State, and regional transportation funding. The City's functional street classification system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City's Transportation System Plan.

"Street network" means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than one existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

"Through street" means a street that connects to other streets on both ends.

"Street stub" means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

"Street tree" means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

"Title 3 Wetlands" means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

"Tower" means a structure with the sole purpose of serving as an antenna support structure. "Tower" includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

“Townhouse” means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

“Traffic management” means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

“Transit stop” means a site designated by TriMet as the location at which a TriMet bus or light rail train will accept or discharge passengers.

“Transit street” means a street with existing transit service operating at 20 minute-or-less peak hour frequency.

“Transition area” means an area where new multifamily projects in R-3, R-2, and R-1 Zones that are adjacent to areas designated for lower densities have required transition measures.

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

“Turnaround” means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

“Use” means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also “change in use.”

“Utility facilities” means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater facilities.

“Vegetated corridor” means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

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

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks.

“Walkway” means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

“Water quality and floodplain management area” means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

“Water quality resource areas” means vegetated corridors and the adjacent water feature as established in Chapter 19.322.

“Mitigation” means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (3) reducing or eliminating the impact over time by preservation and maintenance

operations during the life of the action by monitoring and taking appropriate measures; and/or (4) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wireless Communication Facility (WCF)" means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

- Antennas.
- An antenna support structure.
- An equipment cabinet.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

"Front yard" means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

"Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

"Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

"Street side yard" means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

Chapter 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.401 General Exceptions

19.401.1 Lot Size Exceptions

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3000 square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.401.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.401.2 below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.401.2 plus the yard requirement of the underlying zone.

Table 19.401.2 Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet

37th Avenue (Lake Road to Grogan)	25 feet
40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

B. The following exceptions to the yard requirements are established for a lot in any one zone:

1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 feet of the proposed structure.

2. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard.

19.401.3 Building Height Exceptions

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

B. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.

19.401.4 Density Exceptions

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

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.319 and this density increase are additive.

19.402 Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

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

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 5 feet, except where other requirements of this title are more restrictive.

F. Alteration or modification of nonconforming accessory structures is 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.

19.402.2 Accessory Structures, Single-Family Residential Provisions

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 9 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 that 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:

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

a. Residential Zones and Residential Uses in All Zones. Maximum height is 6 feet for rear, street side and side yards, 42 inches for front yards, except that for flag lots fences in the front yard may be 6 feet. No electrified, barbed, or razor wire fencing is permitted.

b. Commercial Zones. Maximum height 6 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 6-foot-high sight-obscuring fence.

c. Industrial Zones. Maximum height 8 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 6 feet.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 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 3 feet for an uncovered patio, deck, or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).

19.402.3 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 100 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 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 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.

19.402.4 Accessory Dwelling Unit (Type 1)

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:

A. Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that

the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

B. Approval Required. Type 1 accessory dwelling units are subject to Subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information:

1. Completed application forms.

2. Site plan showing the following:

   a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.

   b. Location and dimension of existing and proposed parking.

   c. Location of structures on adjoining lots.

3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

D. Notwithstanding the maximum allowable gross floor area of 600 square feet, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.

E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.

F. Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

G. Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

H. Use, Alteration, or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

2. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

6. No more than one accessory dwelling unit per lot is permitted.

I. Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.403 Site and Building Design Provisions

19.403.1 Storage in Front Yard

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.403.2 Clear Vision Areas

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

19.403.3 Maintenance of Minimum Ordinance Requirements

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

19.403.4 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1.C.

19.403.5 Buildings on the Same Lot

A minimum distance of 6 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.

19.403.6 Distance from Property Line

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

19.403.7 Transition Area

In zones where multifamily, commercial, or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects.

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the 6 foot level to screen living rooms from direct view across open areas.

C. Gradual density changes. A new project may not have a density greater than 25% of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

19.403.8 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.403.9 Multifamily Recycling Requirements

A. Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

B. Definition. For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

C. Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

D. Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.
2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.
3. Recycling containers must be covered either by roof or weatherproof lids.
4. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.
5. The recycling collection area(s) must have a collection capacity of at least 100 cubic feet in size for every 10 dwelling units or portion thereof.
6. The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.
7. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.
8. City fire department approval will be required for all recycling collection areas.
9. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of Subsection 19.1011.3, Minor Quasi-Judicial Review.

F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Subsection 19.1011.1, Type I Administrative Review.

19.403.10 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units 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 5 feet deep.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

7. Roof line offsets of at least 16 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.

19.403.11 Flag Lot Design and Development Standards

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

B. Development Standards.

1. 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.

2. Yard Setbacks for Flag Lots.

    a. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.

    b. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

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

D. Frontage, Accessway, and Driveway Design.

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

2. 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.

3. Driveway Design and Emergency Vehicle Access.

    a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

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

    c. 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.

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

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

    f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

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

    h. 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.

E. Protection of Adjoining Properties. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection19.402.2.B.

1. 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.

2. 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:

    a. 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.

    b. 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.

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

F. Tree Mitigation. All trees 6 inches or greater in diameter, as measured at the lowest limb or 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 2 inches caliper and evergreen trees shall be a minimum of 5 feet tall.

G. Landscaping 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:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.

19.403.12 On-Site Walkways and Circulation

A. Requirement. All development subject to Chapter 19.1400 (excluding single-family residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.403.13 Building Orientation to Transit

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

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

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321 Community Service Use, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street.

19.404 Temporary Dwelling Unit Provisions

19.404.1 Requirements for Approval

Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 6 months where:

A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.

B. The applicant has applied for a building permit for a permanent dwelling.

C. The temporary structure will be owner-occupied.

D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy.

E. The use is consistent with the Milwaukie comprehensive plan.

F. There is no other reasonable alternative to use of a temporary structure.

19.404.2 Approval Conditions

In addition, the applicant must satisfy the following conditions for approval:

A. City approval of a sewage disposal system for the structure.

B. Screening of the structure to minimize any adverse visual impact on surrounding property.

C. Placement of manufactured skirting around the structure.

D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.404.3 Review Process

Applications for temporary structures shall be processed according to Subsection 19.1011.1 Type I administrative review. Temporary permits that exceed the 6-month time period allowed under Subsection 19.404.1 must be reviewed by the planning commission under Subsection 19.1011.3.

19.405 Manufactured Dwelling Parks

19.405.1 Purpose

This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

19.405.2 Application

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas,

and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.405.3 General Requirements

Manufactured dwelling parks shall be subject to review under Subsection 19.1011.3 Minor Quasi-Judicial Review.

19.405.4 Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

A. The minimum size of a manufactured dwelling park shall be two acres.

B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.

C. A minimum setback of 15 feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.

E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 4 feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500. If 24-foot wide streets are constructed, an additional off-street parking space per each two manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of 6 inches above finished grade, the materials shall be resistant to

decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.406 Manufactured Dwelling Placement

19.406.1 Purpose

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.406.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown in Table 19.406:

Table 19.406 Manufactured Dwelling Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.406.3 Definitions

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.406.4 Siting Standards

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1000 square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least 3 inches rise for every 12 inches of run.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. The unit shall comply with the definition for manufactured home as identified in this section.

G. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.406.5 Implementation of Siting Standards

A. For unit placement on an individual lot within all residential zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.404 is not subject to the siting standards of this section.

19.406.6 Occupancy of Units

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.406.7 Review Process

A. Siting standards of this section shall be reviewed as part of the building review procedures of Subsection 19.1011.1.

B. Subdivision processes and procedures are contained in Title 17 Land Division.

19.407 Home Occupation Provisions

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

19.407.1 Home Occupation Use Standards

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

A. Be incidental and accessory to the residential use of the property.

B. Maintain the residential character of the building and premises.

C. Not have the outward appearance of a business.

D. Not detract from the residential character of the neighborhood.

E. Be owned and operated by an occupant of the dwelling.

19.407.2 Prohibitions and Use Restrictions

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.407.3 Permitted Signage

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

19.407.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.407.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises.

B. Use of the home to distribute or receive goods.

C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.

D. The use of public streets for parking or storage.

E. The time of day that home occupation activities may take place.

F. Equipment or material storage, including vehicles and trailers.

G. Noise, light, fumes, exhaust, and similar impacts.

Chapter 17.08 DEFINITIONS

17.08.330 (Repealed by Ord. ____.)

Chapter 17.20 PRELIMINARY PLAT

17.20.060 Proposed conditions.

A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;
2. Name and address of the record owner or owners and of the person who prepared the site plan;
3. Approximate acreage and square feet under a single ownership, or if more than 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 one hundred (100) feet of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

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 this title, Title 19, and City design standards, including the Public Works Standards.

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

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

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 title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval.

Chapter 17.28 DESIGN STANDARDS

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 Public facility improvements.

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.1400 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

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 provided in accordance with applicable design standards in the Public Works Standards.

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 Title 19. 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 ten percent (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 Chapter 19.700 Variances, Exceptions and Home Improvement Exceptions.

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

F. Measurement of Required Frontage. Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

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 Subsection 19.403.11.

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than 2 flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 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 18 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

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 in the Public Works Standards and Chapter 19.1400 Public Facility Improvements. 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 Utility undergrounding.

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) 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 Subsection 17.24.060.

Draft Ordinance for Adoption

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE FOLLOWING TITLES OF THE MILWAUKIE MUNICIPAL CODE: TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES AND TITLE 15 BUILDINGS AND CONSTRUCTION. THE AMENDMENTS ARE PRIMARILY IN RESPONSE TO RECENT TRANSPORTATION-RELATED AMENDMENTS TO CHAPTER 19.1400 OF THE MILWAUKIE MUNICIPAL CODE (FILE #ZA-09-02).

WHEREAS, City Council adopted amendments to Titles 17 and 19 to make the City's transportation regulations easier to use, understand, and defend; and

WHEREAS, the amendments to Titles 12 and 15 ensure that City's access management, clear vision, and public facility regulations are consistent with the recently adopted amendments to Titles 17 and 19; and

WHEREAS, it is the City's goal to provide a safe, convenient, and economic transportation system; and

WHEREAS, the amendments to Title 12 provide for a safer transportation system by improving the City's access management and clear vision standards; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, City Council finds that the amendments are in the public interest;

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

Section 1. Titles 12 and 15 of the Milwaukie Municipal Code are amended as described in Exhibit A (strikeout version) and Exhibit B (clean version).

Section 2. All sections not amended as described in Exhibits A and B remain as written.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

_____
Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney

Document2 (Last revised 2/6/2008)

ATTACHMENT 2
Exhibit A

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION AND REPAIR

12.08.010 Jurisdiction and management of the public rights-of-way.

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

12.08.020 Construction standards.

A. Permit Required. No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and ~~Milwaukie Transportation Design Manual,~~ other applicable codes, rules and regulations, and design standards. As used in this chapter, "work" means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or

10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

B. Preapplication Conference. A ~~pre-application~~ preapplication conference with the Engineering Director ~~civil engineer~~, or designee, is required prior to submission of any application for work within public rights-of-way~~, except for the~~ The Engineering Director ~~city engineer~~ may waive this requirement for small-scale projects.

C. Permit Applications. Applications for permits to perform work within city rights-of-way shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the work will be performed in accordance with all applicable codes, rules and regulations, specifically including city standard specifications and drawings;

2. That all issues identified in the preapplication conference have been resolved to the satisfaction of the civil engineer;

3. That any proposed new or modified facilities will be constructed in accordance with any applicable franchise agreement;

4. The location and route of all facilities to be installed aboveground or on existing utility poles;

5. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

6. The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

7. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

D. (Repealed by Ord. 1893).

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall commence no earlier than twenty-four (24) hours following city approval, and shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code, the city shall issue a permit authorizing construction of the

facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. ~~Notice of Construction. Except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.~~ (Repealed by Ord. _____.)

J. Notice of Construction. All applicants for work in the right-of-way must notify the ~~city engineer~~ Engineering Director at least one hundred and twenty (120) days prior to planned commencement of work. Once a permit has been issued and except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.

K. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

L. Noncomplying Work. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

M. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as required herein.

N. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the Engineering Director ~~city engineer~~ or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

O. Restoration of Public Rights-of-Way, City Property and Protected Trees.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, or trees protected by Chapter 16.32 of this code, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good or better condition as it was before as determined by the Engineering Director ~~city engineer~~ or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights- of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration

to be made at the expense of the permittee. In cases where the city determines in its sole discretion that the failure to restore rights-of-way results in an immediate threat to the public safety or welfare, the city may proceed with restoration with no prior notice to the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property. A traffic control plan describing all such measures shall be required, and must receive city approval no less than twenty-four hours (24) prior to the commencement of any work in the right-of-way.

P. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent (100%) of the estimated cost of the proposed work within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until one year after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of- way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.08.030 Liability.

Every person having occasion to work in or to place any obstruction in any public right-of-way, or to make any alteration thereto, under the provisions of this chapter, shall be responsible to any one for any injury or damage resulting in any way from the presence of such obstruction, alteration or work, and also shall be liable to, indemnify and defend the city for any claim arising therefrom.

12.08.040 Exceptions to application of this chapter.

A. City or Franchisee Work. The provisions of this chapter shall not be deemed to apply to the construction or maintenance of pavement by the city, either by its employees or by persons operating under contract with the city, nor to cuts or excavations made by utilities operated by the city or by grantees operating under lawfully granted franchises. Prior written notice of at least forty-eight (48) hours shall, however, be provided to the ~~city engineer~~ Engineering Director or designee of all work to be done in city rights-of-way which would otherwise be subject to the provisions of this chapter.

B. Other Exceptions ~~as Determined by city engineer~~. The city manager or designee may exempt applications for permits from the requirements of this chapter, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city's streets and ways is adequately safeguarded.

The city manager or designee may develop administrative regulations and policies to implement the provisions of this section.

12.08.050 Violation~~s~~ Penalty.

Any person violating any provision of this chapter shall be punished by a fine not to exceed two hundred fifty ~~one hundred~~ dollars ($250.00~~100.00~~). Each day that such violation exists shall be deemed a separate violation of this chapter.

~~Chapter 12.16 DRIVEWAYS~~

~~12.16.010 Definitions.~~

~~For the purpose of this chapter, the following definitions shall apply:~~

~~A. "Apron" means that portion of the driveway approach extending from the gutter flow line to the sidewalk section and lying between the end slopes of the driveway approach.~~

~~B. "Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.~~

~~C. "Driveway" means an area on private property where automobiles and other vehicles are operated or allowed to stand.~~

~~D. "Driveway approach" means an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.~~

~~E. "End slopes" means those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.~~

~~F. "Sidewalk section" means that portion of the driveway approach lying between the back edge of the sidewalk and the apron, plus the end slopes measured at the front edge of the sidewalk.~~

~~12.16.020 Permit—Required.~~

~~No person, firm or corporation shall remove, alter or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley or other property owned by or dedicated to or used by the city and over which it has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the city and no permit shall be granted until the applicant shall file with the city engineer for his approval two copies of a drawing showing the location and size of all such proposed improvements to serve the property affected.~~

~~12.16.030 Permit—Application.~~

~~Application for permits to construct such improvements shall be made to the city engineer on forms provided for that purpose. A permit fee as approved by the city council shall accompany each application.~~

~~12.16.040 Permit—Issuance.~~

~~Before approving the drawing of such improvement and issuing the permit, the city engineer shall determine that the proposed improvement is in conformance with the provisions and standards set forth in this chapter. The standards as set forth shall be deemed a part of this chapter.~~

~~12.16.050 Driveway approaches and curb cuts.~~

~~A. No driveway approach shall be permitted to encompass any municipal facility. Under the permit provided for in this chapter, the applicant may be authorized to relocate any municipal facility,~~

~~including any within the limits of a curb return which may be encroached upon or allowed providing that the applicant shall bear the cost of the relocation of the municipal facility.~~

~~B. At street intersections no portion of any driveway approach, including the end slopes, shall be permitted within fifteen feet of the property lines, or the point of intersection of extended property lines.~~

~~C. The width of the driveway approach shall be within the limits established by standard details which are a part of this chapter.~~

~~D. No driveway approach shall be less than five feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five-foot restricted area.~~

~~E. Where there is more than one driveway approach serving a property, the spacing between the end slopes of the driveway approaches shall not be less than twenty feet.~~

~~12.16.060 Industrial driveway approaches and curb cuts.~~

~~All curb cuts and driveway approaches in industrial areas shall be by city-approved design to meet the requirement of industrial area to be served.~~

~~12.16.070 Width of driveway approach apron.~~

~~The width of driveway approach aprons shall meet the requirements of the standards within this chapter.~~

~~12.16.080 Construction standards.~~

~~A. All driveway approaches between the curb line and the property line shall be constructed of portland cement concrete, except as provided in this chapter.~~

~~B. The concrete thickness of the driveway approach, including the sidewalk section shall be at least six inches.~~

~~12.16.090 Areas of limited street improvements.~~

~~A. Where concrete sidewalks have not been installed, the applicant shall be required to construct the driveway approach from curb line to the applicant's premises.~~

~~B. Where standard gutter and curbs have not been installed, the apron and driveway approach may be constructed of the same material used for surfacing the driveway. Pursuant to the permit provided for in this chapter, applicant may surface the driveway approaches within the right-of-way by extending the area between the curbline and the existing pavement with the same material as the street pavement. The applicant shall grade that portion between the curbline and existing pavement in such a manner as to not impede surface drainage along the street. The cost of this portion of the pavement between the curbline and existing pavement shall be borne by the applicant.~~

~~12.16.100 Removal of abandoned driveway approaches.~~

~~In the event a person, firm or corporation shall make an application for a relocation of a driveway approach and abandon an existing driveway approach, the applicant shall remove the driveway and replace the curb to a standard curb section at his own expense.~~

~~12.16.110 Sufficient parking required.~~

~~No permit for the construction of driveway approaches shall be issued unless sufficient parking area is provided on the property served, entirely within the property lines.~~

~~12.16.120 Variances granted when.~~

~~The city is authorized to grant in writing variances from the regulations and requirements of this chapter, provided it is first determined that the following conditions are present:~~

~~A. That the variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the city, or is due to the nature of the business or operation upon the applicant's property;~~

~~B. That the variance requested is not against the public interest, particularly safety, convenience and general welfare;~~

~~C. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and~~

~~D. That the terms of this chapter will work unnecessary hardship upon the applicant property owner or tenant.~~

~~12.16.130 Right of appeal.~~

~~Any person, firm or corporation who is aggrieved by the denial of permit may appeal to the city council for relief.~~

~~12.16.140 Specifications and drawings.~~

~~Specifications and driveway approach details on file with the city recorder shall be deemed a part of this chapter.~~

~~12.16.150 Violation—Penalty.~~

~~Any person, firm or corporation violating any of the provisions of this chapter, or causing, permitting or suffering the same to be done shall be fined not more than one hundred dollars. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.~~

Chapter 12.16 ACCESS MANAGEMENT

12.16.010 Definitions

For the puposes of this chapter, the following definitions shall apply.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Driveway" means the portion of the accessway on private property or public lands outside of the public right-of-way.

"Driveway Approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section

"Driveway Apron" means the ramped portion of the driveway approach extending from the public roadway to the sidewalk section and lying between the wings of the driveway approach

"Driveway Wings" means those portions of the driveway approach which provide a transition from the sidewalk, curb, and existing ground grades to the driveway apron grade.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Sidewalk Section" means the portion of the driveway approach where the existing or proposed adjacent sidewalk extends through the driveway approach.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

12.16.020 Applicability

A New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the Engineering Director.

12.16.030 Access Permitting

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley, or other property owned by, dedicated to, or used by the public and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the Engineering Director on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include three copies of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The Engineering Director shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

D, Permits for access to State highways shall be subject to review and approval by ODOT, except where ODOT has delegated this responsibility to the City. Decisions regarding access permits to State highways shall be subject to the access standards adopted by ODOT.

E. Permits for access to County roads shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Where the County has delegated access review responsibility to the City, decisions regarding access permits to County roads shall be subject to the standards of Chapter 12.16 and the Milwaukie Public Works Standards.

F. Approval of an access permit may be in the form of a drawing stamped by the City, a letter from the City, or a land use decision condition of approval.

12.16.040 Access Requirements and Standards

A. Access.

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing.

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards. Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

    a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 600 feet.

    b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 300 feet.

2. Modification of Access Spacing. Access spacing may be modified with submission of an access study prepared and certified by a registered professional Traffic Engineer in the State of Oregon. The access study shall assess transportation impacts adjacent to the

project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within 600 feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design.

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

c. Review of all modes of transportation to the site.

d. Mitigation measures where access spacing standards are not met that include, but are not limited, to assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

C. Accessway Location

1. Double Frontage. When a lot has frontage on 2 or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations. Individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line. The nearest edge of the driveway apron shall be at least 7 ½ feet from the side property line in residential districts and at least 10 feet from the side property line in all other districts. This standard does not apply to accessways shared between two or more properties.

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

a. At least 45 feet for single-family residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least 100 feet for multifamily residential properties and all other uses accessing local and neighborhood streets.

c. At least 300 feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least 600 feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access. Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access. The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single-Family Residential. One accessway per property is allowed for single-family residential uses.

   a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

   b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced 50 feet apart, upon review and approval by the Engineering Director. The spacing is measured between the nearest edges of the driveway aprons. Where the 50-foot spacing cannot be met, an additional accessway shall not be granted.

   c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Residential. The number of accessways for uses other than single-family residential is subject to the following provisions.

   a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B.

   b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced 150 feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines. Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

2. Authority to Restrict Access. The Engineering Director may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

   a. Cause or increase existing hazardous traffic conditions;

   b. Provide inadequate access for emergency vehicles; or

   c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited. Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family residential uses on local streets and neighborhood routes.

F. Accessway Size.

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The Engineering Director may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single-family attached and detached residential uses shall have a minimum driveway apron width of 9 feet and a maximum width of 20 feet.

3. Multifamily residential uses with three dwellings shall have a minimum driveway apron width of 16 feet and a maximum width of 20 feet.

4. Multifamily residential uses with between 4 and 7 dwellings shall have a minimum driveway apron width of 20 feet and a maximum width of 24 feet.

5. Multifamily residential uses with more than 8 dwelling units, and off-street parking areas with 16 or more spaces, shall have a minimum driveway apron width of 24 feet and a maximum width of 30 feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of 12 feet and a maximum width of 36 feet.

7. Industrial uses shall have a minimum driveway apron width of 15 feet and a maximum width of 45 feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the Engineering Director determines that more than 2 lanes are required based on the number of trips generated or the need for on-site turning lanes.

12.16.050 Variance

Relief from any access management requirement or standard of Subsection 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

12.16.060 Right of Appeal

Appeal of any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

12.16.070 Violation Penalty

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars ($250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

Chapter 12.24 CLEAR VISION AT INTERSECTIONS

12.24.010 Purpose.

The purpose of this chapter is to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of city streets.

12.24.020 Definitions.

As used in this chapter:

A. "Fence" means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.

B. "Street" means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations.

C. "Clear vision area" means that area, as computed by Section 12.24.040, which allows the public using the city streets an unobstructed view of an intersection.

D. "Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

E. "Driveway" or "accessway" means the point at which a motor vehicle gains ingress or egress to a property from a public road or highway.

12.24.030 Requirements.

A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges or other vegetation or projecting overhanging limbs thereof, which obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of city streets. It shall be the duty of the person who owns, possesses or controls the property to remove or trim and keep trimmed any obstructions to the view.

B. A clear vision area shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection as provided by Section 12.24.040.

C. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding ~~thirty inches~~ three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area; provided, all branches and foliage are removed to the height of eight feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.

12.24.040 Computation.

A. The clear vision area for all street intersections and~~,~~ all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets."~~, and~~ The clear vision area for all street and driveway or accessway intersections shall be that area ~~within a twenty-foot radius of the lot corner nearest the~~

~~intersection, or~~ within a twenty-foot radius from where ~~of the intersection of~~ the lot line~~,~~ and the edge of a driveway intersect.

B. Modification of this computation may be made by the Engineering Director ~~director of public works, or his designee,~~ after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" ~~Traffic Engineering Handbook on intersection site distance after~~ and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area.

12.24.050 Variance.

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal.

~~A. Variances from the provisions of this chapter may be granted by the traffic safety commission.~~

~~B. Vehicle and pedestrian safety shall be the primary factors in decisions when variances are considered. The type of intersections, site characteristics, types of vehicle controls, vehicle speed, traffic volume and other similar items are factors to be considered. The standards set forth in the Traffic Engineering Handbook on intersection sight distance and any other appropriate standards shall be considered. Aesthetics and length of time fences or vegetation have existed are not relevant factors.~~

~~C. A property owner or the owner's agent may initiate a request for a variance by filing an application with the city within ten working days of warning or citation for violation.~~

~~D. Any decision of the traffic safety commission may be appealed to the city council without fee within ten working days of receipt of the traffic safety commission's written decision.~~

~~E. Fees for the variance application to the traffic safety commission shall be set by resolution of city council.~~

12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter. ~~Enforcement procedures shall be suspended while an application or appeal for a variance is being considered. Enforcement procedures shall resume upon denial of a variance.~~

12.24.070 Liability.

The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 12.24.030. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this chapter.

12.24.080 Violation ~~of Section 12.24.030—~~Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.32 PUBLIC FACILITIES IMPROVEMENTS

(Repealed by Ord.____.)

~~Article I. Statement of Purpose and Objectives~~

~~15.32.010 Purpose.~~

~~It is the purpose of this chapter to provide for the orderly construction of needed public facilities by provisions designed to:~~

~~A. Meet city Comprehensive Plan requirements for public facility improvements;~~

~~B. Minimize the expenditure of public moneys for public facilities improvements;~~

~~C. Identify public facilities improvements necessary for given property development proposals;~~

~~D. Allow actual improvements of public facilities to occur at a time appropriate for the improvements needed; and~~

~~E. Provide an equitable and consistent method of requiring public facilities improvements.~~

~~Article II. Definitions~~

~~15.32.020 Interpretation.~~

~~A. Unless specifically defined in Section 15.32.030, words or phrases used in this chapter are intended to be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

~~B. Specific words, phrases, or standards, other than as specifically defined in Section 15.32.030, may be interpreted by the public works director based upon the finding that such interpretation shall be in keeping with the intent of this chapter.~~

~~15.32.030 Definitions.~~

~~A. "Change in land use" means a change in the primary existing use or the addition of other use(s) for a specific real property. A proposal to change a land use may require other land use processes including rezone, conditional use, community service use, etc.~~

~~B. "City" means the city of Milwaukie, Oregon.~~

~~C. "Construction" means the development, building, remodeling, adding or improvement of structures for a specific real property.~~

~~D. "Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facilities improvements specifically identified in the document, or, (in cases where local improvement district or project formation is necessary), to share in the cost of necessary public facilities improvements, to not remonstrate against the city for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or~~

project formation. This may consist of such determination methods as street frontage percentage, lot square footage and/or standard per lot assessment.

E. "Minor damage" means damages incurred by a structure or structures by either manmade or natural means where the cost of repair is twenty-five percent (25%) or less than the current assessed valuation of the total of all on-site improvements before the damage occurred.

F. "New construction" means construction occurring on vacant property or construction occurring as part of reconstruction or redevelopment of an existing developed site.

G. "On-site improvements" means all structures or improvements on a specific real property which would require a building permit prior to constriction, but not including the following: driveways, walkways, parking areas, fences, retaining walls, landscaping, and ground level patios/decks. On-site improvements also refers to public facility improvements occurring on the subject property or within adjacent public right-of-way or utility easements.

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.

I. "Public works director" means the public works director for the city, or an assigned designee.

Article III. General Provisions

15.32.040 Situations to which this chapter applies.

This chapter shall apply for all situations within the jurisdiction of the city described as:

A. New construction, including residential, commercial, industrial, or other;

B. Construction resulting in an increase in occupancy;

C. Construction resulting in increased traffic;

D. Creation of new parcels and lots by minor land partition, major land partition, subdivision, and planned development; and

E. A change in land use.

15.32.050 Exempt situations.

This chapter shall not apply to the following situations within the city:

A. Construction not subject to the provisions of subsections B, C and E of Section 15.32.040 and where the improvement value is twenty-five percent or less than the current assessed valuation of the total of existing on-site improvements; or

B. Construction consisting of reroofing, residing, window installation, minor damage repair, or interior remodeling not subject to provisions of Section 15.32.040B.

C. New construction not subject to the provisions of Section 15.32.040B for the purposes of replacing or remodeling a single-family dwelling damaged by a fire, flood, or other casualty.

15.32.060 Compliance.

No structure or land shall be constructed, located, converted, altered, or occupied, as indicated in Section 15.32.040, after the effective date of the ordinance codified in this chapter, without full compliance with the terms of this chapter and other applicable regulations. In cases of noncompliance, the city may take enforcement action, terminate city water service, establish property liens, or use other methods to ensure chapter compliance.

Article IV. Administration

15.32.070 Public facility improvements review.

All situations to which this chapter applies shall be reviewed by the city public works department based upon established review standards in order to determine the adequacy of public facilities for the use intended and whether or not new public facilities or expansion of existing public facilities is required.

15.32.080 Public works director—Administrator.

The public works director is appointed to administer and implement this chapter.

15.32.090 Public works director—Duties and responsibilities.

Duties of the public works inspector shall include, but not be limited to:

A. Permit Review.

1. City public works department, community development department, and structural safety division shall submit copies of nonexempt land use and building permit applications to the public works director for review.

2. The public works director shall respond within ten working days with an indication of chapter applicability along with proposed conditions, if any, for compliance with this chapter.

3. Conditions proposed for compliance with this chapter shall be attached to the application, if approved.

B. Review Standards. Review standards for public facilities shall be those standards currently in effect, or as modified, and identified in such public documents as the Comprehensive Plan of the City of Milwaukie, the City Sewerage Master Plan, the City Water Master Plan, the Roadway and Traffic Safety Management Plan for the City of Milwaukie, City of Milwaukie Public Works Design Standards, Standard Specifications and Drawings for Public Works Construction by the American Public Works Association Oregon Chapter, the city zoning ordinance, and city subdivision ordinance.

15.32.100 Appeals.

A. Appeals. Appeals of a decision or interpretation of the public works director must be filed on forms prescribed by the city and accompanied by the appropriate filing fee within fifteen days of the decision of the public works director.

B. Appeal Review. The city manager for the city shall review and decide requests for appeals of the requirements of this chapter.

C. Appeal Review Procedure. Appeals to the requirements of this chapter shall be scheduled for consideration of the city manager during normal City Hall business hours.

D. City Council Review. A decision of the city manager may be appealed to the city council for consideration within fifteen days of the action date. The appeal must be on forms prescribed by the city and accompanied by the appropriate filing fee.

E. Appeal Criteria. An appeal of a decision or condition of approval for actions provided for in this chapter shall be granted if conformance is shown to one of the following criteria:

1. That the proposal is not, in fact, a situation to which this chapter applies; or

2. That reasonable alternatives to conditions or interpretations applied can be substituted while still maintaining chapter purpose.

Article V. Provisions for Public Facilities Improvements

15.32.110 Improvement methods.

If, upon review of the development proposal by the public works director, the affected street or other public facility does not meet applicable standards, the property owner shall provide the improvement or other action necessary to satisfy the applicable standards. The public works director may select, from the following, the most appropriate method:

A. Construction by the property owner subject to public works inspection approval;

B. Payment in lieu of construction, either in the form of a trust account or posted bond; or

C. Developer's agreement committing the property owner to not remonstrate against the city for the necessary improvements and to pay the assessment for such improvements. In approving this method, the public works director may require a temporary improvement at a lesser standard appropriate to the circumstances.

D. Reimbursement agreements may be authorized for off-site facilities improvements fronting other properties.

15.32.120 On-site facilities improvement requirements.

Any situation to which this chapter applies shall be required to complete or make provision for completion of improvements to public facilities following the improvement method selected from Section 15.32.110. Method C will be used when immediate construction of public facilities is not feasible or practical from an engineering standpoint.

15.32.130 Off-site facilities improvement requirements.

Off-site facilities improvements shall be required for construction or development proposals which would result in detrimental effects to existing public facilities or cause existing public facilities capacity problems. Improvements shall follow the methods identified in Section 15.32.110.

15.32.140 Off-site facilities improvement criteria.

Off-site facilities improvement requirements shall be based upon analysis by the public works director that the development proposal will result in one of the following:

A. Exceed the design capacity of the facility;

B. Exceed other generally accepted standards;

C. Create a potential safety hazard; or

D. Create an ongoing maintenance problem.

~~15.32.150 Facilities oversizing.~~

~~Public facilities improvement required by the public works director shall be at sizes specified in city standards documents. Oversizing may be required in anticipation of additional systems demand. Oversizing proposed by the property owner may be allowed at the property owner's expense. The public works director may authorize a reduction in systems development charges or a reimbursement agreement for developments where oversizing of facilities is required.~~

~~15.32.160 Progress to be monitored.~~

~~The public works director shall monitor the progress of all public facilities improvements required to ensure project completion and compliance. Follow-up action, such as facilities inspection, bond release, and enforcement shall be considered a part of the monitoring process.~~

~~15.32.170 Public facilities design.~~

~~Construction projects shall meet design standards for public facilities installation or improvements as identified by the public works director or city design standards. The property owner is responsible for providing engineered facility plans to the public works director for review.~~

~~15.32.180 Formation of local improvement districts.~~

~~As developer's agreements are collected to a sufficient majority for a given area, or, as needs for facilities improvements arise, the public works director shall organize local improvement districts and solicit additional funds, as necessary to allow facility construction to completion.~~

~~15.32.190 Coordination.~~

~~The public works director shall coordinate with other public service agencies to ensure that public facility improvements required reflect the full range of public facilities, and not just city-provided services.~~

ATTACHMENT 2
Exhibit B

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION AND REPAIR

12.08.010 Jurisdiction and management of the public rights-of-way.

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

12.08.020 Construction standards.

A. Permit Required. No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and other applicable codes, rules and regulations, and design standards. As used in this chapter, “work” means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or

10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

B. Preapplication Conference. A preapplication conference with the Engineering Director, or designee, is required prior to submission of any application for work within public rights-of-way. The Engineering Director may waive this requirement for small-scale projects.

C. Permit Applications. Applications for permits to perform work within city rights-of-way shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the work will be performed in accordance with all applicable codes, rules and regulations, specifically including city standard specifications and drawings;

2. That all issues identified in the preapplication conference have been resolved to the satisfaction of the civil engineer;

3. That any proposed new or modified facilities will be constructed in accordance with any applicable franchise agreement;

4. The location and route of all facilities to be installed aboveground or on existing utility poles;

5. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

6. The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

7. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

D. (Repealed by Ord. 1893).

E. Applicant’s Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall commence no earlier than twenty-four (24) hours following city approval, and shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. (Repealed by Ord._____.)

J. Notice of Construction. All applicants for work in the right-of-way must notify the Engineering Director at least one hundred and twenty (120) days prior to planned commencement of work. Once a permit has been issued and except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.

K. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

L. Noncomplying Work. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

M. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as required herein.

N. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the Engineering Director or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

O. Restoration of Public Rights-of-Way, City Property and Protected Trees.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, or trees protected by Chapter 16.32 of this code, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good or better condition as it was before as determined by the Engineering Director or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights- of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee. In cases where the city determines in its sole discretion that the failure to restore rights-of-way results in an immediate threat to the public safety or welfare, the city may proceed with restoration with no prior notice to the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property. A traffic control plan describing all such measures shall be required, and must receive city approval no less than twenty-four hours (24) prior to the commencement of any work in the right-of-way.

P. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent (100%) of the estimated cost of the proposed work within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until one year after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of- way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.08.030 Liability.

Every person having occasion to work in or to place any obstruction in any public right-of-way, or to make any alteration thereto, under the provisions of this chapter, shall be responsible to any one for any injury or damage resulting in any way from the presence of such obstruction, alteration or work, and also shall be liable to, indemnify and defend the city for any claim arising therefrom.

12.08.040 Exceptions to application of this chapter.

A. City or Franchisee Work. The provisions of this chapter shall not be deemed to apply to the construction or maintenance of pavement by the city, either by its employees or by persons operating under contract with the city, nor to cuts or excavations made by utilities operated by the city or by grantees operating under lawfully granted franchises. Prior written notice of at least forty-eight (48) hours shall, however, be provided to the Engineering Director or designee of all work to be done in city rights-of-way which would otherwise be subject to the provisions of this chapter.

B. Other Exceptions. The city manager or designee may exempt applications for permits from the requirements of this chapter, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city’s streets and ways is adequately safeguarded.

The city manager or designee may develop administrative regulations and policies to implement the provisions of this section.

12.08.050 Violation Penalty.

Any person violating any provision of this chapter shall be punished by a fine not to exceed two hundred fifty dollars ($250.00). Each day that such violation exists shall be deemed a separate violation of this chapter.

Chapter 12.16 ACCESS MANAGEMENT

12.16.010 Definitions

For the puposes of this chapter, the following definitions shall apply.

“Accessway” means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

“Driveway” means the portion of the accessway on private property or public lands outside of the public right-of-way.

“Driveway Approach” means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section

“Driveway Apron” means the ramped portion of the driveway approach extending from the public roadway to the sidewalk section and lying between the wings of the driveway approach

“Driveway Wings” means those portions of the driveway approach which provide a transition from the sidewalk, curb, and existing ground grades to the driveway apron grade.

“Right-of-way” means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also “street.”

“Roadway” means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

“Sidewalk Section” means the portion of the driveway approach where the existing or proposed adjacent sidewalk extends through the driveway approach.

“Street” means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms “road,” “highway,” “lane,” “place,” “avenue,” “alley,” and other similar designations.

12.16.020 Applicability

A New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the Engineering Director.

12.16.030 Access Permitting

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley, or other property owned by, dedicated to, or used by the public and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the Engineering Director on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include three copies of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The Engineering Director shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

D, Permits for access to State highways shall be subject to review and approval by ODOT, except where ODOT has delegated this responsibility to the City. Decisions regarding access permits to State highways shall be subject to the access standards adopted by ODOT.

E. Permits for access to County roads shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Where the County has delegated access review responsibility to the City, decisions regarding access permits to County roads shall be subject to the standards of Chapter 12.16 and the Milwaukie Public Works Standards.

F. Approval of an access permit may be in the form of a drawing stamped by the City, a letter from the City, or a land use decision condition of approval.

12.16.040 Access Requirements and Standards

A. Access.

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing.

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards. Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

    a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 600 feet.

    b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 300 feet.

2. Modification of Access Spacing. Access spacing may be modified with submission of an access study prepared and certified by a registered professional Traffic Engineer in the State of Oregon. The access study shall assess transportation impacts adjacent to the

project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within 600 feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design.

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

c. Review of all modes of transportation to the site.

d. Mitigation measures where access spacing standards are not met that include, but are not limited, to assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

C. Accessway Location

1. Double Frontage. When a lot has frontage on 2 or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations. Individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line. The nearest edge of the driveway apron shall be at least 7 ½ feet from the side property line in residential districts and at least 10 feet from the side property line in all other districts. This standard does not apply to accessways shared between two or more properties.

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

a. At least 45 feet for single-family residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least 100 feet for multifamily residential properties and all other uses accessing local and neighborhood streets.

c. At least 300 feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least 600 feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access. Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access. The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single-Family Residential. One accessway per property is allowed for single-family residential uses.

    a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

    b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced 50 feet apart, upon review and approval by the Engineering Director. The spacing is measured between the nearest edges of the driveway aprons. Where the 50-foot spacing cannot be met, an additional accessway shall not be granted.

    c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Residential. The number of accessways for uses other than single-family residential is subject to the following provisions.

    a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B.

    b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced 150 feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines. Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

2. Authority to Restrict Access. The Engineering Director may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

    a. Cause or increase existing hazardous traffic conditions;

    b. Provide inadequate access for emergency vehicles; or

    c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited. Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family residential uses on local streets and neighborhood routes.

F. Accessway Size.

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The Engineering Director may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.
2. Single-family attached and detached residential uses shall have a minimum driveway apron width of 9 feet and a maximum width of 20 feet.
3. Multifamily residential uses with three dwellings shall have a minimum driveway apron width of 16 feet and a maximum width of 20 feet.
4. Multifamily residential uses with between 4 and 7 dwellings shall have a minimum driveway apron width of 20 feet and a maximum width of 24 feet.
5. Multifamily residential uses with more than 8 dwelling units, and off-street parking areas with 16 or more spaces, shall have a minimum driveway apron width of 24 feet and a maximum width of 30 feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of 12 feet and a maximum width of 36 feet.
7. Industrial uses shall have a minimum driveway apron width of 15 feet and a maximum width of 45 feet.
8. Maximum driveway apron widths for commercial and industrial uses may be increased if the Engineering Director determines that more than 2 lanes are required based on the number of trips generated or the need for on-site turning lanes.

12.16.050 Variance

Relief from any access management requirement or standard of Subsection 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

12.16.060 Right of Appeal

Appeal of any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

12.16.070 Violation Penalty

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars ($250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

Chapter 12.24 CLEAR VISION AT INTERSECTIONS

12.24.010 Purpose.

The purpose of this chapter is to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of city streets.

12.24.020 Definitions.

As used in this chapter:

A. "Fence" means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.

B. "Street" means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations.

C. "Clear vision area" means that area, as computed by Section 12.24.040, which allows the public using the city streets an unobstructed view of an intersection.

D. "Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

E. "Driveway" or "accessway" means the point at which a motor vehicle gains ingress or egress to a property from a public road or highway.

12.24.030 Requirements.

A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges or other vegetation or projecting overhanging limbs thereof, which obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of city streets. It shall be the duty of the person who owns, possesses or controls the property to remove or trim and keep trimmed any obstructions to the view.

B. A clear vision area shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection as provided by Section 12.24.040.

C. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area; provided, all branches and foliage are removed to the height of eight feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.

12.24.040 Computation.

A. The clear vision area for all street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets." The clear vision area for all street and driveway or accessway intersections shall be that area within a twenty-foot radius from where the lot line and the edge of a driveway intersect.

B. Modification of this computation may be made by the Engineering Director after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area.

12.24.050 Variance.

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal.

12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter.

12.24.070 Liability.

The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 12.24.030. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this chapter.

12.24.080 Violation Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.32 PUBLIC FACILITIES IMPROVEMENTS

(Repealed by Ord. ____.)

Draft Resolution for Adoption

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES.

WHEREAS, affected City departments review the City of Milwaukie fee schedule on an annual basis and recommend changes to City Council based on labor costs and industry standards; and

WHEREAS, the City Council last revised the City of Milwaukie fee schedule in June 2008; and

WHEREAS, the proposed fee schedule changes implement the recently adopted code amendments to Titles 17 and 19 of the Milwaukie Municipal Code and are not meant to replace the City-wide annual review of the City of Milwaukie fee schedule; and

WHEREAS, the proposed fee schedule changes also clarify existing policy and fees with regard to appeals initiated by Neighborhood District Associations and land use applications for sign review; and

WHEREAS, the proposed fee schedule changes are meant to cover the costs of providing services to the public for which fees are charged and are not meant to generate excess income for the City above the cost of providing the requested service; and

WHEREAS, fees are set by City Council resolution;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie, Oregon determines that the fees, herewith attached as "Fees & Charges," are effective June 4, 2009, and:

Section 1. City of Milwaukie fees and charges are revised as shown in Exhibit A (strikeout version) and adopted as shown in Exhibit B (clean version) as part of the official fee schedule of the City of Milwaukie.

Section 2. The fees imposed by this Resolution are not taxes subject to the property limitations of Article XI. Section 11(b) of the Oregon Constitution.

Section 3. All fees and charges not revised as shown in Exhibit A shall remain at their present amounts.

Introduced and adopted by the City Council on May 5, 2009.

This resolution is effective on June 4, 2009.

_____
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

_____
Pat DuVal, City Recorder

_____
City Attorney

Document3 (Last revised 09/18/07)

ATTACHMENT 3
Exhibit A
~~Strikeout~~ = Deletions
Underline = Additions

Chapter 19.900 Amendments

CPA Comprehensive Plan/Map Amendment $3,210
ZA Zoning Ordinance Amendment $3,210
ZC Zoning Map Amendment (aka "Zone Change") $3,210
Ballot Measure 56 Notice (for Zone Amendment or Zone Change) ..... Actual Cost ($1 per affected property, $35 minimum)
Reserve deposit $500

Chapter 19.1000 Administrative Provisions

AP Appeal to City Planning Commission/City Council $505
(Fees waived for NDA-sponsored appeals, pursuant to Resolution #26-1999)
DI Planning Director Interpretation $100

Chapter 19.1400 Transportation Planning, Design Standards, and Procedures

~~**TPR** Transportation Plan Review (Type I review) ..... $150 **~~
~~**TPR** Transportation Plan Review (Type II review) ..... $750 **~~
~~**TPR**~~ **TFR** Transportation ~~Plan~~ Facilities Review ~~(Minor Quasi-Judicial review)~~ ..... $750 **
Additional reserve deposit ..... $750 **

Chapter 19.1500 Boundary Changes (Annexations)

A Annexation (Expedited) $100
A Annexation (Nonexpedited with no Zone Change or Comp Plan Amendment) $100
A Annexation (Nonexpedited: Zone Change only) $100
A Annexation (Nonexpedited: Zone Change and Comp Plan Amendment) $3,210

Title 17 Land Division

DD Director's Determination of Legal Lot Status $50
ELD Expedited Land Division $4,125
FP Minor Land Partition (Final Plat) $150
FP Subdivision (Final Plat) $150
LC Lot Consolidation $250
Additional reserve deposit $250
MLP Minor Land Partition ..... ~~$750~~ $1,125
Additional reserve deposit $1,000
PLA Property Line Adjustment $640
R Partition Replat ..... ~~$500~~ $875
Additional reserve deposit $500
R Subdivision Replat ..... ~~$500~~ $875
Additional reserve deposit $1,000
S Subdivision (Preliminary Plat) ..... ~~$2,630~~ $3,005
SV Street or Plat Vacation $1,905
Extension of Planning Commission Approval $40

Title 14 Signs

~~Adjustment~~ **SR** Sign Review (Land Use Application):

- Adjustment (Type II review) ~~(up to 25% variance from standard)~~ $800
- Adjustment (Minor Quasi-Judicial review ~~(over 25% variance from standard~~) $1,500
- Community Service or Conditional Use Sign Review (Minor Quasi-Judicial review) ..... Actual Cost *

Sign Permit ~~Review~~ (Building Permit Application):

- See **Reviews, Inspections, and Preapplication Conferences** below

Other fees

M-37 Property Value Reduction Claims (pertaining to Ballot Measures 37 or 49) $1,515
(Fee will be refunded if applicant prevails. If claim is denied, additional money may be required to cover contract-attorney or appraiser costs, as determined by City Manager.)
TP Tree Permit (major pruning or removal of trees in the public right-of-way) $35
Tree Removal Appeal Hearing $505
Technical Report Review (Traffic, Wetlands, Geotechnical, Hydrology, etc):

- Scope of Work Preparation .....Actual Cost *
  Additional reserve deposit $1,000
- Review of Technical Report .....Actual Cost *
  Reserve deposit:
  - Traffic $2,500
  - Water Quality Resources $1,500
  - All others $1,000

Variance from Clear Vision Standards $1,500
Zoning Confirmation Letter $50

Discounts for Land Use Applications

Two or more applications ..... No discount for most expensive application—50% discount for all others ***
Senior citizens and low income citizens .....25% discount (50% for appeals) ****
NDA-sponsored land use applications related to parks ..... Fees waived

Deposit Information

In some cases, reserve deposits are collected to ensure that the City's actual costs are covered. Deposits used for consultant review of technical reports will be refunded relative to actual costs, and additional money may be required if actual costs exceed the deposit amount. Deposits collected as part of Type II land division applications (such as Minor Land Partitions, Lot Consolidations, and Replats) are refunded if the application is not elevated to the level of Minor Quasi-Judicial review. This applies only to reserve deposits—base fees are nonrefundable.

Notes

* Actual cost to be determined by Planning Director or Engineering Director by estimating the cost of City staff time and resources dedicated to the project.
** Water Quality Resource and Transportation Plan Review applications may also require additional Technical Report Review.
*** Applies to applications which relate to the same parcel of land and which will be considered at the same Planning Commission meeting.
**** Seniors must be at least 62 years of age. Low-income citizens may qualify for reduced fees by filing the same application used to apply for reduced sewer and water rates.

Reviews, Inspections, and Preapplication Conferences

Building Permit Review (Short).....$25
Building Permit Review (Minor) $95
Building Permit Review (Major) $130
Planning Inspection Fee $50
Preapplication Conference $125
Preapplication Conference with Transportation Review $200
Sign Permit Review ..... $95/sign type
Sign Permit Review (Daily Display or "sandwich board" sign) $50

ATTACHMENT 3
Exhibit B

Chapter 19.900 Amendments

CPA Comprehensive Plan/Map Amendment $3,210
ZA Zoning Ordinance Amendment $3,210
ZC Zoning Map Amendment (aka "Zone Change") $3,210
Ballot Measure 56 Notice (for Zone Amendment or Zone Change) ..... Actual Cost ($1 per affected property, $35 minimum)
Reserve deposit $500

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AP Appeal to City Planning Commission/City Council $505
(Fees waived for NDA-sponsored appeals, pursuant to Resolution #26-1999)
DI Planning Director Interpretation $100

Chapter 19.1400 Transportation Planning, Design Standards, and Procedures

TFR Transportation Facilities Review ..... $750 **
Additional reserve deposit ..... $750 **

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A Annexation (Nonexpedited with no Zone Change or Comp Plan Amendment) $100
A Annexation (Nonexpedited: Zone Change only) $100
A Annexation (Nonexpedited: Zone Change and Comp Plan Amendment) $3,210

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ELD Expedited Land Division $4,125
FP Minor Land Partition (Final Plat) $150
FP Subdivision (Final Plat) $150
LC Lot Consolidation $250
Additional reserve deposit $250
MLP Minor Land Partition $1,125
Additional reserve deposit $1,000
PLA Property Line Adjustment $640
R Partition Replat $875
Additional reserve deposit $500
R Subdivision Replat $875
Additional reserve deposit $1,000
S Subdivision (Preliminary Plat) $3,005
SV Street or Plat Vacation $1,905
Extension of Planning Commission Approval $40

Title 14 Signs

SR Sign Review (Land Use Application):

- Adjustment (Type II review) $800
- Adjustment (Minor Quasi-Judicial review $1,500
- Community Service or Conditional Use Sign Review (Minor Quasi-Judicial review) ..... Actual Cost *

Sign Permit (Building Permit Application):

- See **Reviews, Inspections, and Preapplication Conferences** below

Other fees

M-37 Property Value Reduction Claims (pertaining to Ballot Measures 37 or 49) $1,515
(Fee will be refunded if applicant prevails. If claim is denied, additional money may be required to cover contract-attorney or appraiser costs, as determined by City Manager.)
TP Tree Permit (major pruning or removal of trees in the public right-of-way) $35
Tree Removal Appeal Hearing $505
Technical Report Review (Traffic, Wetlands, Geotechnical, Hydrology, etc):

- Scope of Work Preparation .....Actual Cost *
  Additional reserve deposit $1,000
- Review of Technical Report .....Actual Cost *
  Reserve deposit:
  - Traffic $2,500
  - Water Quality Resources $1,500
  - All others $1,000

Variance from Clear Vision Standards $1,500
Zoning Confirmation Letter $50

Discounts for Land Use Applications

Two or more applications ..... No discount for most expensive application—50% discount for all others ***
Senior citizens and low income citizens .....25% discount (50% for appeals) ****
NDA-sponsored land use applications related to parks ..... Fees waived

Deposit Information

In some cases, reserve deposits are collected to ensure that the City's actual costs are covered. Deposits used for consultant review of technical reports will be refunded relative to actual costs, and additional money may be required if actual costs exceed the deposit amount. Deposits collected as part of Type II land division applications (such as Minor Land Partitions, Lot Consolidations, and Replats) are refunded if the application is not elevated to the level of Minor Quasi-Judicial review. This applies only to reserve deposits—base fees are nonrefundable.

Notes

* Actual cost to be determined by Planning Director or Engineering Director by estimating the cost of City staff time and resources dedicated to the project.
** Water Quality Resource and Transportation Plan Review applications may also require additional Technical Report Review.
*** Applies to applications which relate to the same parcel of land and which will be considered at the same Planning Commission meeting.
**** Seniors must be at least 62 years of age. Low-income citizens may qualify for reduced fees by filing the same application used to apply for reduced sewer and water rates.

Reviews, Inspections, and Preapplication Conferences

Building Permit Review (Short).....$25
Building Permit Review (Minor) $95
Building Permit Review (Major) $130
Planning Inspection Fee $50
Preapplication Conference $125
Preapplication Conference with Transportation Review $200
Sign Permit Review ..... $95/sign type
Sign Permit Review (Daily Display or "sandwich board" sign) $50

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Proposed Code Amendments

April 2009 Draft

File No. ZA-09-02

Title 12 Streets, Sidewalks, and Public Places
Chapter 08
Chapter 16
Chapter 24

Title 15 Buildings and Construction
Chapter 32

Proposed new text is underlined.
Proposed deleted text is shown as ~~strikethrough text~~.

Please contact Susan P. Shanks, Senior Planner with the City of Milwaukie Planning Department, at 503-786-7653 or shankss@ci.milwaukie.or.us with questions or comments about the proposed code amendments and/or the code adoption process.

TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES

TITLE 15 BUILDINGS AND CONSTRUCTION

Executive Summary

The proposed amendments to Title 12 and 15 are primarily in response to proposed amendments to Chapter 19.1400. The amendments include minor text changes for clarity, relocated text to and from Chapter 19.1400, and some minor policy changes that are more fully described in the relevant commentary sections.

Amendments are proposed to the following chapters within Titles 12 and 15.

- Chapter 12.08 Street and Sidewalk Excavations, Construction, and Repair
  The proposed amendments are "housekeeping" in nature.
- Chapter 12.16 Access Management
  The proposed amendments include a few minor policy changes and relocated text from Chapter 19.1400, specifically from Section 19.1413. The current chapter title is "Driveways." The proposed new chapter title is "Access Management".
- Chapter 12.24 Clear Vision at Intersections
  The proposed amendments update City standards so that they are consistent with industry standards and include one minor policy change relating to variances to clear vision standards.
- Chapter 15.32 Public Facilities Improvements
  This chapter has been relocated to Chapter 19.1400, specifically to Section 19.1409, to consolidate all public facility improvement requirements into one location. The proposed new chapter title is "Public Utility Requirements."

Commentary – Chapter 12.08

The following changes are proposed:

- **Update references from City Engineer to Engineering Director**.
- **Update references from Transportation Design Manual to the Public Works Standards.**
- **Increase violation fine from $100.00 to $250.00.** The proposed increase matches the fine amounts in other Chapters of Title 12 and is meant to dissuade property owners and contractors from working in the right-of-way without a permit.

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION AND REPAIR

12.08.010 Jurisdiction and management of the public rights-of-way.

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

12.08.020 Construction standards.

A. Permit Required. No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and ~~Milwaukie Transportation Design Manual,~~ other applicable codes, rules and regulations, and design standards. As used in this chapter, "work" means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or
10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

B. Preapplication Conference. A ~~pre-application~~ preapplication conference with the Engineering Director ~~civil engineer~~, or designee, is required prior to submission of any application for work within public rights-of-way~~., except for the~~ The Engineering Director ~~city engineer~~ may waive this requirement for small-scale projects.

C. Permit Applications. Applications for permits to perform work within city rights-of-way shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the work will be performed in accordance with all applicable codes, rules and regulations, specifically including city standard specifications and drawings;

2. That all issues identified in the preapplication conference have been resolved to the satisfaction of the civil engineer;

3. That any proposed new or modified facilities will be constructed in accordance with any applicable franchise agreement;

4. The location and route of all facilities to be installed aboveground or on existing utility poles;

5. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

6. The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

7. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

D. (Repealed by Ord. 1893).

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall commence no earlier than twenty-four (24) hours following city approval, and shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. ~~Notice of Construction. Except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.~~ (Repealed by Ord. .)

J. Notice of Construction. All applicants for work in the right-of-way must notify the ~~city engineer~~ Engineering Director at least one hundred and twenty (120) days prior to planned commencement of work. Once a permit has been issued and except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.

K. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

L. Noncomplying Work. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

M. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as required herein.

N. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the Engineering Director ~~city engineer~~ or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

O. Restoration of Public Rights-of-Way, City Property and Protected Trees.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, or trees protected by Chapter 16.32 of this code, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good or better condition as it was before as determined by the Engineering Director ~~city engineer~~ or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights- of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee. In cases where the city determines in its sole discretion that the failure to restore rights-of-way results in an immediate threat to the

public safety or welfare, the city may proceed with restoration with no prior notice to the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property. A traffic control plan describing all such measures shall be required, and must receive city approval no less than twenty-four hours (24) prior to the commencement of any work in the right-of-way.

P. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent (100%) of the estimated cost of the proposed work within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until one year after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of- way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.08.030 Liability.

Every person having occasion to work in or to place any obstruction in any public right-of-way, or to make any alteration thereto, under the provisions of this chapter, shall be responsible to any one for any injury or damage resulting in any way from the presence of such obstruction, alteration or work, and also shall be liable to, indemnify and defend the city for any claim arising therefrom.

12.08.040 Exceptions to application of this chapter.

A. City or Franchisee Work. The provisions of this chapter shall not be deemed to apply to the construction or maintenance of pavement by the city, either by its employees or by persons operating under contract with the city, nor to cuts or excavations made by utilities operated by the city or by grantees operating under lawfully granted franchises. Prior written notice of at least forty-eight (48) hours shall, however, be provided to the ~~city engineer~~ Engineering Director or designee of all work to be done in city rights-of-way which would otherwise be subject to the provisions of this chapter.

B. Other Exceptions ~~as Determined by city engineer~~. The city manager or designee may exempt applications for permits from the requirements of this chapter, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city's streets and ways is adequately safeguarded.

The city manager or designee may develop administrative regulations and policies to implement the provisions of this section.

12.08.050 Violation~~s~~ Penalty.

Any person violating any provision of this chapter shall be punished by a fine not to exceed two hundred fifty ~~one hundred~~ dollars ($250.00~~100.00~~). Each day that such violation exists shall be deemed a separate violation of this chapter.

Commentary – Chapter 12.16

The following changes are proposed:

- **Move access standards contained in existing Section 19.1413 and consolidate them with standards in Chapter 12.16**. This would ensure that access standards are appropriately applied and not limited to only those development projects that trigger Chapter 19.1400. This would mean, for example, that the same access standards would apply to someone building a new home and someone proposing a new driveway to access their property.
- **Allow for existing nonconforming accesses to come into conformance as much as practicable.** The existing code requires that all development conform to the City's access standards. This has caused difficulties in the north industrial district and with some commercial properties, specifically with regard to the need for large truck access. The proposed new code requires that access to existing developed properties come into conformance as much as practicable when redevelopment occurs.
- **Improve street safety by requiring shared access on collector and arterial streets.** Although shared access can be required as part of an access study under the existing code, the proposed new code specifically requires that shared access easements be provided wherever practicable for properties that access collector and arterial streets when access spacing requirements cannot be met. Shared access with neighboring properties reduces the number of conflict points between vehicles, pedestrians, and bicycles at access points.
- **Improve street safety by limiting the number of residential access points on local streets and neighborhood routes.** The existing code allows one driveway approach or accessway per site frontage for single-family residential properties. Additional accessways are allowed with the use of a mountable curb, which means that a residential property could potentially have a driveway approach along their entire frontage. The access standards for residential properties need to be updated to limit the number of conflict points between vehicles, pedestrians, and bicycles at access points and provide space for on-street parking. The proposed new code allows one accessway for single-family residences. Where a residence takes access from a local street or neighborhood route, one additional accessway is allowed when the accessways can be located 50 feet away from each other.

- **Increase maximum allowed width for residential accessways.** The existing code allows for a maximum driveway approach width of 18 feet for single-family residences. This is problematic given that the standard garage width for a two-car garage is 20 feet. The proposed new code allows for a maximum driveway approach width of 20 feet, which accommodates a standard two-car garage width without significantly impacting safety.
- **Increase violation fine from $100.00 to $250.00.** The proposed increase matches the fine amounts in other Chapters of Title 12 and is meant to dissuade property owners and contractors from constructing accessways that don't conform to the City's standards.

Chapter 12.16 DRIVEWAYS

12.16.010 Definitions.

For the purpose of this chapter, the following definitions shall apply:

A. "Apron" means that portion of the driveway approach extending from the gutter flow line to the sidewalk section and lying between the end slopes of the driveway approach.

B. "Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.

C. "Driveway" means an area on private property where automobiles and other vehicles are operated or allowed to stand.

D. "Driveway approach" means an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.

E. "End slopes" means those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

F. "Sidewalk section" means that portion of the driveway approach lying between the back edge of the sidewalk and the apron, plus the end slopes measured at the front edge of the sidewalk.

12.16.020 Permit—Required.

No person, firm or corporation shall remove, alter or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley or other property owned by or dedicated to or used by the city and over which it has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the city and no permit shall be granted until the applicant shall file with the city engineer for his approval two copies of a drawing showing the location and size of all such proposed improvements to serve the property affected.

12.16.030 Permit—Application.

Application for permits to construct such improvements shall be made to the city engineer on forms provided for that purpose. A permit fee as approved by the city council shall accompany each application.

12.16.040 Permit—Issuance.

Before approving the drawing of such improvement and issuing the permit, the city engineer shall determine that the proposed improvement is in conformance with the provisions and standards set forth in this chapter. The standards as set forth shall be deemed a part of this chapter.

12.16.050 Driveway approaches and curb cuts.

A. No driveway approach shall be permitted to encompass any municipal facility. Under the permit provided for in this chapter, the applicant may be authorized to relocate any municipal facility,

including any within the limits of a curb return which may be encroached upon or allowed providing that the applicant shall bear the cost of the relocation of the municipal facility.

B. At street intersections no portion of any driveway approach, including the end slopes, shall be permitted within fifteen feet of the property lines, or the point of intersection of extended property lines.

C. The width of the driveway approach shall be within the limits established by standard details which are a part of this chapter.

D. No driveway approach shall be less than five feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five-foot restricted area.

E. Where there is more than one driveway approach serving a property, the spacing between the end slopes of the driveway approaches shall not be less than twenty feet.

12.16.060 Industrial driveway approaches and curb cuts.

All curb cuts and driveway approaches in industrial areas shall be by city-approved design to meet the requirement of industrial area to be served.

12.16.070 Width of driveway approach apron.

The width of driveway approach aprons shall meet the requirements of the standards within this chapter.

12.16.080 Construction standards.

A. All driveway approaches between the curb line and the property line shall be constructed of portland cement concrete, except as provided in this chapter.

B. The concrete thickness of the driveway approach, including the sidewalk section shall be at least six inches.

12.16.090 Areas of limited street improvements.

A. Where concrete sidewalks have not been installed, the applicant shall be required to construct the driveway approach from curb line to the applicant's premises.

B. Where standard gutter and curbs have not been installed, the apron and driveway approach may be constructed of the same material used for surfacing the driveway. Pursuant to the permit provided for in this chapter, applicant may surface the driveway approaches within the right-of-way by extending the area between the curbline and the existing pavement with the same material as the street pavement. The applicant shall grade that portion between the curbline and existing pavement in such a manner as to not impede surface drainage along the street. The cost of this portion of the pavement between the curbline and existing pavement shall be borne by the applicant.

12.16.100 Removal of abandoned driveway approaches.

In the event a person, firm or corporation shall make an application for a relocation of a driveway approach and abandon an existing driveway approach, the applicant shall remove the driveway and replace the curb to a standard curb section at his own expense.

~~12.16.110 Sufficient parking required.~~

~~No permit for the construction of driveway approaches shall be issued unless sufficient parking area is provided on the property served, entirely within the property lines.~~

~~12.16.120 Variances granted when.~~

~~The city is authorized to grant in writing variances from the regulations and requirements of this chapter, provided it is first determined that the following conditions are present:~~

~~A. That the variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the city, or is due to the nature of the business or operation upon the applicant's property;~~

~~B. That the variance requested is not against the public interest, particularly safety, convenience and general welfare;~~

~~C. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and~~

~~D. That the terms of this chapter will work unnecessary hardship upon the applicant property owner or tenant.~~

~~12.16.130 Right of appeal.~~

~~Any person, firm or corporation who is aggrieved by the denial of permit may appeal to the city council for relief.~~

~~12.16.140 Specifications and drawings.~~

~~Specifications and driveway approach details on file with the city recorder shall be deemed a part of this chapter.~~

~~12.16.150 Violation—Penalty.~~

~~Any person, firm or corporation violating any of the provisions of this chapter, or causing, permitting or suffering the same to be done shall be fined not more than one hundred dollars. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.~~

Chapter 12.16 ACCESS MANAGEMENT

12.16.010 Definitions

For the puposes of this chapter, the following definitions shall apply.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Driveway" means the portion of the accessway on private property or public lands outside of the public right-of-way.

"Driveway Approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section

"Driveway Apron" means the ramped portion of the driveway approach extending from the public roadway to the sidewalk section and lying between the wings of the driveway approach

"Driveway Wings" means those portions of the driveway approach which provide a transition from the sidewalk, curb, and existing ground grades to the driveway apron grade.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Sidewalk Section" means the portion of the driveway approach where the existing or proposed adjacent sidewalk extends through the driveway approach.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

12.16.020 Applicability

A New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the Engineering Director.

12.16.030 Access Permitting

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley, or other property owned by, dedicated to, or used by the public and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the Engineering Director on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include three copies of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The Engineering Director shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

D, Permits for access to State highways shall be subject to review and approval by ODOT, except where ODOT has delegated this responsibility to the City. Decisions regarding access permits to State highways shall be subject to the access standards adopted by ODOT.

E. Permits for access to County roads shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Where the County has delegated access review responsibility to the City, decisions regarding access permits to County roads shall be subject to the standards of Chapter 12.16 and the Milwaukie Public Works Standards.

F. Approval of an access permit may be in the form of a drawing stamped by the City, a letter from the City, or a land use decision condition of approval.

12.16.040 Access Requirements and Standards

A. Access.

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing.

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards. Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

    a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 600 feet.

    b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 300 feet.

2. Modification of Access Spacing. Access spacing may be modified with submission of an access study prepared and certified by a registered professional Traffic Engineer in the State of Oregon. The access study shall assess transportation impacts adjacent to the

project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within 600 feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design.

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

c. Review of all modes of transportation to the site.

d. Mitigation measures where access spacing standards are not met that include, but are not limited, to assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

C. Accessway Location

1. Double Frontage. When a lot has frontage on 2 or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations. Individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line. The nearest edge of the driveway apron shall be at least 7 ½ feet from the side property line in residential districts and at least 10 feet from the side property line in all other districts. This standard does not apply to accessways shared between two or more properties.

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

a. At least 45 feet for single-family residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least 100 feet for multifamily residential properties and all other uses accessing local and neighborhood streets.

c. At least 300 feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least 600 feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access. Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access. The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single-Family Residential. One accessway per property is allowed for single-family residential uses.

   a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

   b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced 50 feet apart, upon review and approval by the Engineering Director. The spacing is measured between the nearest edges of the driveway aprons. Where the 50-foot spacing cannot be met, an additional accessway shall not be granted.

   c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Residential. The number of accessways for uses other than single-family residential is subject to the following provisions.

   a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B.

   b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced 150 feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines. Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

2. Authority to Restrict Access. The Engineering Director may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

   a. Cause or increase existing hazardous traffic conditions;

   b. Provide inadequate access for emergency vehicles; or

   c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited. Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family residential uses on local streets and neighborhood routes.

F. Accessway Size.

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The Engineering Director may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single-family attached and detached residential uses shall have a minimum driveway apron width of 9 feet and a maximum width of 20 feet.

3. Multifamily residential uses with three dwellings shall have a minimum driveway apron width of 16 feet and a maximum width of 20 feet.

4. Multifamily residential uses with between 4 and 7 dwellings shall have a minimum driveway apron width of 20 feet and a maximum width of 24 feet.

5. Multifamily residential uses with more than 8 dwelling units, and off-street parking areas with 16 or more spaces, shall have a minimum driveway apron width of 24 feet and a maximum width of 30 feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of 12 feet and a maximum width of 36 feet.

7. Industrial uses shall have a minimum driveway apron width of 15 feet and a maximum width of 45 feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the Engineering Director determines that more than 2 lanes are required based on the number of trips generated or the need for on-site turning lanes.

12.16.050 Variance

Relief from any access management requirement or standard of Subsection 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

12.16.060 Right of Appeal

Appeal of any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

12.16.070 Violation Penalty

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars ($250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

Commentary – Chapter 12.24

The following changes are proposed:

- **Make clear vision area standards consistent with industry standards.** The existing code defines the clear vision area as a 20-foot radius of the lot corner nearest the street intersections. The proposed new code has been updated to meet American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Street. AASHTO standards are based on vehicle speed and reaction time, rather than on an arbitrary 20-foot radius standard.
- **Prohibit variances from clear vision standards for safety reasons.** The existing code allows clear vision standards to be varied by the traffic safety commission. Unlike other types of transportation-related standards, however, clear vision standards implement the minimum requirements for safe travel on city streets and should not be varied according to the City's Engineering Director.

Chapter 12.24 CLEAR VISION AT INTERSECTIONS

12.24.010 Purpose.

The purpose of this chapter is to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of city streets.

12.24.020 Definitions.

As used in this chapter:

A. "Fence" means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.

B. "Street" means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations.

C. "Clear vision area" means that area, as computed by Section 12.24.040, which allows the public using the city streets an unobstructed view of an intersection.

D. "Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

E. "Driveway" or "accessway" means the point at which a motor vehicle gains ingress or egress to a property from a public road or highway.

12.24.030 Requirements.

A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges or other vegetation or projecting overhanging limbs thereof, which obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of city streets. It shall be the duty of the person who owns, possesses or controls the property to remove or trim and keep trimmed any obstructions to the view.

B. A clear vision area shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection as provided by Section 12.24.040.

C. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding ~~thirty inches~~ three feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area; provided, all branches and foliage are removed to the height of eight feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.

12.24.040 Computation.

A. The clear vision area for all street intersections and~~,~~ all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets."~~, and~~ The clear vision area for all street and driveway or accessway intersections shall be that area ~~within a twenty-foot radius of the lot corner nearest the~~

~~intersection, or~~ within a twenty-foot radius from where ~~of the intersection of~~ the lot line~~,~~ and the edge of a driveway intersect.

B. Modification of this computation may be made by the Engineering Director ~~director of public works, or his designee,~~ after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" ~~Traffic Engineering Handbook on intersection site distance after~~ and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area.

12.24.050 Variance.

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal.

~~A. Variances from the provisions of this chapter may be granted by the traffic safety commission.~~

~~B. Vehicle and pedestrian safety shall be the primary factors in decisions when variances are considered. The type of intersections, site characteristics, types of vehicle controls, vehicle speed, traffic volume and other similar items are factors to be considered. The standards set forth in the Traffic Engineering Handbook on intersection sight distance and any other appropriate standards shall be considered. Aesthetics and length of time fences or vegetation have existed are not relevant factors.~~

~~C. A property owner or the owner's agent may initiate a request for a variance by filing an application with the city within ten working days of warning or citation for violation.~~

~~D. Any decision of the traffic safety commission may be appealed to the city council without fee within ten working days of receipt of the traffic safety commission's written decision.~~

~~E. Fees for the variance application to the traffic safety commission shall be set by resolution of city council.~~

12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter. ~~Enforcement procedures shall be suspended while an application or appeal for a variance is being considered. Enforcement procedures shall resume upon denial of a variance.~~

12.24.070 Liability.

The person owning, in possession of, occupying or having control of any property within the city shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 12.24.030. Furthermore, the person shall be liable to the city for any judgment or expense incurred or paid by the city, by reason of the person's failure to satisfy the obligations imposed by this chapter.

12.24.080 Violation ~~of Section 12.24.030—~~Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Commentary – Chapter 15.32

The following changes are proposed:

- **Relocate all of Chapter 15.32 to Section 19.1409 of Chapter 19.1400.** This is intended to consolidate all public facility requirements into one location since improvements to the City's transportation and public utility systems are triggered by development projects when they have impacts on either of these systems. The proposed amendments include minor text modifications for clarity and better organization. They do not include any major policy changes. See Section 19.1409 for proposed text.

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.32 PUBLIC FACILITIES IMPROVEMENTS

(Repealed by Ord. ____.)

~~Article I. Statement of Purpose and Objectives~~

~~15.32.010 Purpose.~~

~~It is the purpose of this chapter to provide for the orderly construction of needed public facilities by provisions designed to:~~

~~A. Meet city Comprehensive Plan requirements for public facility improvements;~~

~~B. Minimize the expenditure of public moneys for public facilities improvements;~~

~~C. Identify public facilities improvements necessary for given property development proposals;~~

~~D. Allow actual improvements of public facilities to occur at a time appropriate for the improvements needed; and~~

~~E. Provide an equitable and consistent method of requiring public facilities improvements.~~

~~Article II. Definitions~~

~~15.32.020 Interpretation.~~

~~A. Unless specifically defined in Section 15.32.030, words or phrases used in this chapter are intended to be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

~~B. Specific words, phrases, or standards, other than as specifically defined in Section 15.32.030, may be interpreted by the public works director based upon the finding that such interpretation shall be in keeping with the intent of this chapter.~~

~~15.32.030 Definitions.~~

~~A. "Change in land use" means a change in the primary existing use or the addition of other use(s) for a specific real property. A proposal to change a land use may require other land use processes including rezone, conditional use, community service use, etc.~~

~~B. "City" means the city of Milwaukie, Oregon.~~

~~C. "Construction" means the development, building, remodeling, adding or improvement of structures for a specific real property.~~

~~D. "Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facilities improvements specifically identified in the document, or, (in cases where local improvement district or project formation is necessary), to share in the cost of necessary public facilities improvements, to not remonstrate against the city for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or~~

project formation. This may consist of such determination methods as street frontage percentage, lot square footage and/or standard per lot assessment.

E. "Minor damage" means damages incurred by a structure or structures by either manmade or natural means where the cost of repair is twenty-five percent (25%) or less than the current assessed valuation of the total of all on-site improvements before the damage occurred.

F. "New construction" means construction occurring on vacant property or construction occurring as part of reconstruction or redevelopment of an existing developed site.

G. "On-site improvements" means all structures or improvements on a specific real property which would require a building permit prior to constriction, but not including the following: driveways, walkways, parking areas, fences, retaining walls, landscaping, and ground level patios/decks. On-site improvements also refers to public facility improvements occurring on the subject property or within adjacent public right-of-way or utility easements.

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.

I. "Public works director" means the public works director for the city, or an assigned designee.

Article III. General Provisions

15.32.040 Situations to which this chapter applies.

This chapter shall apply for all situations within the jurisdiction of the city described as:

A. New construction, including residential, commercial, industrial, or other;

B. Construction resulting in an increase in occupancy;

C. Construction resulting in increased traffic;

D. Creation of new parcels and lots by minor land partition, major land partition, subdivision, and planned development; and

E. A change in land use.

15.32.050 Exempt situations.

This chapter shall not apply to the following situations within the city:

A. Construction not subject to the provisions of subsections B, C and E of Section 15.32.040 and where the improvement value is twenty-five percent or less than the current assessed valuation of the total of existing on-site improvements; or

B. Construction consisting of reroofing, residing, window installation, minor damage repair, or interior remodeling not subject to provisions of Section 15.32.040B.

C. New construction not subject to the provisions of Section 15.32.040B for the purposes of replacing or remodeling a single-family dwelling damaged by a fire, flood, or other casualty.

15.32.060 Compliance.

No structure or land shall be constructed, located, converted, altered, or occupied, as indicated in Section 15.32.040, after the effective date of the ordinance codified in this chapter, without full compliance with the terms of this chapter and other applicable regulations. In cases of noncompliance, the city may take enforcement action, terminate city water service, establish property liens, or use other methods to ensure chapter compliance.

Article IV. Administration

15.32.070 Public facility improvements review.

All situations to which this chapter applies shall be reviewed by the city public works department based upon established review standards in order to determine the adequacy of public facilities for the use intended and whether or not new public facilities or expansion of existing public facilities is required.

15.32.080 Public works director—Administrator.

The public works director is appointed to administer and implement this chapter.

15.32.090 Public works director—Duties and responsibilities.

Duties of the public works inspector shall include, but not be limited to:

A. Permit Review.

1. City public works department, community development department, and structural safety division shall submit copies of nonexempt land use and building permit applications to the public works director for review.

2. The public works director shall respond within ten working days with an indication of chapter applicability along with proposed conditions, if any, for compliance with this chapter.

3. Conditions proposed for compliance with this chapter shall be attached to the application, if approved.

B. Review Standards. Review standards for public facilities shall be those standards currently in effect, or as modified, and identified in such public documents as the Comprehensive Plan of the City of Milwaukie, the City Sewerage Master Plan, the City Water Master Plan, the Roadway and Traffic Safety Management Plan for the City of Milwaukie, City of Milwaukie Public Works Design Standards, Standard Specifications and Drawings for Public Works Construction by the American Public Works Association Oregon Chapter, the city zoning ordinance, and city subdivision ordinance.

15.32.100 Appeals.

A. Appeals. Appeals of a decision or interpretation of the public works director must be filed on forms prescribed by the city and accompanied by the appropriate filing fee within fifteen days of the decision of the public works director.

B. Appeal Review. The city manager for the city shall review and decide requests for appeals of the requirements of this chapter.

C. Appeal Review Procedure. Appeals to the requirements of this chapter shall be scheduled for consideration of the city manager during normal City Hall business hours.

D. City Council Review. A decision of the city manager may be appealed to the city council for consideration within fifteen days of the action date. The appeal must be on forms prescribed by the city and accompanied by the appropriate filing fee.

E. Appeal Criteria. An appeal of a decision or condition of approval for actions provided for in this chapter shall be granted if conformance is shown to one of the following criteria:

1. That the proposal is not, in fact, a situation to which this chapter applies; or

2. That reasonable alternatives to conditions or interpretations applied can be substituted while still maintaining chapter purpose.

Article V. Provisions for Public Facilities Improvements

15.32.110 Improvement methods.

If, upon review of the development proposal by the public works director, the affected street or other public facility does not meet applicable standards, the property owner shall provide the improvement or other action necessary to satisfy the applicable standards. The public works director may select, from the following, the most appropriate method:

A. Construction by the property owner subject to public works inspection approval;

B. Payment in lieu of construction, either in the form of a trust account or posted bond; or

C. Developer's agreement committing the property owner to not remonstrate against the city for the necessary improvements and to pay the assessment for such improvements. In approving this method, the public works director may require a temporary improvement at a lesser standard appropriate to the circumstances.

D. Reimbursement agreements may be authorized for off-site facilities improvements fronting other properties.

15.32.120 On-site facilities improvement requirements.

Any situation to which this chapter applies shall be required to complete or make provision for completion of improvements to public facilities following the improvement method selected from Section 15.32.110. Method C will be used when immediate construction of public facilities is not feasible or practical from an engineering standpoint.

15.32.130 Off-site facilities improvement requirements.

Off-site facilities improvements shall be required for construction or development proposals which would result in detrimental effects to existing public facilities or cause existing public facilities capacity problems. Improvements shall follow the methods identified in Section 15.32.110.

15.32.140 Off-site facilities improvement criteria.

Off-site facilities improvement requirements shall be based upon analysis by the public works director that the development proposal will result in one of the following:

A. Exceed the design capacity of the facility;

B. Exceed other generally accepted standards;

C. Create a potential safety hazard; or

D. Create an ongoing maintenance problem.

~~15.32.150 Facilities oversizing.~~

~~Public facilities improvement required by the public works director shall be at sizes specified in city standards documents. Oversizing may be required in anticipation of additional systems demand. Oversizing proposed by the property owner may be allowed at the property owner's expense. The public works director may authorize a reduction in systems development charges or a reimbursement agreement for developments where oversizing of facilities is required.~~

~~15.32.160 Progress to be monitored.~~

~~The public works director shall monitor the progress of all public facilities improvements required to ensure project completion and compliance. Follow-up action, such as facilities inspection, bond release, and enforcement shall be considered a part of the monitoring process.~~

~~15.32.170 Public facilities design.~~

~~Construction projects shall meet design standards for public facilities installation or improvements as identified by the public works director or city design standards. The property owner is responsible for providing engineered facility plans to the public works director for review.~~

~~15.32.180 Formation of local improvement districts.~~

~~As developer's agreements are collected to a sufficient majority for a given area, or, as needs for facilities improvements arise, the public works director shall organize local improvement districts and solicit additional funds, as necessary to allow facility construction to completion.~~

~~15.32.190 Coordination.~~

~~The public works director shall coordinate with other public service agencies to ensure that public facility improvements required reflect the full range of public facilities, and not just city-provided services.~~

ATTACHMENT 5

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Proposed Code Amendments

April 2009 Draft

File No. ZA-09-02

Title 19 Zoning Ordinance
Chapter 1400
Chapter 300
Section 103
Chapter 400

Title 17 Land Division Ordinance
Chapter 08
Chapter 20
Chapter 28
Chapter 32

Underlined text is proposed text.
BLUE ~~strikethrough text~~ is proposed text from the March 2009 Draft that is no longer being proposed.
RED ~~strikethrough text~~ is proposed text from the January 2009 Draft that is no longer being proposed.
BLACK ~~strikethrough text~~ is existing Milwaukie Municipal Code text proposed for deletion.

Please contact Susan P. Shanks, Senior Planner with the City of Milwaukie Planning Department, at 503-786-7653 or shankss@ci.milwaukie.or.us with questions or comments about the proposed code amendments and/or the code adoption process.

CHAPTER 19.1400 PUBLIC FACILITY IMPROVEMENTS

Executive Summary

The proposed amendments are substantive in nature. They include minor text additions and deletions and a range of proposed policy changes. In general, these amendments are intended to improve the City's transportation regulations by:

- Making the code more clear and consistent.
- Ensuring that transportation improvements are required in a manner that is fair, consistent, and constitutional.
- Implementing policy recommendations from the Transportation System Plan related to street design, street safety, and multi-modal transportation facilities.

In particular, they are meant to address the four main issues described below.

- The City's transportation regulations use project cost thresholds to trigger transportation improvements. These are commonly referred to as value-based triggers. This approach has resulted in substantial requirements for residential remodeling projects, small projects, and tenant improvements.
- The City's transportation regulations do not adequately reflect the City's responsibility to consider a project's impacts prior to exacting transportation improvements.
- The City's transportation regulations do not empower the Engineering Director to find common sense solutions to street and sidewalk improvements. Discretion and design flexibility is especially important when required improvements need to respond to existing street and development conditions. The lack of discretion and flexibility in the code has resulted in unnecessary process and expense for property owners and the City.
- The City's regulations that apply to downtown street improvements, also known as public area requirements, do not provide adequate guidance on how to comply with the stated requirements. This lack of clarity has resulted in additional process and expense for property owners and the City.

The proposed code amendments address the issues described above by:

- Ensuring that the City exacts transportation improvements only when there are impacts to the transportation system. This is achieved through two major changes:
  - Replacing value-based transportation improvement triggers with impact-based triggers.
  - Excluding development projects with no transportation impacts from transportation improvement requirements, such as single-family home remodels that don't add additional square footage.
- Requiring proportionality analyses for transportation-related exactions as appropriate. This ensures that the City's code conforms to constitutional case law on this subject.
- Reducing the level of review required for projects that trigger transportation improvements when no transportation impact study or land use application is required. This eliminates unnecessary process and expense for property owners and the City.
- Giving the Engineering Director more discretion to apply a range of design solutions. This allows for more context-sensitive transportation improvements.
- Treating downtown and non-downtown projects the same with regard to triggers and process, including the fee in lieu of construction (FILOC) option. This results in a more consistent approach to transportation exactions.

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COMMENTARY - INTRODUCTION AND PURPOSE

New and Modified Text

The amendments to Section 19.1401 that begin on the following page clarify the purpose and content of the chapter through text additions and minor text changes. No policy changes are proposed. The amendments include:

- A new chapter title that more accurately reflects the chapter's content.
- A list of sections in the chapter to help the reader navigate through the chapter.
- New introductory language to further explain the intent of the chapter and generally define how terms are used within it.
- Minor revisions to the purpose statement for transportation facilities and the addition of a purpose statement specific to public facilities.

~~**Chapter 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, AND PROCEDURES**~~

Chapter 19.1400 PUBLIC FACILITY IMPROVEMENTS

This chapter contains standards and procedures for both public transportation facilities and public utilities. Transportation facilities include elements of the public right-of-way such as streets, sidewalks, bicycle lanes, street trees, and benches. Public utilities include water, sewer, and storm infrastructure. Collectively, transportation facilities and public utilities are referred to as "public facilities." Public facilities that are built as a requirement of this chapter shall be designed and constructed in accordance with the Public Works Standards.

The main focus of this chapter is to ensure the provision of safe, convenient, and adequate public transportation facilities consistent with the adopted City of Milwaukie Transportation System Plan (TSP). The TSP outlines the community's vision for transportation facilities, which, among other things, includes a desire for complete streets with a multimodal emphasis. This chapter implements that vision by addressing the need for transportation facility improvements in a way that is consistent and equitable.

Provisions of this chapter coordinate with Title 12 Streets, Sidewalks, and Public Places; Chapter 13.28 Capital Improvements; Chapter 13.30 Reimbursement Districts; and Chapter 15.36 Public Works Standards. Any conflict between this chapter and another shall be resolved by administrative determination of the Engineering Director and Planning Director, as appropriate. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by another provision of this title or any other ordinance, resolution, or regulation, the provision which is most restrictive shall govern. Unless specifically defined in Section 19.103, words or phrases used in this chapter are intended to be interpreted with the meaning they have in common usage to give this chapter its most reasonable application.

19.1401 Purpose~~.~~

The purpose of Chapter 19.1400 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this ~~Chapter~~ chapter include the following:

19.1401.1 For transportation facilities:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.

B. ~~Implement performance measures to protect~~ Protect the functional classification, capacity, and level of service of transportation facilities.

C. Ensure that transportation facility improvements are provided in rough proportion to development impacts. ~~Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.~~

D. Provide an equitable and consistent method of requiring transportation facility improvements.

~~D.~~E. ~~Assure~~ Ensure that transportation facility improvements ~~are designed and connected to~~ accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.1401.2 For public facilities:

A. Ensure that public facility improvements are safe, convenient, and adequate.

B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.

C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.

D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

COMMENTARY - ADMINISTRATION AND APPLICABILITY

Deleted and Relocated Text

The following amendments delete all of existing Sections 19.1402 and 19.1403. Some text was deleted because it was determined to be either unnecessary or in the wrong location. Other text was deleted because it was determined that the proposed new text was different enough from the existing text to warrant a complete re-write. The following commentary explains in more detail why these sections were deleted.

- Existing Subsection 19.1402.A is no longer necessary. Proposed new text throughout the revised chapter gives the Engineering Director the authority to administer Chapter 19.1400.

- Existing Subsection 19.1402.B is no longer necessary because the Transportation Design Manual no longer exists as a separate document. It was incorporated into the Public Works Standards as part of a separate legislative action in 2007. References to the Transportation Design Manual have been deleted and replaced with references to the Public Works Standards throughout this chapter.

- Exiting Subsection 19.1402.C was moved to the chapter's introductory paragraph.

- Existing Subsection 19.1402.D has been expanded and moved to proposed Section 19.1406 Fee in Lieu of Construction. A discussion of the proposed new text can be found in the commentary for that section.

- Existing Section 19.1403 has been completely rewritten and moved to proposed Section 19.1402 Applicability. A discussion of the proposed new text can be found in the commentary for that section.

~~19.1402 Administration.~~

~~A. The Planning Director shall administer provisions of this chapter that apply to property excluding public rights-of-way. The City Engineer shall administer provisions that apply to public rights-of-way.~~

~~B. The City Engineer shall prepare and administer a Transportation Design Manual including the following subject to any limitations of this Code:~~

~~1. Design standards for transportation facilities located in public rights-of-way.~~

~~2. Policies, programs, or procedures related to neighborhood traffic management, school trip safety, capital improvements planning, and system development charges.~~

~~3. Traffic impact analysis methods, procedures, and submission requirements that implement Section 19.1408 Transportation Impact Analysis.~~

~~4. Facility maintenance policies and procedures.~~

~~5. Other provisions or requirements as needed or desired to manage the City's transportation system and its components.~~

~~The manual shall be adopted by resolution of the City Council.~~

~~C. Provisions of this Chapter shall be coordinated with Title 12 Street, Sidewalks, and Public Places; Chapter 15.32 Public Facilities Improvements; Chapter 15.36 Public Works Standards; Chapter 13.28 Capital Improvements; and Chapter 13.30 Reimbursement Districts. Any conflict between this Chapter and another shall be resolved by administrative determination of the City Engineer and Planning Director as applicable.~~

~~D. The City shall implement a system to collect and administer fees collected in lieu of constructing improvements required under provisions of this Title.~~

~~19.1403 Applicability.~~

~~A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: 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 two hundred thousand dollars ($200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars ($200,000.00) value threshold shall be increased three percent (3%) 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 ninety thousand dollars ($90,000.00). The ninety thousand dollars ($90,000.00) value threshold shall be increased three~~

~~percent (3%) 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.~~

~~D. The following activities and uses are exempt from the requirements of this section:~~

~~1. Operation, maintenance, and repair of existing transportation facilities.~~

~~2. Public capital improvement projects.~~

COMMENTARY - APPLICABILITY

New Text

Proposed Subsection 19.1402.1 replaces existing Section 19.1403 and Subsections 19.1403.1.A and C. It identifies which types of development projects are subject to the provisions of Chapter 19.1400. The proposed new text represents a significant policy change in the way Chapter 19.1400 is applied.

- It is widely accepted that land divisions and new construction have impacts on the transportation system. As a result, Chapter 19.1400 continues to apply to partitions, subdivisions, and new construction. Replats that increase the number of lots have been added to this list, which is consistent with the inclusion of other land divisions, i.e. partitions and subdivisions, that increase the number of lots.

- The most significant change to this section is the addition of Subsection 19.1402.1.E which clarifies that modifications or expansions to existing structures or changes or intensifications in use are subject to Chapter 19.1400. This section was added to capture development projects that would potentially have impacts on the transportation system, which is not to say that every development project captured by this section would be required to construct street improvements. This section merely identifies those development projects that should be *evaluated* for impacts to the transportation system. If it is determined that a project has no impacts, then no street improvements would be required. If it is determined that a project has impacts, then street improvements may be required. This section works in conjunction with other sections of this chapter, such as Subsection 19.1402.2 Single-family Residential Expansions and Section 19.1405 Rough Proportionality, to determine what, if any, street improvements are needed by, warranted by, and/or proportional to a development project's impacts.

  The inclusion of development projects that would potentially have impacts on the transportation system is consistent with an impacts-based approach to transportation exactions. This approach is a widely accepted and legally sound approach to requiring transportation improvements because of the connection between a project's impacts on the transportation system and the City's requirements to improve the transportation system.

  The proposed text, in conjunction with other sections of this chapter,

ensures that the City exacts transportation improvements only when there are impacts to the transportation system. It replaces the existing code's dollar value-based approach to transportation exactions. The existing dollar value-based approach uses a project's permit value for determining when to exact transportation improvements. This approach has captured projects that have had no impacts to the transportation system and has failed to capture all projects that have had impacts to the transportation system.

- Also of significance is that the new applicability language does not treat development in the downtown zones any differently than development in other zones. But for some of the provisions in proposed Section 19.1408, the proposed code treats downtown projects the same as non-downtown projects with respect to applicability, the review process, impact evaluation, and street improvement determinations.

19.1402 Applicability

19.1402.1 General

Chapter 19.1400 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction. ~~including development on sites from which all previously existing buildings have been demolished.~~

E. Modification or expansion of an existing structure (including single-family residential expansions as described in Subsection 19.1402.2) or a change or intensification in use that results in any one of the following:

1. A new dwelling unit.

2. Any increase in gross floor area.

3. Any projected increase in vehicle trips, as determined by the Engineering Director.

COMMENTARY – APPLICABILITY
Single-Family Residential Expansions

New Text

Proposed Subsection 19.1402.2 replaces existing Subsection 19.1403.1.B. The proposed new text represents a significant policy change in the way that Chapter 19.1400 applies to single-family residential expansions.

- The existing code exacts street improvements from all single-family residential remodeling projects based on the permit's dollar value even when a project is not increasing a home's floor area. This means that the existing code potentially applies to both single-family home expansions and home remodeling projects that do not increase gross floor area.

  The proposed code exacts street improvements using an impacts-based approach in a manner that is clear and objective. With regard to home remodeling projects that do not increase floor area, the proposed code exempts them from the street improvement requirements of this chapter. With regard to home expansions, the proposed code requires small to moderate expansions to dedicate right-of-way, if needed, and large expansions to construct street improvements, in addition to dedicating any needed right-of-way.

- Obtaining right-of-way at the time of a home expansion project facilitates the completion of the City's streets by removing one of the barriers to executing larger streetscape projects. Treating large home expansions, i.e. those adding more than 1500 square feet, the same as new home construction: (1) provides for a consistent approach to exacting street improvements from residential properties and (2) is consistent with vehicle trip studies that show that larger homes generate more vehicle trips than smaller homes, and, as a result, have more impacts on the transportation system.

- In this manner, the proposed code balances the need for street improvements, which the community both wants and needs, with reasonable and proportional exactions when warranted by impacts to the City's transportation system. During the 2007 Transportation System Plan update, many in the community stated a desire to complete the City's residential streets to better support multiple modes of travel. Moreover, past policy direction, which is embodied in past and current City transportation

regulations, indicates that the City has consistently required property owners, including residential property owners, to contribute to the improvement of the City's streets.

~~The proposed new text enables the City to exact incremental street improvements from incremental home expansions in a manner that is clear and objective.~~ ~~The order of the improvements listed in this subsection is intentional; it reflects the order in which street improvements are normally constructed. It should also be noted that the various street improvements on this list is divided into groups of roughly equal cost.~~

19.1402.2 Single-family Residential Expansions

Chapter 19.1400 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the ~~incremental~~ impacts resulting from single-family residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) ~~the primary structure and any habitable accessory structures~~ by ~~at least 100% or~~ 1500 square feet or more~~, whichever is less,~~ all of Chapter 19.1400 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 square feet, but not more than 1499 square feet, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.1408.2. ~~the primary structure and any habitable accessory structures by less than 100% or 1500 square feet, the following requirements apply:~~

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 square feet, none of Chapter 19.1400 applies.

~~1. For expansions/conversions of less than 200 square feet, no improvements are required.~~

~~2. Expansions/conversions of 200-449 square feet shall provide one of the required improvements listed in Subsection 19.1402.2.C, if applicable.~~

~~3. Expansions/conversions of 450-799 square feet shall provide two of the required improvements listed in Subsection 19.1402.2.C, if applicable.~~

~~4. Expansions/conversions of 800-1149 square feet shall provide three of the required improvements listed in Subsection 19.1402.2.C, if applicable.~~

~~5. Expansions/conversions of 1150-1499 square feet shall provide four of the required improvements listed in Subsection 19.1402.2.C, if applicable.~~

~~C. For single-family residential expansions that are subject to Subsection 19.1402.2.B above, the required public facility improvements apply in the following order of priority. If the first required improvement already exists and complies with applicable standards, then the second improvement applies, and so forth. If all of the listed improvements already exist and comply with applicable standards, then no public facility improvements are required.~~

~~1. Right-of-way dedication.~~

~~2. Roadway widening.~~

~~3. Access improvements that bring access into conformance with City standards as much as practicable.~~

~~4. Curb and storm drainage improvements that bring curb and storm drainage into conformance with City standards.~~

~~5. Sidewalk construction.~~

D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.1409.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

COMMENTARY – APPLICABILITY
Exemptions

New Text

Proposed Subsection 19.1402.3 replaces existing Subsection 19.1403.1.D. This section is intended to provide a clear and comprehensive list of development projects that are exempt from Chapter 19.1400.

- The proposed new text lists the development types that would be exempt from the provisions of this chapter. In practice, the City has not typically required street improvements for these types of projects; however, the existing code does not explicitly exempt most of them. The most significant policy change in this section is the exemption of single-family residential remodeling projects that do not increase floor area.

19.1402.3 Exemptions

Chapter 19.1400 does not apply to the following types of development in all zones:

A. Modifications to existing single-family residential ~~primary~~ structures ~~or habitable accessory structures~~ that do not result in an increase in gross floor area.

B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.1402.2.E above.

C. Replats that do not increase the number of lots.

D. Property line adjustments.

E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.

2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within two years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.1402.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.1400.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

COMMENTARY - EXCEPTIONS, ADJUSTMENTS, AND VARIANCES

Deleted and Relocated Text

The following amendments delete all of existing Section 19.1404. Some text was deleted to change the way the City reviews and processes modifications to its street design standards and requirements. Other text was deleted because it was determined to be in the wrong location.

- In general, the City's current street design determination process is rigid and simplistic. It is more suited to the creation of new streets, not the retrofitting of existing streets. This is problematic given that the majority of required street improvements in Milwaukie involve improvements to existing streets. In recognition of the fact that a one-size-fits-all approach does not work in Milwaukie and that creating the best street cross section should not be an onerous task, proposed new text in Section 19.1408 introduces more flexibility and discretion into the street design determination process and eliminates the need for an applicant to submit a separate application to vary from the standard design.

- Applicants will still be able to request an exception to pay a fee in lieu of constructing street improvements. The existing section describing the exception process has been incorporated into Section 19.1406 Fee in Lieu of Construction.

- The existing variance provision has been moved to Subsection 19.1403.5 Remedies.

~~19.1404 Exception, adjustment, or variance.~~

~~A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.~~

~~B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2 Type II Administrative Review procedures concurrent with the application for land use approval.~~

~~C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgement and accepted engineering practices:~~

~~1. In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;~~

~~2. The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;~~

~~3. Strict compliance with the design standard will result in a potentially hazardous condition;~~

~~4. Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or~~

~~5. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.~~

~~Cost of required improvements shall not be a basis for granting an adjustment.~~

~~D. Exceptions. The City Engineer may waive compliance with transportation~~ public ~~facility design standards for improvements located in the right-of-way in the following cases:~~

~~1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;~~

~~2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or~~

~~3. A local improvement district, which includes the development site, has been approved.~~

~~E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700 Variance, Exceptions, and Home Improvements.~~

COMMENTARY - REVIEW PROCESS

New, Deleted, and Relocated Text

Proposed Section 19.1403 replaces existing Section 19.1405. The main intent of this section is to make the City's application submittal requirements clear and to eliminate unnecessary process and expense for applicants and the City.

- Subsection 19.1403.1 was moved from Subsection 19.1408.2.A
- Subsection 19.1403.2 replaces Subsections 19.1405.1, 2, and 3. It is intended to streamline the review process while ensuring that all proposed development complies with the provisions of this chapter. The proposed new text requires only those development projects that trigger a transportation impact study (TIS) to submit a separate transportation-related land use application.
- The existing Notice and Coordinated Review section was moved to proposed Section 19.1407 Agency Notification and Coordinated Review.

19.1403 Review Process

19.1403.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.1400 per Section 19.1402, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

19.1403.2 Application Submittal

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, one of the following types of applications is required.

A. Development Permit Application. If the proposed development does not require a land use application, compliance with Chapter 19.1400 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application. If the proposed development triggers a Transportation Impact Study (TIS) per Section 19.1404, a TFR land use application shall be required. Compliance with Chapter 19.1400 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Chapter 19.1000. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

C. Non-TFR Land Use Application. If the proposed development requires a land use application but does not trigger a TIS per Section 19.1404, compliance with Chapter 19.1400 will be reviewed as part of the land use application submittal, pursuant to the review procedures associated with that land use application as set forth in Chapter 19.1000.

~~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 subsections 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 ($200,000.00); 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 ($200,000.00); 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 ($200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.

19.1405.2 Type II Review.

Type II review procedures are set forth in Section 19.1011.2. Type II application review process shall be used to confirm compliance with Chapter 19.1400, 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 or 19.1011.4 as applicable.

A. Type II review is required in the following situations:

1. When a transportation impact analysis is required by Section 19.1408, or

2. When an adjustment or exception to a transportation facility design standard of Chapter 19.1400 or the Transportation Design Manual is requested.

19.1405.3 Minor or Major Quasi-Judicial Review.

Review procedures for Minor and Major Quasi-Judicial Review are set forth in Sections 19.1011.3 and 19.1011.4, respectively. A separate application and fee is required for the Chapter 19.1400 compliance review; however, the application will be consolidated and reviewed concurrent with the Minor or Major Quasi-Judicial Review.

19.1405.4 Notice and Coordinated Review.

A. Specific notice requirements. In addition to the general notice provisions set forth in Chapter 19.1100, the City shall provide notice of applications submitted for Chapter 19.1400 review as outlined below:

1. Notice to the Oregon Department of Transportation (ODOT) if the proposed development generates more than two hundred (200) vehicle trips per day, is within two hundred (200) feet of a State highway, or is within one thousand three hundred twenty (1,320) feet of a State highway interchange ramp.

2. Notice to Metro and Clackamas County if the proposed development is within two hundred (200) feet of a designated arterial or collector roadway, as identified in Figure 6.1 of the Milwaukie Comprehensive Plan.

3. Notice to Metro if the proposed development is within two hundred (200) feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

4. Notice to Tri-Met if the proposed development (excluding single family development on an existing lot) is within two hundred (200) feet of an existing transit route.

B. Maps of areas subject to notice. The Transportation Design Manual includes maps that outline the areas subject to the specific notice requirements described above.

C. Coordinated review. The City shall coordinate the development application review conditions with the agencies listed above. If there is a deadline for agency submittal of comments and suggested conditions, it shall be included in the original notice provided by the City. The agency shall indicate if additional permits or approvals are required for access or transportation improvements separate from the City of Milwaukie requirements.

COMMENTARY - REVIEW PROCESS
Approval Criteria

New and Modified Text

Proposed Subsection 19.1403.3 replaces existing Subsection 19.1405.5. It contains some minor text changes for clarity. The most significant text change clarifies what it means to comply with the City's safety and functionality standards.

- Existing text indicates that a proposed development should "not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated." The proposed new text describes what that means. These types of standards ensure that development projects that have impacts to the transportation system are not built where the adjacent public right-of-way is not safe and cannot support the project.

~~19.1405.5~~ 19.1403.3 Approval Criteria

~~Criteria for decisions under Chapter 19.1400 are as follows:~~

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submission. ~~An application for development shall demonstrate compliance with the following approval criteria at the time of development permit and/or land use application submittal:~~

A. Procedures, Requirements, and Standards. ~~The proposed d~~ Development and related ~~transportation~~ public facility improvements ~~will~~ shall comply with procedures, requirements, and standards of Chapter 19.1400 and the Public Works Standards. ~~Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.~~

B. ~~If a transportation impact analysis is required, the findings of the analysis ensure that the development~~ Transportation Facility Improvements. Development shall ~~will~~ provide transportation improvements and mitigation at the time of development in rough proportion to the potential ~~identified~~ impacts of the development per Section 19.1405 Rough Proportionality, except as allowed by Section 19.1406 Fee in Lieu of Construction.

~~C. All required improvements identified under city review of a transportation impact study analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4 Mitigation.~~

~~D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.~~

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

1. Adequate street drainage, as determined by the Engineering Director.

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

3. Adequate public utilities, as determined by the Engineering Director.

4. Access onto a public street with the minimum paved widths as stated in Subsection 19.1403.3.C.5 below.

5. Adequate frontage improvements as follows:

   a. For local streets, a minimum paved width of 16 feet along the site's frontage.

   b. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage.

   c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.

6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:

   a. Level of Service F for the first hour of the morning or evening two-hour peak period.

   b. Level of Service E for the second hour of the morning or evening two-hour peak period.

COMMENTARY - REVIEW PROCESS
Determinations

New Text

The following amendments are intended to provide applicants with a clear outline of the four key determinations that occur during the processing of a development permit or land use application once Chapter 19.1400 has been triggered. A new flow chart was added to graphically show these determinations in relation to one another. The four determinations are discussed individually in subsequent commentary sections as follows:

- Section 19.1404 Transportation Impact Evaluation
- Section 19.1405 Rough Proportionality
- Section 19.1406 Fee in Lieu of Construction
- Section 19.1408 Transportation Facility Requirements, specifically Subsection 19.1408.2 Street Design Standards

19.1403.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.1403.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation. For development that is subject to Chapter 19.1400 per Subsection 19.1402.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.1404. Pursuant to Subsection 19.1404.1, the Engineering Director will also determine whether a Transportation Impact Study (TIS) is required ~~pursuant to the criteria contained in Section 19.1404.1~~. If a TIS is required, a Transportation Facilities Review land use application shall be submitted pursuant to Subsection 19.1403.2.B.

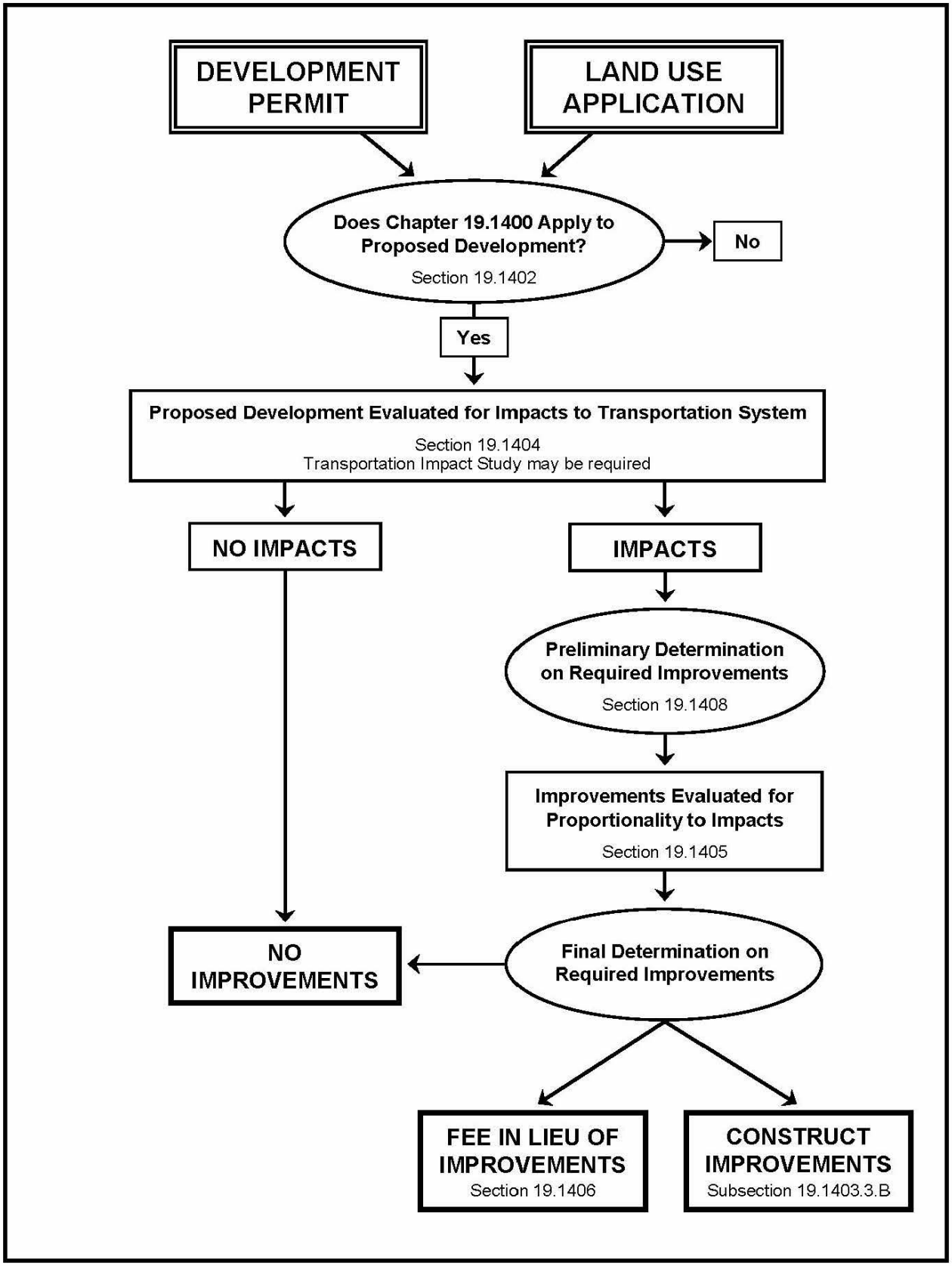
For development that is subject to Chapter 19.1400 per Subsection 19.1402.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 square feet.

B. Street Design. Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.1408.

C. Proportional Improvements. When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.1405 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.1405.2.

D. Fee in Lieu of Construction (FILOC). If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.1406.1.

Figure 19.1403.4
Process for Determining Transportation Facility Improvements



COMMENTARY - REVIEW PROCESS
Remedies

New and Modified Text

The following amendments include existing relocated text and proposed new text and are intended to clarify when an applicant can seek a variance or file an appeal.

- The variance provision was moved from Subsection 19.1404.E.
- The appeal provision is new and allows applicants the opportunity to appeal a rough proportionality or street design determination through a minor quasi-judicial review process.

19.1403.5 Remedies

A. Variances. Relief from any transportation facility improvement requirement in Section 19.1408 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

B. Appeals. Appeal of a land use decision is subject to the provisions of Chapter 19.1000. Appeal of a rough proportionality determination (Subsection 19.1402.2 and Section 19.1405) or street design standard determination (Subsection 19.1408.2) not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

COMMENTARY - TRANSPORTATION IMPACT EVALUATION

Modified Text

Proposed Section 19.1404 replaces existing Sections 19.1408 and 19.1406. Most of the proposed changes to this section are minor in nature and improve organization and clarity. The one major change involves the implementation of a new approach for determining when a transportation impact study (TIS) is required.

- The existing code uses a numerical scoring system to determine when a development project is required to provide a TIS. Staff has found that the scoring system is unyielding and can result in inordinate requirements for small projects. As a result, the proposed new text in Subsection 19.1404.1 provides guidelines for Engineering staff, but does not limit them to a prescribed scoring system. The intent of this language is to ensure that only those developments with potential impacts to the transportation system would be required to provide a TIS.

19.1404 Transportation Impact Evaluation

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

19.1404.1 TIS Determination

A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

B. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination.

C. A TIS determination is not a land use action and may not be appealed.

19.1404.2 TIS General Provisions

A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

C. The TIS shall be submitted with a Transportation Facilities Review (TFR) land use application pursuant to Subsection 19.1403.2.B and associated application materials pursuant to Subsection 19.1403.3. The City will not accept a TFR application for processing if it does not include the required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.

D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.1403.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.1408 and to mitigate transportation impacts identified in the TIS.

19.1404.3 TIS Requirements

A. TIS Scope. The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a one-half-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than one-half mile from the development site, a larger study area may be required.

2. If notice to ODOT or Clackamas County is required pursuant to Section 19.1407, the City will coordinate with these agencies to provide a comprehensive TIS scope.

B. TIS Content. A project-specific TIS Checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

1. Introduction and Summary. This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

2. Existing Conditions. This section should include a study area description, including existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

4. Mitigation. This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.1405.

5. Appendix. This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

C. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

D. Neighborhood Through-Trip Study. Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.

2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.

3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.1405 Rough Proportionality and Subsection 19.1404.4 Mitigation.

19.1404.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.

2. Development of a transportation demand management program.

3. Payment of a fee in lieu of construction.

4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

COMMENTARY - ROUGH PROPORTIONALITY

Modified Text

Proposed Section 19.1405 replaces existing Subsections 19.1408.3 and 4. It mostly builds upon existing text but for two major changes. The proposed new text shifts the burden of the proportionality analysis from the applicant to the City and requires the City to conduct a proportionality analysis for both frontage and off-site or nonfrontage street improvements.

- By law, a jurisdiction must consider proportionality when requiring applicants to construct or pay for street improvements as part of their development project. This means any required improvements must be roughly proportional to the potential impacts of the development project on the transportation system.

- The proposed new rough proportionality section is intended to provide a more complete explanation of the rough proportionality concept and how it is determined. The proposed text also directs Engineering staff to conduct the proportionality analysis and provides applicants with the opportunity to appeal the analysis if they do not agree with it.

- The proposed new chapter organization also makes rough proportionality a stand-alone section. This is more appropriate than having it as a subsection of the Transportation Impact Study (TIS) section since a proportionality analysis may need to be conducted when no TIS is required.

19.1405 Rough Proportionality

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.1403.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.1402.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.1402.2.

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

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

19.1405.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.1404. When no TIS is required, potential impacts will be determined by the Engineering Director.

19.1405.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a one-half-mile radius of the proposed development. If a TIS is required pursuant to Section 19.1404, the impact area is the TIS study area.

B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.

D. The most recent use when a change in use is proposed that does not involve new construction.

E. Applicable TSP goals, policies, and plans.

F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.

G. Accident history within the impact area.

H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.

J. Other considerations as may be identified in the review process.

COMMENTARY – FEE IN LIEU OF CONSTRUCTION

Modified text

Proposed Section 19.1406 replaces and expands upon existing Subsections 19.1402.D and 19.1404.D.2. It provides more guidelines than the existing code for administration of the City's fee in lieu of construction (FILOC) program and expands the FILOC program to include development in downtown Milwaukie.

- The proposed new text more thoroughly describes the FILOC program and how it is administered. It is intended to make the FILOC program more transparent to the public by identifying when the City would accept a fee in lie of construction, how the fees would be calculated, and how and where the collected fees would be spent. The Planning Commission requested the addition of proposed Subsections 19.1406.4.A.2 and 19.1406.4.C at the March 10, 2009 public hearing on these amendments as a condition of their recommendation of approval to City Council.

- The proposed new text also makes it clear that the City's position is to require construction of required street improvements and that the fee in lieu of construction option is only available under limited circumstances.

- The existing code allows non-downtown development projects to pay a fee in lieu of construction of required street improvements. The proposed code allows all development projects, regardless of location, to pay a fee in lieu of construction if the FILOC criteria are met.

19.1406 Fee in Lieu of Construction

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

19.1406.1 FILOC Criteria

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

A. Required improvements are not feasible due to the inability to achieve proper design standards.

B. Required improvements would create a safety hazard.

C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development.

19.1406.2 FILOC Findings

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.1406.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

19.1406.3 FILOC Fees

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.

B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

19.1406.4 FILOC Administration

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following:

A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.

1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.

2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.

B. Fees shall be used within ten years of the date on which they were collected. Fees that have not been used within ten years of collection will be returned to the owner of the development property at the time the refund is issued. ~~Fee refunds will be returned with interest at the City of Milwaukie's local government investment pool earnings rate, not to exceed five percent (5%).~~

C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.1406.4.A and that can be constructed within the 10-year time period per Subsection 19.1406.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

COMMENTARY - AGENCY NOTIFICATION AND COORDINATED REVIEW

Modified text

Proposed Section 19.1407 replaces existing Subsection 19.1405.4. Only minor text modifications were made for clarity.

19.1407 Agency Notification and Coordinated Review

19.1407.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.1400 to the following agencies:

A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 ~~200~~ vehicle trips per day, is within 200 feet of a State highway, or is within 1,320 feet of a State highway interchange ramp.

B. ODOT Rail Division: If the proposed development is within 300 feet of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.

C. Metro and Clackamas County: If the proposed development is within 200 feet of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.

D. Metro: If the proposed development is within 200 feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 feet of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

19.1407.2 Coordinated Review

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

COMMENTARY - NEIGHBORHOOD THROUGH-TRIP STUDY

Relocated Text

Existing Section 19.1406 was relocated and integrated into proposed Section 19.1404 to facilitate a more streamlined approach to transportation impact evaluation. Only minor text modifications were made for clarity.

~~19.1406 Neighborhood Through-trip Study.~~

~~Any nonresidential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:~~

~~A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the existing counts for the same streets.~~

~~B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3 Rough Proportionality and 19.1408.4 Mitigation.~~

~~This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study.~~

COMMENTARY - ADEQUATE TRANSPORTATION REQUIREMENT

Deleted Text

The following amendments delete all of existing Section 19.1407 and represent a significant policy change in the way that the City determines the kinds of street improvements a development project should build

- The existing adequacy requirements are better characterized as "optimal" rather than "adequate" and are often not realistic in practice.
- The existing adequacy requirements are being replaced by proposed Section 19.1408. A discussion of the proposed new text can be found in the commentary for that section.

~~19.1407 Adequate Transportation Facility Requirement.~~

~~19.1407.1 Purpose.~~

~~The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan, Transportation System Plan, and Capital Improvement Plan.~~

~~19.1407.2 Adequacy Requirement.~~

~~Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site.~~

~~The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.~~

~~19.1407.3 Definition of Necessary Improvements.~~

~~As used in 19.1407.2, "necessary improvements" are:~~

~~A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or~~

~~B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.~~

~~19.1407.4 Definition of Adequacy.~~

~~As used in 19.1407.2, "adequate" means the following:~~

~~A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:~~

~~1. Level of Service F for the first hour of the morning or evening two-hour peak period; and~~

~~2. Level of Service E for the second hour of the morning or evening two-hour peak period; and~~

~~B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:~~

~~1. Right-of-way width;~~

~~2. Functional classification cross section;~~

~~3. Transportation facility design standards;~~

~~4. Pedestrian, bicycle and transit standards; and~~

~~5. Access management standards.~~

~~19.1407.5 Determination of Level of Services.~~

~~Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity~~

~~analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.~~

~~19.1407.6 Definition of Timely.~~

~~As used in 19.1407.2, "timely" means the following:~~

~~A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or the developer shall provide the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:~~

~~1. Final city inspections for occupancy approval; and/or~~

~~2. Recording of the plat in the case of a subdivision or partition; and/or~~

~~B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued.~~

COMMENTARY - TRANSPORTATION IMPACT ANALYSIS

Relocated Text

Existing Section 19.1408 was relocated to proposed Section 19.1404. Only minor text modifications were made for clarity.

~~19.1408 Transportation Impact Analysis.~~

~~19.1408.1 Intent.~~

~~A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.~~

~~19.1408.2 Applicability.~~

~~A. All projects that require development review under Chapter 19.1400 shall schedule a preapplication conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.~~

~~B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual.~~

~~C. The City may also require a preapplication conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.~~

~~D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.~~

~~E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.~~

~~F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.~~

~~G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.~~

~~H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.~~

~~I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.~~

~~19.1408.3 Rough Proportionality.~~

~~A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.~~

~~B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.~~

~~C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgement~~

and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:

1. Condition and capacity of existing facilities within the impact area in relation to city standards.

2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.

4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.

5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.

6. Accident history within the impact area.

7. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

8. Other considerations as may be specified in the development review process and communicated in writing by the City.

19.1408.4 Mitigation.

A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.

B. Mitigation options include, but are not limited to, the following:

1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.

2. Demand management programs may be used as mitigation when applied as conditions of land use approval.

3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.

4. Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements.

COMMENTARY - STREET REQUIREMENTS AND DESIGN STANDARDS

Relocated Text

Existing Section 19.1409 was relocated to proposed Section 19.1408. Only minor text modifications were made for clarity and better organization and to reflect new policy direction described in the commentary section for proposed Section 19.1408.

~~19.1409 Street Requirements and Design Standards.~~

~~19.1409.1 General Provisions.~~

~~A. Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.~~

~~B. Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.~~

~~C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1407.~~

~~D. No development permit shall be issued unless the development has frontage or approved access to a public street. For lots that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.~~

~~E. All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.~~

~~F. Cross sections for street improvements by functional classification are included in the Transportation Design Manual.~~

~~G. Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.~~

~~H. Transportation facility design standards shall be provided in accordance with the dimensions shown as "required" on Table 19.1409.3.~~

~~I. Under provisions of Section 19.1404 Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions in Table 19.1409.3.~~

~~19.1409.2 Street Functional Classification and Improvement Standards.~~

~~A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.~~

~~B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for improvements identified as needed by the Milwaukie Transportation System Plan or a transportation impact study analysis conducted under Section 19.1408.~~

~~C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.~~

~~1. Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.~~

~~2. New development shall be connected to the street network by a paved street.~~

~~3. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will~~

be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.

4. To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a transportation impact analysis.

5. Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:

   a. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.

   b. A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.

   c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

   d. In order to assure the eventual continuation or completion of the street, reserve strips may be required.

   e. Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS

New, Relocated, and Modified Text

Proposed Section 19.1408 replaces existing Section 19.1407 and consolidates existing Sections 19.1409, 19.1410, 19.1411, and 19.1412 into one section for better chapter organization. The proposed new section contains the City's street design standards and requirements. It includes new introductory language that links these standards and requirements with the Transportation System Plan, which is the City's guiding policy document pertaining to transportation improvements.

This commentary section describes the changes contained in proposed Subsection 19.1408.1. Subsequent commentary sections describe the remaining subsections in Section 19.1408.

Subsection 19.1408.1 contains general street requirements and standards. It is comprised primarily of existing text that has been relocated and/or revised slightly for clarification, updating, and organizational purposes. The proposed new text does not contain any major policy changes. It does, however, clarify that:

- All development shall comply with clear vision and access management standards.
- Downtown and non-downtown development projects are subject to different street design standards. Downtown street design standards are contained in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Non-downtown street design standards are contained in Chapter 19.1400.

Other minor changes include:

- Maximum block perimeter standards were added to the Street/Intersection Spacing table to prevent excessively large block development.
- Additional yard requirements were moved to Chapter 19.400 Supplementary Development Regulations, as they do not relate to the requirements of this chapter.

19.1408 Transportation Facility Requirements

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

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the city and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.1408.1 General Street Requirements and Standards

A. Access Management. All development subject to Chapter 19.1400 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision. All development subject to Chapter 19.1400 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones. Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements~~, with the exception of McLoughlin Boulevard which is an ODOT facility subject to state and federal design standards~~. Unless specifically stated otherwise, the standards in this section do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.312.5.

D. Development in Non-Downtown Zones. Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements is subject to the street design standards and right-of-way dedication requirements contained in that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements and for development that is not in any of the downtown zones listed in Subsection 19.1408.1.C above:

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

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

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.1408.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with this section and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

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

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

6. The following provisions apply to all new public streets and extensions to existing public streets.

   a. All new streets shall be dedicated and improved in accordance with this chapter.

   b. Dedication and construction of a half street is generally not acceptable. However, a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate two travel lanes pursuant to Subsection 19.1408.2. ~~20 feet.~~

~~D.~~ 7. Traffic calming may be required for existing or new streets. ~~in the design of a proposed street through the development review process or through the Neighborhood Traffic Management Program for existing streets.~~ Traffic calming devices shall be designed in accordance with ~~to the standards in~~ the Public Works Standards or with the approval of the Engineering Director. ~~Transportation Design Manual~~.

~~E. Vision Clearance. No signs, structures, or vegetation in excess of three feet in height shall be placed in "vision clearance areas" at intersections of streets, driveways, and alleys based on the guidelines in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" (Green Book). The City Engineer may vary sight distance standards in the interest of preserving significant vegetation, or other valued features, where the variance will not cause undue safety hazards.~~

~~F. Additional Setbacks from Major Streets. Yards abutting a major street are subject to additional yard requirements. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of a building shall be in accordance with Table 19.1409.2.~~

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

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

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

~~19.1409.3 General Street Design Standards.~~

E. Street Layout and Connectivity

~~A.~~ 1. ~~General.~~ The length, width, and shape of blocks shall take ~~into account the need for adequate~~ lot size standards, ~~convenient~~ access~~,~~ and circulation needs, ~~and~~ traffic safety, and ~~shall recognize the limitations of the topography~~ topographic limitations into consideration.

~~B.~~ 2. ~~Street layout and connectivity.~~ The street network ~~Street layouts~~ shall be generally rectilinear but may vary due ~~and may be aligned to physically adapt streets~~ to topography or other natural conditions. ~~; or to provide a variety of alignments or grid patterns within an interconnected street system.~~

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

a. Temporary turnarounds shall be constructed for street stubs in excess of 150 feet in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

~~C. Block length and perimeter. For parcels of land to be subdivided with a total size of three acres or larger, no block may be more than 530 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~For sites to be subdivided with a total size of less than three acres, no block may be more than 800 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~The average perimeter of blocks formed by streets shall not exceed 1,600 feet.~~

~~For the purpose of this section, "existing development" means built improvements including streets, associated utilities, and permanent residential, commercial, or institutional structures. Modification of the block length and perimeter standards shall only be permitted under variance provisions of Zoning Ordinance Chapter 19.700.~~

~~D.~~ 4. ~~Cul-de-sacs~~ Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. ~~cul-de-sac.~~ For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ three acres or larger, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 200 feet, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ less than three acres, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 400 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic. ~~A cross section for cul-de-sacs is provided in the Transportation Design Manual.~~

~~E. Pedestrian/bicycle accessways shall be required to provide mid-block connections between blocks that exceed 600 feet, or to link the end of a cul-de-sac with a nearby~~

~~collector or arterial street or activity center. The standards for accessways are provided in Sections 19.1410 and 19.1411.~~

~~F.~~ 5. Closed end street systems~~, as defined in Section 19.103~~ may serve no more than 20 dwellings.

~~G. Alleys. Alleys are encouraged in commercial and industrial developments. Alleys are allowed in residential districts with the approval of the Planning Commission, subject to the standards in the Transportation Design Manual.~~

~~H. Street design details. Standards for design speed, horizontal/vertical curves, grades and curb return radius are specified by street functional classification in the Transportation Design Manual.~~

~~I. Street names. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.~~

~~J. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution subject to Section 19.1407-Adequate Transportation Facilities and 19.1408-Transportation Impact Analysis as applicable.~~

~~K. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.~~

~~L. Traffic signals. The location of traffic signals shall be noted on approved development plans. Where a proposed intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed.~~

~~M. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with regulations adopted by the City.~~

~~19.1409.4 General Intersection Design Standards.~~

F. Intersection Design and Spacing

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

~~B.~~ 2. Street and intersection alignments for local streets shall ~~should~~ facilitate local circulation but avoid alignments that encourage ~~non-local~~ nonlocal through traffic.

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

~~D.~~ 4. New streets shall intersect ~~with~~ at existing street intersections so that centerlines are not offset ~~except as provided in Table 19.1409.1~~. Where existing streets adjacent to a proposed development do not align properly, conditions shall ~~may~~ be imposed on the development to provide for proper alignment.

5. Minimum and maximum block perimeter standards are provided in Table 19.1408.1.

6. Minimum and maximum intersection spacing standards are provided in Table 19.1408.1.

Table ~~19.1409.1.~~ 19.1408.1 Street/Intersection Spacing

Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530 feet	1000 feet	2600 feet
Collector	300 feet	600 feet	1800 feet
Neighborhood Route	150 feet	~~400~~ 530 feet	1650 feet
Local	100 feet	530 feet	1650 feet

~~Table 19.1409.2 Additional Yard Requirements.~~

~~Major Street~~	~~Distance from Centerline (plus yard requirements in zone)~~
~~Firwood Street (55th to Stanley)~~	~~25 feet~~
~~Harmony Road~~	~~40 feet~~
~~Harrison Street (Milwaukie Expressway to 44th)~~	~~40 feet~~
~~Harrison Street (Milwaukie Expressway to McLoughlin)~~	~~30 feet~~
~~Harvey Street (32nd to 42nd)~~	~~25 feet~~
~~Howe Street (42nd to 43rd)~~	~~30 feet~~
~~Johnson Creek Boulevard~~	~~30 feet~~
~~King Road~~	~~40 feet~~
~~Linwood Avenue~~	~~40 feet~~
~~Lake Road~~	~~30 feet~~
~~Logus Road~~	~~25 feet~~
~~Monroe Street (52nd to Linwood)~~	~~30 feet~~
~~Oak Street~~	~~30 feet~~
~~Oatfield Road~~	~~30 feet~~
~~Ochoco Street~~	~~30 feet~~
~~Olsen Street~~	~~25 feet~~
~~Railroad Avenue~~	~~30 feet~~
~~River Road (south of Lark Street)~~	~~30 feet~~
~~Roswell Street (32nd to 42nd)~~	~~25 feet~~
~~Washington Street (west of Railroad)~~	~~30 feet~~
~~Willow Street (Windsor Drive to Stanley)~~	~~25 feet~~
~~17th Avenue (Ochoco to McLoughlin)~~	~~40 feet~~
~~32nd Avenue (north of Harrison)~~	~~30 feet~~
~~37th Avenue (Lake Road to Grogan)~~	~~25 feet~~
~~40th Avenue (Harvey to Railroad)~~	~~40 feet~~
~~42nd Avenue (Johnson Creek Blvd. to Howe Street)~~	~~30 feet~~
~~42nd Avenue (Harrison Street to King Road)~~	~~30 feet~~
~~43rd Avenue (Howe to King)~~	~~30 feet~~
~~55th Avenue (Firwood to Johnson Creek Blvd.)~~	~~25 feet~~

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS
Street Design Standards

New and Deleted Text

The following amendments to existing street design standards (proposed Subsection 19.1408.2) represent a significant policy change in the way that street design cross sections are determined. The proposed new text is intended to introduce greater flexibility into the code in order that the Engineering Director may develop cross sections that better respond to existing conditions. This approach replaces the existing practice of applying rigid standards and requiring a separate adjustment or variance process for any deviation from those standards.

- In general, the City's existing street design standards are more suited to the creation of new streets, not the retrofitting of existing streets. This is problematic given that the majority of required street improvements in Milwaukie involve improvements to existing streets. In recognition of the fact that a one-size-fits-all approach does not work in Milwaukie, proposed new standards introduce a range of allowed street element widths and give the Engineering Director the ability to consider, amongst other things, existing street and development conditions when making a street design determination. As proposed, the kinds of street design modifications that currently require a land use application would no longer require a land use application.

- Proposed new guidelines for making cross section determinations are contained in Subsection 19.1408.2.B. They require the Engineering Director to take existing conditions, environmental factors, and the goals and policies of the Transportation System Plan into consideration. Additional cross section determination guidance is provided in proposed Subsection 19.1408.2.A. This subsection is meant to augment the table that contains the street element and right-of-way width ranges. The guidelines, additional standards, and ranges provided in the street design table support a consistent approach to street design cross section determinations.

- The existing table that identifies the street classifications for all non-local streets in Milwaukie was deleted. This information is found in the Transportation System Plan and is unnecessary to duplicate in this chapter.

Table 19.1409.3 Transportation Facility Design Standards *Dimensions are shown in feet*

Classification	Right of Way	Travel Lane		On-street Parking		Sidewalks		Landscape Strips		Bike Lane/ Combined Bike & Travel Lane	
		Req'd.	Min. Allowed	Req'd.	Min. Allowed[1]	Req'd.	Min. Allowed	Req'd.	Min. Allowed	Req'd.	Min. Allowed
Arterial[2]	73	12	11	8	7/6	10	5	5	0	6/16	5/14
Collector[3]	60	11	10	8	7/6	8	5	5	0	6/16	5/14
Neighborhood	52	10	10	8	7/6	6	4	5	0	6/16	5/14
Local	50	10	10	8	7/6	6	4	5	0	6/16	5/14
Truck Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14
Bus Route	n/a	12	11	8	7/6	n/a	n/a	n/a	n/a	6/16	5/14

Arterials[3]	Collectors		Neighborhood Routes	
OR Highway 99E*	Johnson Creek Blvd.*	Main Street	Roswell Street	Logus Road
OR Expressway 224*	17th Avenue*	Stanley Avenue	Olsen Street	27th Avenue
Linwood Avenue*	32nd Avenue	Oak Street	Harvey Street	37th Avenue
Lake Road*	Washington Street	Monroe Street	Brookside Drive	Wood Avenue
King Road*	Jefferson Street	Jackson Street	Regents Street	Washington Street/Ida Lane
Harrison Street*	34th Avenue	Railroad Avenue	Willow Street	Furnberg Drive/71st Avenue
River Road*	42nd Avenue	Rusk Road	Mason Lane	Cedar Crest Drive
	43rd Avenue	37th Avenue	Howe Street	Home Avenue

*A street shown with an asterisk indicates the route is a regional facility in accordance with the Regional Transportation Plan.

[1] Minimum residential on-street parking is 6 feet. Minimum commercial on-street parking is 7 feet.

[2] Right-of-way requirements for Oregon Highway 99E and Expressway 224 shall be determined by Oregon Department of Transportation. Required right-of-ways for the following arterials supersede Table 1409.3: 60 feet for Oatfield Road, 64 feet for Linwood Avenue.

[3] Right-of-way requirements are 72 feet for 17th Avenue between Highway 99E and Expressway 224; 60 feet for 17th Avenue north of Expressway 224; and 50 feet for the following: Monroe Street west of 224, Stanley Avenue, 34th Avenue 600 feet north of Lake Road, 32nd Avenue, and the conjunction of 43rd Avenue-Howe Street-42nd Avenue.

[4] Minor arterials include Linwood Avenue, Lake Road, Harrison Street, King Road, and Oatfield Road. McLoughlin Blvd. south of Harrison is a major arterial; north of Harrison it is a principal arterial.

19.1408.2 Street Design Standards

Table 19.1408.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.1408.2.A augment the dimensional standards contained in Table 19.1408.2. The Engineering Director will rely on Table 19.1408.2 and Subsection 19.1408.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.1408.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.1408.2 Street Design Standards (Dimensions are shown in feet)

Street Classification	Full-width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per Street Classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per Street Classification	Per Street Classification

A. Additional Street Design Standards. These standards augment the dimensional standards contained in Table 19.1408.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

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

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

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

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

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

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

7. On-street parking in industrial zones shall have a minimum width of eight feet.

8. On-street parking in commercial zones shall have a minimum width of seven feet.

9. On-street parking in residential zones shall have a minimum width of six feet.

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

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

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

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

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

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.1408.2 and the additional street design standards in Subsection 19.1408.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.

2. Multimodal street improvements identified in the TSP.

3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically with regarding to sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.

5. Existing right-of-way dimensions and topography.

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS
Sidewalk Requirements and Standards

Modified, Deleted, and Relocated Text

The following amendments to existing sidewalk requirements and standards (proposed Subsection 19.1408.3) have been revised slightly for clarity and updated to be consistent with the Transportation System Plan and other City and federal standards for sidewalk facilities. They do not contain any major policy changes.

- On-site walkway and circulation standards have been moved to Chapter 19.400 Supplementary Development Regulations, as they do not relate to the requirements of this chapter.

- Existing Subsection 19.1410.4 has been revised slightly for clarity and moved to proposed Subsection 19.1408.5.

~~19.1410 Pedestrian requirements and standards.~~

19.1408.3 Sidewalk Requirements and Standards

~~19.1410.1 General Provisions.~~

A. General Provisions

~~A.~~ 1. ~~Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. transportation design manual.~~

~~B.~~ 1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the ~~Milwaukie~~ TSP ~~Comprehensive Plan~~ and provide the context for needed pedestrian improvements ~~the pedestrian requirements and standards~~. Figure 5-1 ~~3.1~~ of the TSP ~~Comprehensive Plan~~ illustrates the ~~Walkways Network~~ Pedestrian Master Plan and ~~Figure 3.2 illustrates the Walkways Action Plan.~~ Table 5-3 contains the Pedestrian Action Plan.

~~C.~~ 2. Americans with Disabilities Act (ADA) requirements for public sidewalks ~~pedestrian facilities~~ shall apply where there is a conflict with ~~c~~City standards.

~~19.1410.2 Public sidewalks.~~

B. Sidewalk Requirements

~~A.~~ 1. Requirements. ~~Public sidewalks~~ Sidewalks shall be provided ~~are required~~ on the public street frontage of all ~~new~~ development per the requirements of this chapter. ~~(including detached and attached single family dwellings on existing lots), all land divisions, and substantial redevelopment of commercial, industrial, multifamily and institutional uses. Public s~~Sidewalks shall ~~are~~ generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a~~n~~ public easement with the approval of the Engineering Director. ~~city engineer~~.

~~B.~~ 2. Design Standards. Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. ~~Standards and cross section details for the location, width and design of public sidewalks are included in the transportation design manual.~~

~~C.~~ 3. Maintenance. Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04. ~~Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.~~

~~19.1410.3 On-site walkways and circulation.~~

~~A. Requirement. All new development (excluding single family) and substantial redevelopment of commercial, industrial, multifamily and institutional uses shall provide a system of walkways that encourage safe and convenient pedestrian movement within the site and connections to off-site destinations. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.~~

~~B. Location. A walkway into the site shall be provided for every three hundred (300) feet of street frontage.~~

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than five (5) feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a seven (7) foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.1410.4 Pedestrian/bicycle accessways.

A. Intent. Pedestrian/bicycle accessways are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses are unavailable.

Public street connections for cars, pedestrians and bicycle circulation are preferable to accessways. Pedestrian/bicycle accessways should only be used to ensure connectivity to nearby neighborhood activity centers in areas where no other public street options are available.

B. Requirement. Pedestrian/bicycle accessways shall be required in the following situations:

1. In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by four hundred (400) feet or more, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.

2. In commercial and community service use districts where addition of an accessway would reduce walking or bicycling distance by two hundred (200) feet, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.

3. For purposes of subsections (B)(1) and (2) of this section, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface and is unobstructed.

4. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.

C. Design Standards. An accessway shall have a minimum right-of-way width of fifteen (15) feet and shall be improved to a minimum width of ten (10) feet and paved with a hard surface material. If an accessway also provides secondary fire access or a public utility corridor, its right-of-way width shall be at least twenty (20) feet with a minimum fifteen (15) foot-wide paved

surface. Additional standards relating to entry points, maximum length, visibility, and lighting of accessways are provided in the Design Manual.

D. Ownership, liability and maintenance of accessways. To enable access and allow maintenance over time for all pedestrian/bicycle accessways, the city engineer can require one of the following:

1. That the accessways be dedicated to the public and accepted by the city as public right-of-way prior to the final approval of the development.

2. That approval of the development shall be contingent upon granting to the public access easements to such accessways.

3. That the developer incorporate the accessway into recorded easements or tract(s) of common ownership which specifically requires the property owners and future property owners who are subject to such easements or are owners of such tracts to provide for the ownership, liability and maintenance of the accessway.

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS
Bicycle Facility Requirements and Standards

Modified Text

The following amendments to existing bicycle facility requirements and standards (proposed Subsection 19.1408.4) have been revised slightly for clarity and updated to be consistent with the Transportation System Plan and other City standards for bicycle facilities. They do not contain any major policy changes.

~~19.1411 Bicycle requirements and standards.~~

~~**19.1411.1 General Provisions.**~~

19.1408.4 Bicycle Facility Requirements and Standards

A. General Provisions

~~A.~~ 1. Bicycle facilities~~, including on-street bike lanes, off-street~~ include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths. ~~bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.~~

~~B.~~ 2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. ~~Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.~~ Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

~~**19.1411.2 Bike Lanes and Bikeways.**~~

B. Bicycle Facility Requirements

~~A.~~ 1. Requirements. ~~Bike~~ Bicycle facilities ~~lanes and bikeways~~ shall be provided in accordance with this chapter, Chapter 19.500, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion. ~~the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.~~

~~B.~~ 2. Timing of Construction. To assure continuity and safety, required bicycle facilities shall ~~bike lanes and bikeways will~~ generally be constructed ~~as part of the~~ at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities. ~~construction or improvement of collector and arterial streets.~~

~~C.~~ 3. Design Standards. Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.500 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. ~~Bike lanes shall be six (6) feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.~~

~~**19.1411.3 Bicycle Parking.** Bicycle parking requirements are set forth in Chapter 19.500.~~

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS
Pedestrian/Bicycle Path Requirements and Standards

Modified Text

The following amendments to existing pedestrian/bicycle path requirements and standards (proposed Subsection 19.1408.5) have been revised slightly for clarity and updated to reference the Public Works Standards. The proposed new text was moved from existing Subsection 19.1410.4 and does not contain any major policy changes.

- Subsection 19.1408.5.B.1 was added to implement the City's Transportation System Plan (TSP) and fulfill the City's requirement to coordinate with the Metro Regional Transportation Plan (RTP). The RTP requires new residential and mixed-use development to provide a bicycle/pedestrian path at least every 330 feet, except where prevented by barriers (i.e. topography, railroads, freeways, pre-existing development). The TSP "requires new local connections that will result in a grid of vehicle access every 530 feet and bicycle/pedestrian access every 300 feet." The proposed new text implements the TSP and conforms to RTP requirements.

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

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

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

B. Pedestrian/Bicycle Path Requirements

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

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

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 feet when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

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

C. Design Standards

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

D. Ownership and Maintenance

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

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.

2. Creation of a public access easement over the path prior to final development approval.

3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

COMMENTARY - TRANSPORTATION FACILITY REQUIREMENTS
Transit Requirements and Standards

Modified and Relocated Text

The following amendments to existing transit requirements and standards (proposed Subsection 19.1408.6) have been revised slightly for clarity and updated to be consistent with the Transportation System Plan and other applicable City and TriMet standards. They do not contain any major policy changes.

- Building orientation to transit requirements have been moved to Chapter 19.400 Supplementary Development Regulations, as they do not relate to the requirements of this chapter.

~~**19.1412 Transit requirements and standards.**~~

19.1408.6 Transit Requirements and Standards

~~**19.1412.1 General Provisions.**~~

A. General Provisions

~~A~~1. Transit facilities include~~, including~~ bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement. ~~, shall be designed and improved in accordance with Tri-Met standards and the requirements and standards of this chapter and the Transportation Design Manual.~~

~~B~~2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. ~~Chapter 5 of the Milwaukie Comprehensive Plan.~~ Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

~~**19.1412.2 Transit Facilities.**~~

B. Transit Facility Requirements

~~A~~1. ~~Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred (200) feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.~~

~~B~~1. ~~Factors Determining Transit~~ Requirements. ~~The f~~Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on ~~in~~ adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ~~anticipated~~ ridership, and transit needs of ~~a~~ the development. Required improvements may include provision of an easement or dedication of land for transit facilities, ~~a bus stop,~~ benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting~~s~~. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.1405.

~~C~~2. Location of ~~Transit~~ Facilities. Transit facilities shall be located at controlled street intersections, wherever possible. ~~A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route.~~ Where a bus stop has already been established within 500 feet of ~~the affected~~ a proposed development, a new bus stop shall only be provided if recommended by TriMet ~~Tri-Met~~ and required by the Engineering Director ~~director~~. Otherwise, the development ~~developer~~ shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping. ~~through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).~~

3. Design Standards. Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination. The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.1407. TriMet may recommend the

construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

~~**19.1412.3 Building Orientation to Transit.**~~

~~The following requirements apply to all new multifamily, commercial, office, and institutional development within five hundred (500) feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:~~

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

~~B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321, Community Service Use, shall be set back no more than thirty (30) feet from the right-of-way that is providing transit service.~~

~~1. An individual building may be set back more than thirty (30) feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the thirty (30) foot setback standard.~~

~~2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than one hundred (100) feet.~~

~~3. If the proposed building is part of an institutional campus, the director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.~~

~~4. If the site abuts more than one (1) street served by transit, then the maximum setback requirement need only apply to one (1) street.~~

COMMENTARY - ACCESS MANAGEMENT STANDARDS

Relocated Text

Existing Section 19.1413 was relocated to Chapter 12.16 Access Management. This relocation is intended to eliminate redundancies and inconsistencies within the Milwaukie Municipal Code by consolidating this section with existing access provisions in Title 12.

- Development subject to Chapter 19.1400 will still be required to comply with the City's access management standards. However, the relocation of this section to Title 12 will clarify that development not subject to Chapter 19.1400 is also required to comply with these standards.

19.1413 Access management standards.

19.1413.1 General Provisions.

A. Access Permit Required. Access to a public street requires an access permit in accordance with the following:

1. Permits for access to city streets shall be subject to review and approval by the city engineer based on the adopted city standards contained in this chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to state highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the city or Clackamas County. Decisions regarding access permits to state highways shall be based on access standards adopted by ODOT.

3. Permits for access to county highways shall be subject to review and approval by Clackamas County, except where the county has delegated this responsibility to the city. Decisions regarding access permits to county highways shall be based on access standards adopted by Clackamas County.

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public. and/or private), driveways, and easements shall be as set forth in other sections of these design standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty (530) feet of the adjacent property. The access study shall include the following:

1. Review of site access spacing and design.

2. Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

3. Review of all modes of transportation to the site.

4. Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the city engineer or designee.

D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not

inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.

Table 19.1413.1 Access Spacing Targets.

Street Classification	**Minimum Feet**
Arterial	600
Collector	300
ODOT Facilities (ORE 99E, ORE 224)	Per Appendix C of Oregon Highway Plan

E. Access Study Requirements. The city or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.

F. Authority to Restrict Access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the city engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:

1. Cause or increase existing hazardous traffic conditions;

2. Provide inadequate access for emergency vehicles; or

3. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

G. Conditions of Approval. The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

19.1413.2 Location of Driveway Access.

A. Double Frontage. When a lot has frontage onto two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

B. Distance from Property Line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and one half (7½) feet from the property line in residential districts and at least ten (10) feet from the property line in all other districts.

C. New Single-Family Development Fronting Arterials or Collectors. Direct individual access to arterial or collector streets from detached or attached single-family dwellings and lots shall be discouraged. Direct access shall be considered only if there is no practical alternative way to access the site and only if the driveway is designed to allow for vehicles to turn around on-site (via a hammerhead or loop).

D. Backing into the Right-of-Way Prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single-family uses on local streets.

E. Minimum Distance from Driveway to Intersection Curb Return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:

1. For local and neighborhood streets, driveways for detached or attached single-family residential shall be located at least forty-five (45) feet from the intersection curb return, or located as far away from the curb return as possible.

2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred (100) feet from the intersection curb return.

3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred (400) feet for arterials and three hundred (300) feet for collectors, whichever is greater.

19.1413.3 Number and Size of Driveways.

A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.

1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.

2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty (150) feet may request an additional driveway, if needed.

B. Shared Driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.

C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in Section 19.426.

1. Single-family attached and detached uses shall have a minimum driveway width of nine (9) feet and a maximum width of eighteen (18) feet.

2. Three-family uses shall have a minimum driveway width of sixteen (16) feet and a maximum width of twenty (20) feet.

3. Multiple family uses with between four (4) and seven (7) dwellings shall have a minimum driveway width of twenty (20) feet, and a maximum width of twenty-four (24) feet.

4. Multiple family uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway width of twenty-four (24) feet, and a maximum width of thirty (30) feet.

5. Commercial, office and institutional uses shall have a minimum driveway width of twelve (12) feet, and a maximum width of thirty-six (36) feet.

6. Industrial uses shall have a minimum driveway width of fifteen (15) feet, and a maximum width of forty-five (45) feet.

Maximum driveway widths for commercial and industrial uses may be increased if the city engineer determines that more than two (2) lanes are required based on the number of trips generated or the need for turning lanes.

COMMENTARY - PUBLIC UTILITY REQUIREMENTS

Modified Text

Proposed Section 19.1409 Public Utility Requirements replaces existing Chapter 15.32 Public Facilities Improvements. The following amendments include minor text modifications for clarity and better organization. They do not contain any major policy changes.

- The relocation of Chapter 15.32 to Chapter 19.1400 is intended to consolidate all public facility requirements into one location since improvements to the City's transportation and public utility systems are triggered by development projects when they have impacts on either of these systems.

19.1409 Public Utility Requirements

19.1409.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.1400 per Section 19.1402 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

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

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

19.1409.2 Public Utility Improvements

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

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

   1. Exceeds the design capacity of the utility.

   2. Exceeds Public Works Standards or other generally accepted standards.

   3. Creates a potential safety hazard.

   4. Creates an ongoing maintenance problem.

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

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

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

19.1409.3 Design Standards

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

19.1409.4 Oversizing

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

19.1409.5 Monitoring

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

CHAPTER 19.300 USE ZONES

(Including SECTION 19.312.5 PUBLIC AREA REQUIREMENTS)

Executive Summary

With the exception of Subsection 19.312.5, the proposed amendments to Chapter 19.300 are minor in nature. The proposed amendments to Subsection 19.312.5, on the other hand, are substantive in nature and work in conjunction with the proposed amendments to Chapter 19.1400. They fix a number of issues identified by various stakeholders over the past year. The issues and a discussion of how the proposed amendments to Subsection 19.312.5 address these issues are provided below.

- The existing code treats downtown and non-downtown development projects differently when it comes to when and how the City exacts street improvements. The proposed code remedies this by making both downtown and non-downtown projects subject to the same review, evaluation, and fee in lieu of construction provisions of Chapter 19.1400.

- The existing code exacts street improvements based on a proposed development's permit value for both downtown and non-downtown projects. This is known as a value-based trigger. The proposed code replaces this value-based trigger with an impacts-based trigger.

  Impact-based triggers are more defensible and more appropriate than value-based triggers for determining whether development projects should be required to fund or construct street improvements. They are more defensible because the City is legally bound to exact only those transportation improvements that are both proportional and related to the impacts that a development project is expected to have on the transportation system. They are more appropriate because impact-based triggers, unlike value-based triggers, only capture development projects that have impacts on the transportation system.

- The existing code does not explicitly require the City to demonstrate that required street improvements are proportional to a development project's impacts. The proposed code remedies this by requiring proportionality analyses for all transportation-related exactions and by replacing value-based triggers with impact-based triggers so that only those projects with transportation impacts trigger street improvements.

19.303.3 Standards. In an R-5 zone the following standards shall apply:

J. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

I. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

K. Transition~~al~~ Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

L. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.311.3 Standards. In a C-L zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.312.3 Uses.

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.312.3.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section ~~19.425~~ 19.407 of this title.

19.312.5 Public Area Requirements.

A. Purpose. The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design. ~~The design of streets, sidewalks, and public spaces is critical to the overall character and vitality of the downtown zones. The public area requirements prescribe specific details and design criteria for improvements within the public right-of-way, to establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.~~

B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections ~~development projects in non-downtown zones that have frontage on any portion of a street that is~~ shown in the public area requirements plan even when the development project is not in a downtown zone. ~~The downtown and riverfront public area requirements shall apply as follows:~~

~~1. All new development in the downtown zones shall comply with the public area requirements.~~

~~2. Any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent of the value of the land and existing improvements, as determined by the county assessor, shall comply with the public area requirements. The building official shall determine development permit value.~~

~~3. If the development permit value is less than fifty percent of the value of the land and existing improvements, as determined by the county assessor, then an amount equal to at least ten percent of the development permit value shall be utilized to meet the public area requirements. For example, if a one hundred thousand dollar improvement is proposed for a site with land and improvements valued at two hundred fifty thousand dollars, at least ten thousand dollars shall be dedicated to meet the public area requirements. Priorities for public area improvements shall be determined at a preapplication conference with community development department staff. In general, the public area requirements will be prioritized to benefit the pedestrian as follows:~~

~~First priority: Sidewalk improvements~~

~~Second priority: Street trees~~

~~Third priority: Streetlights~~

~~Fourth priority: Street furniture and bicycle parking~~

C. Review Process. All downtown development projects that meet the applicability provisions of Section 19.1402 shall submit all appropriate applications per Subsection 19.1403.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use

applications for downtown development projects shall be submitted in accordance with Subsection 19.1403.2 and processed in accordance with Chapter 19.1000.

D. Street Design Standards. If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.1404, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.1405. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.1403.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.1403.5.B.

19.313.3 Standards. In a C-G zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.323.5 Alteration and Development.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

10. Buffering. An appropriate buffer or screen, as provided under Subsection ~~19.416~~ 19.403.7, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

SECTION 19.103 DEFINITIONS

Executive Summary

The proposed amendments to Section 19.103 are in response to the proposed amendments to Chapter 19.1400. They address the need for new and modified definitions for terms used in Chapter 19.1400 and include some minor housekeeping edits.

Definitions for the following terms were added:

- Accessway
- Accidental destruction
- Change in use
- Curb return
- Developer's agreement
- Development permit
- Driveway
- Driveway approach
- Frontage improvements
- Garage (including definition for "carport")
- Green street
- Half street
- Half-street improvement
- Improvements
- Landscape strip
- New construction
- Off-site improvements
- On-site improvements
- Public facilities (including definitions for "transportation facilities" and "public utilities")
- ~~Redevelopment~~
- Right-of-way
- Roadway
- Sidewalk
- Street classification
- Street network (including definition for "through street")
- Street stub
- Street tree
- Traffic management
- Turnaround

Definitions for the following terms were modified:

- Access
- ~~Accessory structure (definition for "habitable accessory structure" added)~~
- Alley
- Alteration
- Application (moved to correct error in alphabetic order)
- Bikeways (renamed "bicycle facility" and definitions for "shared lane" and "bike boulevard" added)
- Closed-end street system (moved under "street network")
- Collector Street (moved under "street classification")
- Development
- Disturb
- Floor area
- Frontage
- Routine repair and maintenance
- Stormwater pre-treatment facility (renamed "stormwater facility")
- Street
- Use
- Utility facilities
- Vehicle

Definitions for the following terms were moved:

- Mitigation (moved under "water quality resource areas")
- Significant negative impact (moved under "water quality resource areas")

Definitions for the following terms were deleted:

- Alteration, Structural (redundant with "alteration")
- Facility (redundant with new "stormwater facility" definition)
- Local street ("street classification" term references Transportation System Plan for definition)
- Major arterial street ("street classification" term references Transportation System Plan for definition)
- Minor arterial street ("street classification" term references Transportation System Plan for definition)
- Neighborhood street ("street classification" term references Transportation System Plan for definition)
- Substantial redevelopment (term no longer used)
- Water quality facility (redundant with new "stormwater facility" definition)

Housekeeping edits:

- Numbering from subdefinitions deleted.
- Redundant subdefinition terms deleted.
- Headings for related definitions added.
- Minor grammatical corrections made.

Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

"Abandonment" means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of ~~six (6)~~ months.

"Access" means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

"Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within ~~two hundred (~~200~~)~~ feet (measured in a straight line) of the building or use it is intended to serve.

~~1. "Habitable accessory structure" means any accessory structure that meets the definition for habitable as defined by the Oregon Residential Specialty Code.~~

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Accidental destruction" means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Airport" or "aircraft landing facility" means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

"Alley" means a ~~minor~~ right-of-way that provides access ~~which is used primarily for vehicular service~~ to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

"Alteration" means ~~a change in construction or a change in occupancy. Where the term "alteration" is applied to a change in construction, it is intended to apply to~~ any change, addition, or modification ~~in construction~~ to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include "routine maintenance and repair." ~~When the term is used in connection with a change in use occupancy, it is intended to apply to changes in occupancy from one use to another.~~ See also "improvements."

~~Alteration, Structural. "Structural alteration" means a change or repair which would tend to prolong the life of the supporting member of a building or structure. A change in the external dimension of the building shall be considered a structural alteration.~~

"Antenna" means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

"Antenna support structure" means a structure on which a wireless antenna is or may be placed.

"Alternative support structure"~~:~~ means an ~~An~~ existing building, water tower, utility pole in the ~~right of way~~ right-of-way, or an antenna support structure that meets stealth design criteria.

"Existing ~~antenna~~ support structure"~~:~~ means any ~~Any~~ support structure existing at the time of the application.

"Application" means all forms, materials, and information required for submission for action authorized under this title.

"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.~~

"Automobile service station" means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

"Bankful stage" means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

"Basement" means a portion of a building, not deemed a story, which has more than one half of its height (but not more than ~~six (6)~~ feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

"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.

~~"Bikeways"~~ "Bicycle facility" means any ~~road, street~~, or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. ~~The term "bikeway" includes bike lane, bike path, and bike route:~~ Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

~~1.~~ "Bike lane" means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

"Shared lane" means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

"Bike boulevard" means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher

priority to through bicyclists, with secondary priority assigned to motorists. A bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

~~2.~~ "Bike path" means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, ~~and~~ pedestrians, and other nonmotorized modes of travel.

~~3. "Bike route" means a system of bikeways designated by route markers. Bike routes include shared roadways open to motor vehicles and upon which no bicycle lane is designated.~~

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

"Buffer area" means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

"Building" means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding ~~eighteen (~~18~~)~~ inches in height above the average grade of the adjoining ground.

"Building height" means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

"Building line" means a line that coincides with the front side of the main building.

"Build-to line" means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

"Cellar" means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

"Change in use" means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this section or the City's use zones as a guide. A proposal to change or add new uses may require land use approval. See also "use."

"City" means the City of Milwaukie, Oregon.

~~"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the roadway network. "Closed-end street system" does not include street systems, where more than one street connection to the roadway network is made by roadway construction, or is planned by dedication of right-of-way, or where other permanent reservations are made for future street extension to the roadway network.~~

~~"Collector street" means a roadway that carries local traffic from local streets to arterial streets within the city. Collectors also serve local community uses and serve as circulation magnets for local streets. Local public transit may use collector streets.~~

"Co-location" means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

"Commercial parking facility" means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory

to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

"Commercial recreation" means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

"Congregate housing facility" means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all ~~R-zones which~~ residential zones that permit multifamily apartments, and they require conditional use approval in those ~~R-zones which~~ residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

"Constructed wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

"Corridor design plan" means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

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

"Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

"Daycare center" means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

"Debris" means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

"Department of Environmental Quality (DEQ) Water Quality Standards" means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

"Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer's agreement is not a Development Agreement as defined by ORS 95.504.

"Development" means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: ~~any man-made change defined as buildings or other structures,~~ mining, dredging, ~~paving,~~ filling, or grading in amounts greater than ~~ten (~~10~~)~~ cubic yards ~~on any lot or excavation~~. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (~~a~~1) ~~Stream~~ stream enhancement or restoration projects approved by cities and counties; (~~b~~2) ~~Farming~~ farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; ~~and~~ (~~c~~3) ~~Construction~~ construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

"Development permit" means any permit, such as a building permit, issued by the City's Building Department for action authorized under this title. Land use approval by the City's Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

"Disturb" means to make ~~man-made~~ changes to the existing physical status of the land~~, which~~ that are made in connection with development. The following ~~uses~~ changes are excluded from the definition: enhancement or restoration of the Water Quality Resource Area~~;~~ and planting native cover identified in the Milwaukie Native Plant List.

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

"Dormitory" means a room which is rented for sleeping purposes for more than ~~four (~~4~~)~~ persons.

"Downtown zones" means the ~~five (~~5~~)~~ zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan ~~downtown and riverfront land use framework plan~~ Downtown Storefront ~~downtown storefront~~ (DS), Downtown Commercial ~~downtown commercial~~ (DC), Downtown Office ~~downtown office~~ (DO), Downtown Residential ~~downtown residential~~ (DR), and Downtown Open Space ~~downtown open space~~ (DOS).

"Drinking establishment" means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

"Drive-through facility" means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

"Driveway" means the portion of the accessway located on private property or public lands outside of the public right-of-way.

"Driveway approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

"Dwelling" means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this section.

"Dwelling unit" means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle~~:~~.

~~1.~~ "Single-family attached" means ~~two (~~2~~)~~ dwelling units, each occupied as a housekeeping unit, sharing common structural walls.

~~2~~. "Single-family detached" means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.

~~3.~~ "Multifamily apartment" means a single structure containing ~~three (~~3~~)~~ or more dwelling units, usually for rent, and sharing common structural walls.

~~4.~~ "Multifamily condominium" means a single structure containing ~~three (~~3~~)~~ or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.

~~5.~~ "Interior single-family attached, interior multifamily condominium" means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.

~~6.~~ "Accessory dwelling" means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than ~~one (~~1~~)~~ cooking facility. For the purpose of this definition "cooking facility" means an oven, stove, range or other device used or intended for the preparation or heating of food.

~~a.~~ "Type 1 accessory dwelling" means an accessory dwelling unit not less than ~~two hundred twenty-five (~~225~~)~~ square feet gross floor area and not more than ~~six hundred (~~600~~)~~ square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.

~~b.~~ "Type 2 accessory dwelling" means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by ~~subsection~~ Subsection 19.602.10.

"Eating establishment" means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

"Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a ~~pre-disturbance~~ predisturbance condition, but create/recreate processes and features that occur naturally.

"Equipment cabinets" means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

"FAA approval" means demonstration of compliance with all applicable rules and regulations under the FAA's jurisdiction.

"Facade" means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

~~"Facility" means a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.~~

“Family” means any person or group of persons living within a single housekeeping unit as defined in this section.

“Family daycare” means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than ~~thirteen (~~13~~)~~ children, including children of the provider, regardless of full-time or part-time care status.

“Fence” means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

> ~~Fence, Sight-Obscuring.~~ “Sight-obscuring fence” means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least ~~eighty percent (~~80%~~)~~.

“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 (~~2~~)~~ 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.

“Flood management areas” means all lands contained within the ~~one hundred (~~100~~)~~ year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

“Floodway” means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a ~~one hundred (~~100~~)~~ year flood, as defined by the Corps of Engineers.

“Floodway fringe” means that land area which is outside of the stream floodway but is subject to periodic inundation by a ~~one hundred (~~100~~)~~ year flood, as defined by the Corps of Engineers.

“Floor area” means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating two buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 feet 6 inches, regardless of their use or finished state. Floor area does not include the following: ~~the sum of the gross horizontal area of the general floor of a building, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two (2) buildings; but not including:~~

~~1. Attic space providing headroom of less than seven (7) feet;~~

~~2. Basement or cellar;~~

~~3.~~ • Uncovered steps or fire escapes~~;~~.

~~4.~~ • Private garages, carports, or unenclosed porches~~;~~.

~~5.~~ • Accessory water towers or cooling towers~~; or~~.

~~6.~~ • Accessory off-street parking or loading spaces.

“Floor area ratio” means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of ~~two (~~2~~)~~ to ~~one (~~1~~)~~ means ~~two~~ 2 square feet of floor area for every ~~one~~ 1 square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

"Foster home" means any home maintained by a person licensed by the ~~state~~ State to provide care, food, and lodging in such home for not more than ~~ten (~~10~~)~~ children, including his or her own children, under the age of ~~eighteen (~~18~~)~~ years and unaccompanied by a parent or guardian.

"Frontage" means the portion of a property that abuts a public or private street. ~~property abutting on a street.~~

"Frontage improvements" means transportation facility improvements occurring along a property's frontage. See also "improvements."

"Garage" means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

> "Carport" means a stationary structure consisting of a roof, its supports, and not more than one wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:~~, Ground Level.~~

> "Ground-level grade" means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within ~~five (~~5~~)~~ feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

"Green street" means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

"Greenway areas" means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

"Ground floor" means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

"Guyed tower" means a tower which is supported by the use of cables (guy wires).

"Half street" means transportation facility improvements equal to one-half of a street design cross section plus enough additional roadway pavement for at least two travel lanes. ~~to provide a minimum paved roadway width of 20 feet.~~

~~"Half-street improvement" means transportation facility improvements equal to one-half of a street design cross-section.~~

"Hazardous materials" means materials defined by the Oregon Department of Environmental Quality as hazardous.

"High-impact commercial businesses" means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

"Home occupation" means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

"Horticulture" means the cultivation of plants, garden crops, trees or nursery stock.

"Hotel" means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

"Housekeeping unit" means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

"Off-site improvements" means all public facility improvements occurring off the site and not along the site's frontage.

"On-site improvements" means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also "frontage improvements."

Institution:

"Institutional campus" means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.

~~Institution, Higher Educational.~~ "Higher educational institution" means a college or university, accredited by the ~~state~~ State.

"Interior landscaping" means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

"Invasive non-native or noxious vegetation" means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

"Junkyard" means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

"Kennel" means any lot or premises on which ~~four (4)~~ or more dogs, more than ~~four (4)~~ months of age, are kept.

"Kitchen facility" means an area in which something is built, installed, or established to prepare food for eating by a heating process.

"Landscape strip" means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

"Landscaping" means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

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

"Lattice tower" means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

“Lease area” means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

“Limited use” means a use that is permitted subject to specific limitations as described in the zoning ordinance.

“Livestock” means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

“Loading space” means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

~~“Local street” means a roadway that carries residential traffic within residential neighborhoods within the city. Local streets connect to other local streets or collector streets for greater access within or between neighborhoods. Local public transit may use local streets.~~

“Lot” means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one ~~(1)~~ distinct ownership.

~~Lot, Corner.~~ “Corner lot” means a lot abutting on ~~two (~~2~~)~~ or more streets, other than an alley, at their intersection.

“Interior lot” means a lot other than a corner lot.

“Through lot” means an interior lot having frontage on 2 streets.

“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.

“Lot depth” means the average horizontal distance between the front lot line and the rear lot line.

~~Lot, Interior. “Interior lot” means a lot other than a corner lot.~~

“Lot line” means the property line bounding a lot~~:~~.

~~1.~~ ~~Lot Line, Front.~~ “Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

~~2.~~ ~~Lot Line, Rear.~~ “Rear lot line” means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line ~~ten (~~10~~)~~ feet in length within the lot parallel to and at the maximum distance from the front lot line.

~~3.~~ ~~Lot Line, Side.~~ “Side lot line” means any lot line not a front or rear lot line.

~~Lot, Through. “Through lot” means an interior lot having frontage on two (2) streets.~~

“Lot width” means the horizontal distance between side lot lines measured at the building line.

~~“Major arterial street” means a roadway that serves as a regional facility that carries both local and through traffic to destinations within and outside of the city. Public transit serving other communities and different points in the region may use these streets.~~

“Manufactured dwelling” means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

“Manufactured dwelling park” means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of ~~two (~~2~~)~~ acres, and a minimum of ~~four (~~4~~)~~ manufactured dwellings.

“Manufactured home” means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

“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.

~~“Minor arterial street” means a roadway that carries local traffic from collector streets to regional facilities within the city. Minor arterials provide access to community uses and to neighborhoods within the city. Public transit serving other communities and different points in the region may use these streets.~~

~~“Mitigation” means the reduction of adverse effects of a proposed project by considering, in the order: (a) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (b) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (c) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (d) compensating for the impact by replacing or providing comparable substitute water quality resource areas.~~

“Mobile home” means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

“Monopole” means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

“Motel or tourist court” means one or more buildings designed or used as temporary living quarters for transients.

“Native vegetation” means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

~~“Neighborhood street” means a roadway that moves local traffic in and out from residential areas to arterials and collectors. Neighborhood streets are similar to local streets in design (with residential frontage), but carry more traffic and are commonly used by local residents. Neighborhood streets do not provide citywide circulation, but mainly serve an immediate neighborhood. Because their traffic levels are greater than local streets and potential speeding can be higher, neighborhood traffic management techniques can be appropriate.~~

“Net acre” means an area measuring ~~forty-three thousand five hundred sixty (~~43,560~~)~~ square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of ~~twenty-five (~~25~~)~~ percent; and publicly owned land designated for park, open space and resource protection.

“New construction” means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

“Nonconforming structure or use” means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office~~;, Professional and Administrative.~~

"Professional and administrative office" means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

"Off-street parking" means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

"Open space" means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

"Ordinary mean high water line" means as the elevation on the bank or shore to which water ordinarily rises in season.

"Ordinary mean low water line" means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

"Owner" includes an authorized agent of the owner.

"Parking space" means an area available for the parking of a standard American automobile or compact size.

"Perennial streams" means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

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

"Perimeter landscaping" means an area around the edge of a lot that is devoted to a buffer area with plantings.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

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

"Physical characteristics" means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

"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 this title.

"Plaza" means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

"Pleasure craft" means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

"~~Post-construction~~ Postconstruction erosion control" means ~~re-establishing~~ reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

"Poultry" means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

"Preapplication conference" means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application, and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

"Prefabricated construction" (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

"Primary entrance" means the entrance to a building that most pedestrians are expected to use. Generally, each building has ~~one (~~1~~)~~ primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building's lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

"Protected water feature~~s~~" means the following:

"Primary protected water feature~~s~~" means and includes~~:~~ any of the following:

~~a.~~ • Title 3 wetlands.~~; and~~

~~b.~~ • Rivers, streams, and drainages downstream from the point at which ~~one hundred (~~100~~)~~ acres or more are drained to that water feature (regardless of whether it carries year-round flow).~~; and~~

~~c.~~ • Streams carrying year-round flow.~~; and~~

~~d.~~ • Springs which feed streams and wetlands and have year-round flow.~~; and~~

~~e.~~ • Natural lakes.

"Secondary protected water features" means and includes intermittent streams and seeps downstream of the point at which ~~fifty (~~50~~)~~ acres are drained and upstream of the point at which ~~one hundred (~~100~~)~~ acres are drained to that water feature.

"Public area requirements" means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

"Public facilities" means transportation and public utility improvements as described below.

"Transportation facilities" means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

"Public utilities" means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also "utility facilities."

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

"Railroad facilities" means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

"Recreational vehicle" means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

"Religious institution" means a structure used by a religious organization having a tax-exempt status.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities ~~re-establish~~ reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

"Retail trade" means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also "alteration."

School:~~, Commercial.~~

> "Commercial school" means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.
>
> ~~School, Primary, Elementary, Junior High, or High.~~ "Primary, elementary, junior high or high school" means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

"Second-floor housing" means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

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

"Shared parking" means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

"Sidewalk" means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal

and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

~~"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.~~

"Specified anatomical areas" means and includes any of the following:

~~1.~~ • Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola.~~; or~~

~~2.~~ • Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

~~1.~~ • The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.~~;~~

~~2.~~ • Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.~~;~~

~~3.~~ • Masturbation, actual or simulated.~~; or~~

~~4.~~ • Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points ~~subsections 1 through 3~~ of this definition.

"Stealth Design" means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

"Steep slopes" means slopes that are equal to or greater than ~~twenty-five (~~25%~~) percent~~.

"Stormwater ~~pre-treatment~~ facility" or "stormwater pre-treatment facility" means any structure or ~~drainage way~~ drainageway that is designed, constructed, and maintained to collect, ~~and~~ filter, and retain or detain surface water ~~run-off~~ runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

"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 (~~6~~)~~ feet above grade for more than ~~fifty (~~50%~~) percent~~ of the total perimeter or is more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

> ~~Story, Half.~~ "Half story" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least ~~two (~~2~~)~~ opposite exterior walls are not more than ~~two (~~2~~)~~ feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than ~~six (~~6~~)~~ feet above grade, for more than fifty ~~(~~50%~~) percent~~ of the total perimeter or is not more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river.~~ It~~ that flows at least part of the year, including perennial and intermittent streams.

"Street" means the entire width between ~~the~~ right-of-way lines ~~of every way~~ for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

"Street classification" or "functional street classification" means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the

provision for federal, State, and regional transportation funding. The City's functional street classification system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City's Transportation System Plan.

"Street network" means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than one existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

"Through street" means a street that connects to other streets on both ends.

"Street stub" means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

"Street tree" means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

~~"Substantial redevelopment" means any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty (50) percent of the real market value of site improvements as determined by the county assessor. The development permit value includes all labor and material costs associated with the proposed construction. The building official shall determine the value of the development permit.~~

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is ~~sixty (~~60~~)~~ days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

"Title 3 Wetlands" means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

"Tower" means a structure with the sole purpose of serving as an antenna support structure. "Tower" includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

"Townhouse" means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

"Traffic management" means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

"Transit stop" means a site designated by ~~Tri-Met~~ TriMet as the location at which a ~~Tri-Met~~ TriMet bus or light rail train will accept or discharge passengers.

"Transit street" means a street with existing transit service operating at ~~twenty (~~20~~)~~ minute-or-less peak hour frequency.

"Transition area" means an area where new multifamily projects in R-3, R-2, and R-1 ~~zones~~ Zones that are adjacent to areas designated for lower densities have required transition measures.

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

"Turnaround" means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also "change in use."

"Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater ~~pre-treatment~~ facilities.

"Vegetated corridor" means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

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

"Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street ~~highway~~, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Walkway" means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

"Water quality and floodplain management area" means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

~~"Water quality facility" means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales and ponds that are maintained as stormwater quality control facilities.~~

"Water quality resource areas" means vegetated corridors and the adjacent water feature as established in Chapter 19.322.

"Mitigation" means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (3) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and/or (4) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wireless Communication Facility (WCF)" means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

~~1.~~ • Antennas.~~;~~

~~2.~~ • An antenna support structure.~~;~~

~~3.~~ • An equipment cabinet.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.~~:~~

~~1.~~ ~~Yard, Front.~~ "Front yard" means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

~~2.~~ ~~Yard, Rear.~~ "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

~~3.~~ ~~Yard, Side.~~ "Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

~~4.~~ ~~Yard, Street Side.~~ "Street side yard" means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

CHAPTER 19.400
SUPPLEMENTARY DEVELOPMENT REGULATIONS

Executive Summary

The proposed amendments to Chapter 19.400 are primarily organizational in nature. The number of chapter sections has been reduced from twenty-six to seven and related regulations have been consolidated into newly-named sections to make them easier to find. The seven proposed sections are as follows:

- 19.401 General Exceptions
- 19.402 Accessory Structures and Uses
- 19.403 Site and Building Design Provisions
- 19.404 Temporary Dwelling Unit Provisions
- 19.405 Manufactured Dwelling Parks
- 19.406 Manufactured Dwelling Placement
- 19.407 Home Occupation Provisions

The amendments also include a new chapter title that better reflects the chapter's content, minor text additions for clarity, and relocated text from Chapter 19.1400. No policy changes are proposed.

Chapter 19.400 SUPPLEMENTARY REGULATIONS

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 (5) 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 ten thousand (10,000) square feet or less, the footprint of an accessory structure may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet the footprint of an accessory building may not exceed eight hundred fifty (850) square feet.

2. An accessory structure may not exceed fifteen (15) feet in height as measured from the average finished grade within a ten- (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 (9) feet.

4. The minimum roof pitch for accessory structures with other than a flat or shed roof is four (4) inches rise for every twelve (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 one hundred twenty (120) square feet. For accessory structures greater that one hundred twenty (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 provided as part of the regulations in Chapter 12.24 and clear vision determination process specified in Chapter 19.1409.2.E. 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 (6) feet for rear, street side and side yards, forty-two (42) inches for front yards, except that for flag lots fences in the front yard may be six (6) feet. No electrified, barbed, or razor wire fencing is permitted.

2. Commercial Zones. Maximum height six (6) 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- (6)-foot-high sight-obscuring fence.

3. Industrial Zones. Maximum height eight (8) 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 (6) 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 (3) feet for an uncovered patio, deck, or swimming pool not exceeding eighteen (18) 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 (100) 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 (2) 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 (100) 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.

19.404 Type 1 accessory dwelling unit.

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following.

19.404.1 Purpose.

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or

modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

19.404.2 Approval Required.

Type 1 accessory dwelling units are subject to subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information.

A. Completed application forms;

B. Site plan showing the following:

1. Lot lines and location and dimensions of existing and proposed structures with yard dimensions,

2. Location and dimension of existing and proposed parking,

3. Location of structures on adjoining lots;

C. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

19.404.3 General.

A. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

B. Notwithstanding the maximum allowable gross floor area of six hundred (600) square feet, the accessory dwelling unit shall not exceed forty percent (40%) of the gross floor area of the primary structure.

C. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28, Capital Improvements.

19.404.4 Ownership and Tenancy.

Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

19.404.5 Business License Required.

A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

19.404.6 Use, Alteration or Conversion of Structure.

Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

A. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

B. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

C. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

D. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

E. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

F. No more than one accessory dwelling unit per lot is permitted.

19.404.7 Required Parking.

Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.405 Storage in front yard.

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.406 Clear vision areas.

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

19.407 Maintenance of minimum ordinance requirements.

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

19.408 Dual use of required open space.

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1(C).

19.409 Buildings on the same lot.

A minimum distance of six (6) 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 (1) building designed for dwelling purposes shall be permitted per lot.

19.410 Distance from property line.

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

19.411 Projections from buildings.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to twenty-four (24) inches into a required side yard or thirty-six (36) inches into a required front or rear yard.

19.412 Lot size requirements, general exceptions.

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand (3000) square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.413 Yard requirements, general exceptions.

19.413.1 Exceptions.

The following exceptions to the yard requirements are established for a lot in any one zone:

A. The required front yard need not exceed the average depth of the two (2) abutting front yards within one hundred (100) feet of the proposed structure.

B. The required front yard need not exceed the average depth of the abutting front yard within one hundred (100) feet of the proposed structure and the required front yard depth.

C. (Repealed by Ord. 1893)

~~19.414 Building height limitations, general exceptions.~~

~~Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone.~~

~~19.415 Additional building height.~~

~~One additional story may be permitted in excess of the required maximum standard. An additional ten percent (10%) of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.~~

~~19.416 Transition area.~~

~~19.416.1 Transition Measures.~~

~~In zones where multifamily, commercial, or industrial projects are proposed that are within one hundred (100) feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.~~

~~A. Roadways separating projects;~~

~~B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the six (6) foot level to screen living rooms from direct view across open areas;~~

~~C. Gradual density changes. A new project may not have a density greater than twenty-five percent (25%) of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.~~

~~19.417 Minimum vegetation.~~

~~In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.~~

~~19.418 Density and dedication of park land.~~

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

~~19.419 Density and housing cost.~~

~~For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at twenty-five percent (25%) below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus ten percent (10%). The planned unit development density increase specified in Section 19.319 and this density increase are additive.~~

~~19.420 Temporary structure permits.~~

~~19.420.1 Requirements for Approval.~~

~~Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed six (6) months where:~~

~~A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.;~~

~~B. The applicant has applied for a building permit for a permanent dwelling;~~

~~C. The temporary structure will be owner-occupied;~~

~~D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy;~~

~~E. The use is consistent with the Milwaukie comprehensive plan; or~~

~~F. There is no other reasonable alternative to use of a temporary structure.~~

~~19.420.2 Approval Conditions.~~

~~In addition, the applicant must satisfy the following conditions for approval:~~

~~A. City approval of a sewage disposal system for the structure;~~

~~B. Screening of the structure to minimize any adverse visual impact on surrounding property;~~

~~C. Placement of manufactured skirting around the structure;~~

~~D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.~~

~~19.420.3 Review Process.~~

~~Applications for temporary structures shall be processed according to subsection 19.1011.1, Type I administrative review. Temporary permits that exceed the six (6) month time period allowed under subsection 19.420.1 must be reviewed by the planning commission under subsection 19.1011.3.~~

~~19.421 Manufactured dwelling parks.~~

~~19.421.1 Purpose.~~

~~This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing six (6) to twelve (12) dwelling units per acre.~~

~~19.421.2 Application.~~

~~A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.~~

~~B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.~~

~~19.421.3 General Requirements.~~

~~Manufactured dwelling parks shall be subject to review under subsection 19.1011.3 of the zoning ordinance, Minor Quasi-Judicial Review.~~

~~19.421.4 Development Requirements.~~

~~All manufactured dwelling parks shall meet the following minimum requirements:~~

~~A. The minimum size of a manufactured dwelling park shall be two (2) acres.~~

~~B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after fifteen percent (15%) of the site has been deducted for access drives.~~

~~C. A minimum setback of fifteen (15) feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of six (6) feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.~~

~~D. Each manufactured dwelling unit or accessory structure shall maintain a minimum ten (10) foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back ten (10) feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of fifteen (15) feet.~~

~~E. A minimum of fifteen percent (15%) of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to one hundred (100) square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.~~

~~F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of twenty-four (24) feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of three (3) feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of thirty (30) feet of paving.~~

~~G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500 of the zoning ordinance. If twenty-four (24) foot wide streets are constructed, an additional off-street parking space per each two (2) manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within one hundred (100) feet of the manufactured dwellings they serve.~~

~~H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.~~

~~I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.~~

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.422 Manufactured home placement.

19.422.1 Purpose.

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.422.2 Applicability.

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown on the following table:

Table 2 Manufactured Home Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.422.3 Definitions.

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.422.4 Siting Standards.

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than one thousand (1000) square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than twelve (12) inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. (Repealed by Ord. 1965)

G. The unit shall comply with the definition for manufactured home as identified in this section.

H. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.422.5 Implementation of Siting Standards.

A. For unit placement on an individual lot within all R-zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.420 is not subject to the siting standards of this section.

19.422.6 Occupancy of Units.

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.422.7 Review Processes.

A. Siting standards of this section shall be reviewed as part of the building review procedures of subsection 19.1011.1.

B. Subdivision processes and procedures are those contained in the city subdivision ordinance.

19.423 Multifamily recycling areas.

19.423.1 Purpose.

This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

19.423.2 Definition.

For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

19.423.3 Applicability.

All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

19.423.4 Recycling Collection Area Standards.

Standards for recycling collection areas are as follows:

A. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

B. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

C. Recycling containers must be covered either by roof or weatherproof lids.

D. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

E. The recycling collection area(s) must have a collection capacity of at least one hundred (100) cubic feet in size for every ten (10) dwelling units or portion thereof.

F. The recycling collection area must be easily accessible to collection service personnel between the hours of six a.m. and six p.m.

G. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

H. City fire department approval will be required for all recycling collection areas.

I. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

19.423.5 Review of Recycling Collection Areas.

A. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review.

B. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of subsection 19.1011.1, Type I Administrative Review.

19.424 Home occupations.

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

19.424.1 Home Occupation Use Standards.

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

A. Be incidental and accessory to the residential use of the property;

B. Maintain the residential character of the building and premises;

C. Not have the outward appearance of a business;

D. Not detract from the residential character of the neighborhood; and

E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions.

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two (2) may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four (4) square feet in area, shall not be illuminated, shall not exceed three (3) feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement.

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with subsection 19.424.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises;

B. Use of the home to distribute or receive goods;

C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces;

D. The use of public streets for parking or storage;

E. The time of day that home occupation activities may take place;

F. Equipment or material storage, including vehicles and trailers;

G. Noise, light, fumes, exhaust, and similar impacts.

19.425 Design standards for single-family housing.

A. All new one and two (2) 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 twelve percent (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 (3) 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 (5) feet deep;

2. Entry area recessed at least two (2) 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 (16) inches from one exterior wall surface to the other;

5. Dormer;

6. Roof eaves with a minimum projection of twelve (12) inches from the intersection of the roof and the exterior walls;

7. Roof line offsets of at least sixteen (16) 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 forty percent (40%) of the building elevation that is visible from the street.

19.426 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. Fencing and screening must conform to the clear vision standards of 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

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.

Commentary – General Exceptions

19.401.1 Lot Size Exceptions

This section was moved from 19.412 and renamed for clarity. No additional text changes are proposed.

19.401.2 Yard Exceptions

These sections were moved from 19.411, 19.413, and 19.1409.2.F and renamed for clarity. Table 19.401.2 was formerly Table 19.1409.2. No additional text changes are proposed.

19.401.3 Building Height Exceptions

This section was moved from 19.414 and renamed for clarity.

B. This section was moved from 19.415 for better organization and clarity.

No additional text changes are proposed.

19.401.4 Density Exceptions

This section was moved from 19.418 and renamed for clarity.

B. This section was moved from 19.419 for better organization and clarity.

No additional text changes are proposed.

Chapter 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.401 General Exceptions

19.401.1 Lot Size Exceptions

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3000 square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.401.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.401.2 below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.401.2 plus the yard requirement of the underlying zone.

Table 19.401.2 Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet
37th Avenue (Lake Road to Grogan)	25 feet

40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

B. The following exceptions to the yard requirements are established for a lot in any one zone:

1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 feet of the proposed structure.

2. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard**.**

19.401.3 Building Height Exceptions

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

B. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.

19.401.4 Density Exceptions

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

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.319 and this density increase are additive.

Commentary - Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

This section was moved from 19.401 and renamed for clarity.
No additional text changes are proposed.

19.402.2 Accessory Structures, Single-Family Residential Provisions

This section was moved from 19.402 and renamed for clarity.

B.1. Minor text changes were made to correctly identify clear vision code section references.

19.402.3 Accessory Uses, General Provisions

This section was moved from 19.403 and renamed for clarity.
No additional text changes are proposed.

19.402.4 Accessory Dwelling Unit (Type 1)

This section was moved from 19.404 and renamed for clarity.
No additional text changes are proposed.

19.402 Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

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

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 5 feet, except where other requirements of this title are more restrictive.

F. Alteration or modification of nonconforming accessory structures is 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.

19.402.2 Accessory Structures, Single-Family Residential Provisions

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 9 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 that 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:

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

a. Residential Zones and Residential Uses in All Zones. Maximum height is 6 feet for rear, street side and side yards, 42 inches for front yards, except that for flag lots fences in the front yard may be 6 feet. No electrified, barbed, or razor wire fencing is permitted.

b. Commercial Zones. Maximum height 6 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 6-foot-high sight-obscuring fence.

c. Industrial Zones. Maximum height 8 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 6 feet.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 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 3 feet for an uncovered patio, deck, or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).

19.402.3 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 100 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 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 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.

19.402.4 Accessory Dwelling Unit (Type 1)

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:

A. Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

B. Approval Required. Type 1 accessory dwelling units are subject to Subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information:

1. Completed application forms.

2. Site plan showing the following:

a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.

b. Location and dimension of existing and proposed parking.

c. Location of structures on adjoining lots.

3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

D. Notwithstanding the maximum allowable gross floor area of 600 square feet, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.

E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.

F. Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

G. Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

H. Use, Alteration, or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for

consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

2. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

6. No more than one accessory dwelling unit per lot is permitted.

I. Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

Commentary - Site and Building Design Provisions

19.403.1 Storage in Front Yard
This section was moved from 19.405.

19.403.2 Clear Vision Areas
This section was moved from 19.406. New proposed text identifies where the clear vision standards are located.

19.403.3 Maintenance of Minimum Ordinance Requirements
This section was moved from 19.407.

19.403.4 Dual Use of Required Open Space
This section was moved from 19.408.

19.403.5 Buildings on the Same Lot
This section was moved from 19.409.

19.403.6 Distance from Property Line
This section was moved from 19.410.

19.403.7 Transition Area
This section was moved from 19.416 and renamed for clarity. No additional text changes are proposed.

19.403.8 Minimum Vegetation
This section was moved from 19.417.

19.403.9 Multifamily Recycling Requirements
This section was moved from 19.423 and renamed for clarity. No additional text changes are proposed.

19.403.10 Design Standards for Single-Family Dwellings
This section was moved from 19.425 and renamed for clarity. It was also renamed using "dwelling" in place of "housing." Housing units in other sections of Title 19 are referred to as "dwellings." No additional text changes are proposed.

19.403.11 Flag Lot Design and Development Standards

This section was moved from 19.426.

D. New proposed text: "The accessway is the pole portion of the lot that provides access to the flag portion of the lot" clarifies the definition of "accessway" as used in this subsection.

3.a. New proposed text: "Chapters 12.16 and 12.24 and the Public Works Standards" specifies which standards apply and replaces "standards adopted by the engineering director."

3.f. The following text was deleted: "Driveway location and design is subject to clear vision and driveway spacing provisions of Chapter 19.1400, Transportation Planning, Design Standards, and Procedures" because it unnecessarily repeated the text in 19.403.11.E.3.a and no longer contained the correct code section references for driveway spacing and clear vision.

E. Minor text changes were made to correctly identify clear vision code section references.

19.403.12 On-Site Walkways and Circulation

This section was moved from 19.1410.3.

A. Proposed text modifications: "All new development subject to Chapter 19.1400 (excluding single-family residential development) ~~and substantial redevelopment of commercial, industrial, multifamily and institutional uses~~ shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site ~~and connections to off-site destinations~~. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable." The reference to "substantial redevelopment" was deleted because the code amendments for Chapter 19.1400 propose to delete this term from use. The last

sentence is added to clarify that redevelopment projects are subject to on-site walkway requirements, but at a lower level than new development projects. This change is proposed so that on-site walkway requirements for redevelopment projects are congruent with parking lot requirements for similar projects per the applicability section of Chapter 19.500.

19.403.13 Building Orientation to Transit

This section was moved from 19.1412.3.

19.403 Site and Building Design Provisions

19.403.1 Storage in Front Yard

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.403.2 Clear Vision Areas

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

19.403.3 Maintenance of Minimum Ordinance Requirements

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

19.403.4 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1.C.

19.403.5 Buildings on the Same Lot

A minimum distance of 6 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.

19.403.6 Distance from Property Line

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

19.403.7 Transition Area

In zones where multifamily, commercial, or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects.

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the 6 foot level to screen living rooms from direct view across open areas.

C. Gradual density changes. A new project may not have a density greater than 25% of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety

of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

19.403.8 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.403.9 Multifamily Recycling Requirements

A. Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

B. Definition. For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

C. Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

D. Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

3. Recycling containers must be covered either by roof or weatherproof lids.

4. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

5. The recycling collection area(s) must have a collection capacity of at least 100 cubic feet in size for every 10 dwelling units or portion thereof.

6. The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.

7. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

8. City fire department approval will be required for all recycling collection areas.

9. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of Subsection 19.1011.3, Minor Quasi-Judicial Review.

F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Subsection 19.1011.1, Type I Administrative Review.

19.403.10 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units 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 5 feet deep.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

7. Roof line offsets of at least 16 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.

19.403.11 Flag Lot Design and Development Standards

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

B. Development Standards.

1. 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.

2. Yard Setbacks for Flag Lots.

a. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.

b. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

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

D. Frontage, Accessway, and Driveway Design.

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

2. 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.

3. Driveway Design and Emergency Vehicle Access.

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

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

c. 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.

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

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

f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

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

h. 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.

E. Protection of Adjoining Properties. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection19.402.2.B.

1. 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.

2. 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:

a. 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.

b. 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.

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

F. Tree Mitigation. All trees 6 inches or greater in diameter, as measured at the lowest limb or 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 2 inches caliper and evergreen trees shall be a minimum of 5 feet tall.

G. Landscaping 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:

1. A list of existing vegetation by type, including number, size, and species of trees.

2. Details for protections of existing trees.

3. List of existing natural features.

4. Location and space of existing and proposed plant materials.

5. List of plant material types by botanical and common names.

6. Notation of trees to be removed.

7. Size and quantity of plant materials.

8. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.

19.403.12 On-Site Walkways and Circulation

A. Requirement. All development subject to Chapter 19.1400 (excluding single-family residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.403.13 Building Orientation to Transit

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

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

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321 Community Service Use, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street.

Commentary – Temporary Dwelling Unit Provisions

19.404 Temporary Dwelling Unit Provisions

This section was renumbered from 19.420 to 19.404 and renamed for clarity. No additional text changes are proposed.

19.404 Temporary Dwelling Unit Provisions

19.404.1 Requirements for Approval

Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 6 months where:

A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.

B. The applicant has applied for a building permit for a permanent dwelling.

C. The temporary structure will be owner-occupied.

D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy.

E. The use is consistent with the Milwaukie comprehensive plan.

F. There is no other reasonable alternative to use of a temporary structure.

19.404.2 Approval Conditions

In addition, the applicant must satisfy the following conditions for approval:

A. City approval of a sewage disposal system for the structure.

B. Screening of the structure to minimize any adverse visual impact on surrounding property.

C. Placement of manufactured skirting around the structure.

D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.404.3 Review Process

Applications for temporary structures shall be processed according to Subsection 19.1011.1 Type I administrative review. Temporary permits that exceed the 6-month time period allowed under Subsection 19.404.1 must be reviewed by the planning commission under Subsection 19.1011.3.

Commentary – Manufactured Dwelling Parks

19.405 Manufactured Dwelling Parks

This section was renumbered from 19.421 to 19.405.

19.405.4.F. Proposed new text changes the minimum width of paved sidewalks from three (3) feet to four (4) feet to comply with current ADA standards.

19.405 Manufactured Dwelling Parks

19.405.1 Purpose

This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

19.405.2 Application

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.405.3 General Requirements

Manufactured dwelling parks shall be subject to review under Subsection 19.1011.3 Minor Quasi-Judicial Review.

19.405.4 Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

A. The minimum size of a manufactured dwelling park shall be two acres.

B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.

C. A minimum setback of 15 feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.

E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 4 feet in width. Parking shall be

permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500. If 24-foot wide streets are constructed, an additional off-street parking space per each two manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of 6 inches above finished grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

Commentary – Manufactured Dwelling Placement

19.406 Manufactured Dwelling Placement

This section was renumbered from 19.422 to 19.406. It was also renamed using "dwelling" in place of "home." Housing units in other sections of Title 19 are referred to as "dwellings." The title of this section and Table 19.406 were changed for consistency. No additional text changes are proposed.

19.406 Manufactured Dwelling Placement

19.406.1 Purpose

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.406.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown in Table 19.406:

Table 19.406 Manufactured Dwelling Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.406.3 Definitions

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.406.4 Siting Standards

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1000 square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least 3 inches rise for every 12 inches of run.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. The unit shall comply with the definition for manufactured home as identified in this section.

G. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.406.5 Implementation of Siting Standards

A. For unit placement on an individual lot within all residential zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.404 is not subject to the siting standards of this section.

19.406.6 Occupancy of Units

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.406.7 Review Process

A. Siting standards of this section shall be reviewed as part of the building review procedures of Subsection 19.1011.1.

B. Subdivision processes and procedures are contained in Title 17 Land Division.

Commentary – Home Occupation Provisions

19.407 Home Occupation Provisions

This section was renumbered from 19.424 to 19.407 and renamed for clarity. No additional text changes are proposed.

19.407 Home Occupation Provisions

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

19.407.1 Home Occupation Use Standards

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

A. Be incidental and accessory to the residential use of the property.

B. Maintain the residential character of the building and premises.

C. Not have the outward appearance of a business.

D. Not detract from the residential character of the neighborhood.

E. Be owned and operated by an occupant of the dwelling.

19.407.2 Prohibitions and Use Restrictions

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.407.3 Permitted Signage

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

19.407.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.407.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises.

B. Use of the home to distribute or receive goods.

C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.

D. The use of public streets for parking or storage.

E. The time of day that home occupation activities may take place.

F. Equipment or material storage, including vehicles and trailers.

G. Noise, light, fumes, exhaust, and similar impacts.

TITLE 17 LAND DIVISION

Executive Summary

The proposed amendments to Chapters 17.20, 17.28, and 17.32 are limited to minor text additions and deletions in response to code amendments proposed for Chapter 19.1400. No policy changes are proposed.

Additionally, the definition for Transportation Design Manual (TDM) was deleted (Section 17.08.330) since the TDM no longer exists as a separate document. It was incorporated into the Public Works Standards as part of a separate legislative action in 2007 in order to simplify the City's public works standards by compiling them into one document. As a result, all references to the TDM in Title 17 have been deleted and replaced with references to the Public Works Standards as part of this code amendment project.

Commentary - Chapter 17.08 Definitions

17.08.330 Transportation Design Manual

Definition deleted. See explanation in Executive Summary.

Commentary - Chapter 17.20 Preliminary Plat

17.20.060 Proposed Conditions

A.9 Proposed text clarifies street name requirements for preliminary plats. This text was moved from Chapter 19.1400.

C. Proposed text replaces "Transportation Design Manual" with "Public Works Standards." See explanation in Executive Summary.

D. Proposed text replaces "Transportation Design Manual" with "Public Works Standards." See explanation in Executive Summary.

E. Proposed text specifies which standards to use when preparing a drainage summary report.

Chapter 17.08 DEFINITIONS

17.08.330 ~~Transportation Design Manual.~~ (Repealed by Ord. ___.)

~~"Transportation Design Manual" means the document authorized under Ordinance 1893, which is maintained and administered by the engineering director for the purpose of execut-ing the purposes of Ordinance 1893, implementing the Transportation System Plan, and providing transportation design standards and policies.~~

Chapter 17.20 PRELIMINARY PLAT

17.20.060 Proposed conditions.

A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

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

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

3. Approximate acreage and square feet under a single ownership, or if more than 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 one hundred (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 ~~city~~; whether ~~if~~ roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

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 this title, ~~and~~ Title 19, and City ~~city~~ design standards, including the Public Works Standards. ~~Milwaukie Transportation Design Manual.~~

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

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards. ~~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 title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval.

Commentary - Chapter 17.28 Design Standards

17.28.020 Public Facility Improvements

This section was renamed and modified to reflect revisions to Chapter 19.1400.

The proposed text includes the new title for Chapter 19.1400. It also references the Public Works Standards instead of the Transportation Design Manual because the Transportation Design Manual is now a part of the Public Works Standards. The proposed text also clarifies that only boundary changes that increase the number of lots are subject to Chapter 19.1400. This change is proposed so that Title 17 is congruent with Chapter 19.1400's new applicability section (Section 19.1402).

The strikethrough text was deleted because it was redundant. These requirements and standards are already included in Chapter 19.1400 and the Public Works Standards.

17.28.030 Easements

A. The proposed text references the Public Works Standards instead of describing the easement width and location requirement. This change is proposed so that all standards are contained in one document, i.e. the Public Works Standards, making them easier to find and maintain.

17.28.040 General Lot Design

E. The proposed text adds Subsection 17.28.040.F to clarify existing lot design policy as it relates to the creation of flag lots. The proposed text does not represent a policy change. When a lot has frontage on more than one street, the existing land division code allows a newly created lot to use any of its frontages to meet the minimum frontage requirement of Title 19. This has resulted in lots that look and/or act like flag lots in situations where flag lots would not normally be allowed.

Chapter 17.28 DESIGN STANDARDS

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.~~ Public facility improvements.

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.1400 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. ~~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 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 provided in accordance with applicable design standards in the Public Works Standards. ~~at least ten (10) 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 Title 19. 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 ten percent (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~~ Chapter 19.700~~,~~ Variances, Exceptions and Home Improvement Exceptions.

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

F. Measurement of Required Frontage. Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

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 Subsection 19.403.11. ~~Chapter 19.425.~~

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than ~~two (~~2~~)~~ flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than ~~two (~~2~~)~~ 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 (~~18~~)~~ 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.

Commentary - Chapter 17.32 Improvements

17.32.010 Improvement Procedures

The proposed text clarifies the standards and specifications to be followed by the Applicant.

17.32.020 Utility Undergrounding

Most of the text in this section was deleted because it was redundant. These requirements and standards are already included in Chapter 19.1400 and the Public Works Standards. This section was renamed from "Required Improvements" to "Utility Undergrounding" to more accurately reflect its revised contents.

Chapter 17.32 IMPROVEMENTS

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 in the Public Works Standards and Chapter 19.1400 Public Facility Improvements. ~~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.~~ Utility undergrounding.

~~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, 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 s~~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 (~~50,000~~)~~ volts or above may be placed above ground. 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.~~

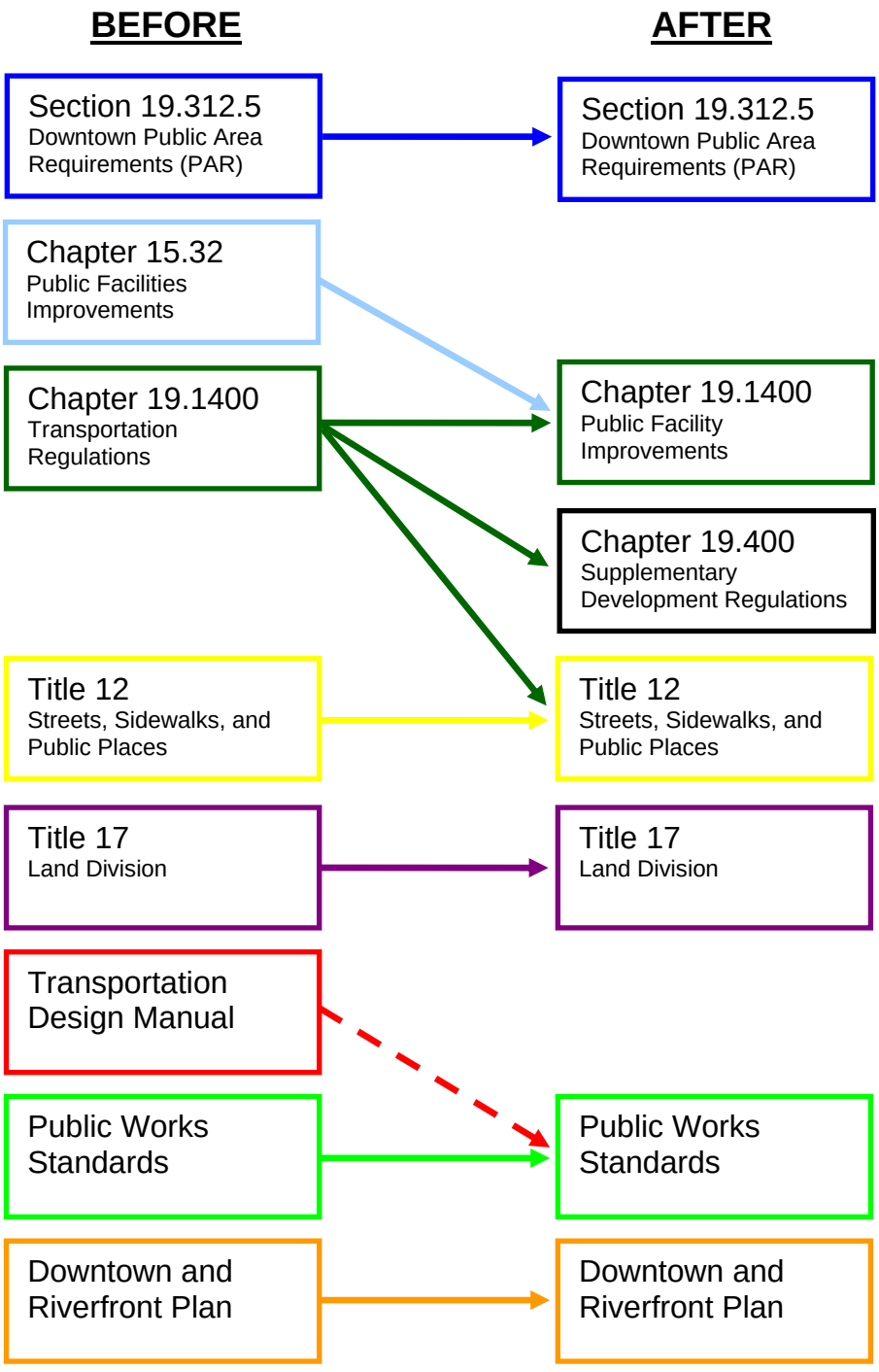
17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) 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 Subsection 17.24.060 ~~of this title~~.

CITY OF MILWAUKIE

PROPOSED CODE REORGANIZATION DIAGRAM

Transportation Code Amendment Project



Note: The dashed arrow represents an action that was done prior to this code amendment project.

MILWAUKIE
Dogwood City of the West

Interoffice Memorandum

To: Susan P. Shanks, Senior Planner

Through: Gary Parkin, Engineering Director

From: Zach Weigel, Civil Engineer

Date: February 26, 2009

Re: Rationale for Impacts-based Transportation Exactions

The existing transportation code has an applicability section that determines which type of development are subject to street improvement requirements. Code applicability for some types of development is currently based on the valuation of the development permit. For example, single-family residential building permits with a value greater than $90,000 and commercial building permits with a value greater than $200,000 require full street improvements along the development frontage. However, court cases have established that (1) there must be a nexus, or relationship, between the required street improvements and the development project's impacts and (2) the required improvements must be proportional to the development's impacts. The existing code's value based assessment of street improvements has created situations where a development permit could trigger full street improvements, but not necessarily have a nexus or be proportional to the impacts of the development. In such cases adjustments, variances, or director's interpretations were implemented by staff to make sure required street improvements had nexus and were proportional to the impacts of the development. Also, the value based assessment of street improvements allowed approval of some development without assessment of street improvements even though the development project had significant impacts to the transportation system.

As part of the transportation code update, staff was challenged with the task to assess street improvements that have a nexus and are proportional to the impacts of the development. The method of assessment needed to eliminate the need to constantly require and review adjustments, variances, and director's interpretations to modify the transportation code requirements. Staff determined that the best way to meet this goal was to assess street improvements based on a development project's impacts to the transportation system.

To that end, the proposed transportation code amendments retain the applicability section. However, the value based assessment has been replaced with an impacts based assessment. Generally, impacts to the transportation system include increased number of trips from vehicles, bicyclists, pedestrians, and other modes of transportation. Impacts typically occur when a development increases the number of dwelling units, gross floor area of a structure, or vehicular trips. Use of the impacts based methodology ensures that any required street improvements have a

nexus to the impacts of the development. For example, a remodel of an existing building that does not add dwelling units, increase gross floor area, change the use of the building, or significantly alter access will not be assessed street improvements as part of the development.

There are a number of types of development that have impacts to the transportation system and require no further impact evaluation. This type of development includes boundary changes where there is an increase in the number of lots and new construction. Similar to other city zoning codes, the proposed code amendments define "new construction" as development on a site that was previously undeveloped or from which previously existing buildings have been demolished. This means that when a development project completely removes existing structure(s) from a property, the development is assessed street improvements as if all impacts of the development are new. In the event a development site has more than one structure and some of the structures are left remaining or an existing structure is partially demolished, only the new buildings or new building area would be assessed as if the impacts were new. Any existing buildings or portions of buildings would be treated as existing impacts. This would apply to residential and non-residential projects alike. The definition of "new construction" would allow implementation of the transportation code requirements in a manner similar to other portions of the City's development code. For example, when an existing building is removed from a site, all new buildings must comply with all current zoning regulations, including setbacks, lot coverage, parking lot dimensions, etc. Likewise, the frontage of a development site where new construction was proposed would be required to comply with current transportation facilities standards.

The proposed new code treats single-family residential (SFR) redevelopment projects differently than non-SFR redevelopment projects. As previously stated, the existing transportation code applies to SFR redevelopment projects when the development permit value is greater than $90,000. Application of the transportation code includes single-family residential new construction, additions, and remodels. This value based application of the existing transportation code creates situations where street improvements are assessed in way that seems unfair and inconsistent. For example, an interior remodel of an existing home that involves no increase in square footage of the home may be assessed street improvements along the entire frontage, whereas new construction of a small home may not trigger any required street improvements.

Staff understands that Milwaukie is in need of street improvements throughout a large portion of the city. The majority of the unimproved street network being located within single family residential neighborhoods. Also, the fact that Milwaukie is nearly built out means that most of the City's development occurs as commercial/industrial redevelopment or incremental additions to existing homes. In order to fill in the City's deficient transportation network, staff realized that continuing to require street improvements of SFR development, specifically expansion of existing homes, would be key. The challenge was to find a way to assess street improvements for these types of redevelopment projects that would be fair, consistent, proportional, and able to establish a nexus with transportation system impacts.

The first step in this process was to establish a nexus between SFR expansions and fronting street improvements. Although difficult to quantify, a nexus between the impact to the transportation system resulting from SFR expansions can be established. According to the Institute of Transportation Engineers Trip Generation manual, 7th Edition, (ITE Manual) the additional data provided under Single-Family Detached Housing states:

> "As expected, dwelling units that were larger in size, more expensive, or farther away from the central business district (CBD) had a higher rate of trip generation per unit than those smaller in size …"

Using this information staff determined that larger homes have more impacts on the transportation system than smaller homes and that, by extension, expansion of existing single family homes have the same effect. Using the data from the ITE Manual and reasonable application of this information to SFR expansions, staff asserts that there is a nexus between the impacts created by SFR expansions and required street improvements.

The next step was to make sure assessed street improvements for SFR expansion would be fair, consistent, and proportional. Staff considered a few options, but found that if the amount of street improvement were to be based on the size of the expansion, the assessment of street improvements could be accomplished in a fair, consistent, and proportional manner. Staff started with the premise that a SFR expansion would have double the impact on the transportation system if the size of the existing residence were to be doubled or increased by the average size of a single family home in Milwaukie. The average size of a single family home in Milwaukie is approximately 1500 square feet. As a result, a single family home that doubles the size of the home or adds 1500 square feet of floor area is responsible for full street improvements along the site's frontage.

With regard to small residential expansions that were not adding rooms, staff wanted to make sure that these types of redevelopment projects would not be assessed street improvements under the new code. A typical home expansion for the addition of a room is approximately 200 square feet. As a result, SFR expansions less than 200 square feet would be exempt from street improvement requirements.

With the parameters for very small and very large SFR expansions established, staff considered how best to assess the street improvements for medium-sized expansions. The next step was to create an incremental approach to assessing street improvements that would be consistent with expansion projects of various sizes. Staff took the difference between the 1500 square feet and 200 square feet expansions and broke them into five equal size categories. The five size categories are as follows: 200-449 sq ft, 450-799 sq ft, 800-1149 sq ft, and 1150-1499 sq ft. The last step was to create an increasing level of street improvement requirements that would pair with the SFR expansion size categories. Staff took a typical street cross section and broke it into five discrete street improvements that are similar in scope and cost. The five street improvements were then placed in order by their sequence of construction, which are as follows: right-of-way dedication, roadway widening, access improvements, curb and storm drainage improvements, and sidewalk construction.

Under the new code, the first size category for SFR expansions would be responsible for completing one of the five street improvements, the second size category would be responsible for two street improvements, and so on. As previously stated, home expansions greater than 1500 square feet would be responsible for all street improvements. An additional provision was added that states that if one or more of the five street improvements have been completed or is in conformance, the development shall be responsible for construction of the next street improvement on the list. For example, if a 1200 square foot single-family home submits an application for a 940 square foot addition, the development would be responsible for construction of three street improvements. If the right-of-way width and access are already in conformance with current street standards, the

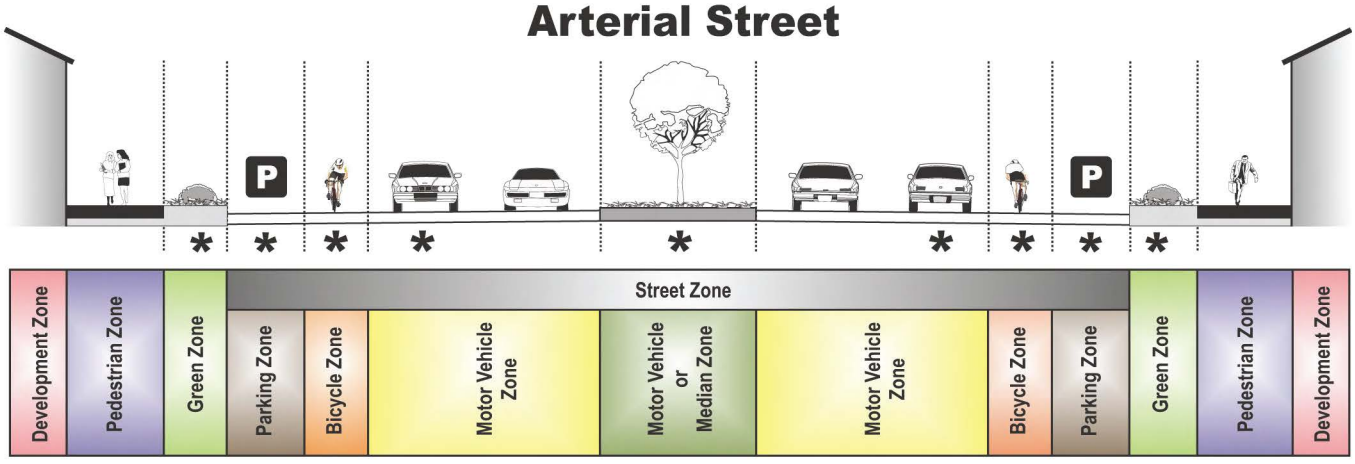
development would be responsible for street widening, curb and storm drainage improvements, and sidewalk construction.

In summary, this method of assessing street improvements for SFR expansions is proportional. Doubling the floor area or increasing the floor area by the average size of a home has the same effect on the transportation system as construction of a new home. As a result, requiring full street improvements is proportional to the impacts associated with doubling the floor area or increasing the floor area by the average size of a home. Because the street improvement categories are roughly equal in scope and cost for the average situation and the home expansion size categories are equal in size, the street improvement requirements are proportional to the impacts of the home expansions.

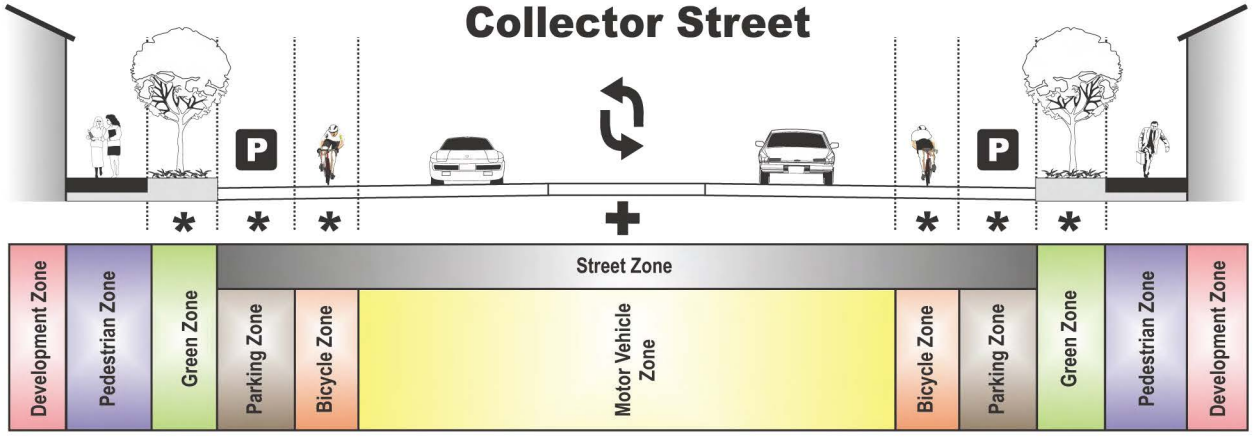
Additionally, this method of assessing street improvements for SFR expansions is also fair and consistent. Only SFR redevelopment projects that impact the transportation system through the addition of gross floor area, with the exception of expansions less than 200 sq ft, are assessed for street improvements. Moreover, the proposed incremental assessment methodology assesses more street improvements for larger expansion projects in a manner that is clear and objective.

Lastly, staff considered how to treat garage and carport construction and expansions. Since garage and carport development does not create habitable space, staff concluded that these types of projects do not have impacts to the transportation system with the exception of the access. As a result, single family residential garage and carport development that does not create habitable space would only be subject to the access requirements of the proposed transportation code amendments.

Arterial Street

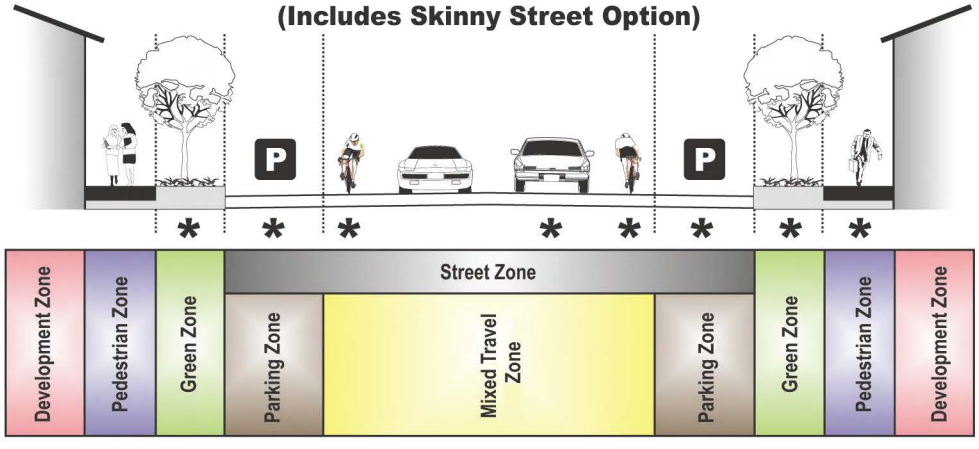


Collector Street



Local and Neighborhood Streets

(Includes Skinny Street Option)



DKS Associates

LEGEND

✱ -Constrained Right-of-Way Optional Element

✚ -Where Warranted

Information Sources: DKS Associates

STREET DESIGN CROSS SECTIONS BY FUNCTIONAL CLASSIFICATION

FIGURE 10-1

ATTACHMENT 9
Preliminary Fee in Lieu of Construction Report

Property Address	Fees Collected				Fees Expended				
	Neighborhood	Length (ft)	Date Collected	Fees Collected	Fees Expended	Year Expended	Project Number	Project	Total Fees Remaining
11365 Linwood Ave*	Linwood	20.00	9/17/2002	$1,273					$1,273
11381 Linwood Ave*	Linwood	103.97	9/17/2002	$6,616					$6,616
4479 Logus Rd	Lewelling	75.54	9/19/2002	$6,418	$6,418	2007-08	CIP-07-006	Logus Road Ph I	$0
4465 Logus Rd	Lewelling	20.50	9/19/2002	$1,742	$1,742	2007-08	CIP-07-006	Logus Road Ph I	$0
8816 28TH Pl.	Ardenwald	50.00	5/29/2003	$5,390					$5,390
9831 Stanley Ave	Lewelling	83.01	7/14/2003	$7,333	$7,333	2007-08	CIP-07-006	Logus Road Ph I	$0
9829 Stanley Ave	Lewelling	20.00	7/14/2003	$1,767	$1,767	2007-08	CIP-07-006	Logus Road Ph I	$0
3718 Jackson St	Hector Campbell	50.00	10/6/2003	$5,155					$5,155
4142 Drake St	Lewelling	50.00	11/14/2003	$3,675	$3,675	2007-08	CIP-07-006	Logus Road Ph I	$0
12800 Maplewood Ct	Lake Road	81.00	12/10/2003	$7,919	$7,919	2007-08	CIP-07-001	Lake Road Ph I	$0
12812 Maplewood Ct	Lake Road	89.12	12/10/2003	$8,712	$8,712	2007-08	CIP-07-001	Lake Road Ph I	$0
12824 Maplewood Ct	Lake Road	72.97	12/10/2003	$7,134	$3,369	2007-08	CIP-07-001	Lake Road Ph I	$3,765
12836 Maplewood Ct	Lake Road	60.00	12/10/2003	$5,866					$5,866
12848 Maplewood Ct	Lake Road	61.01	12/10/2003	$5,964					$5,964
Maplewood Sub. Tract B	Lake Road	94.98	12/10/2003	$9,285					$9,285
12532 Maplewood Ct	Lake Road	63.00	12/10/2003	$11,160					$11,160
12564 Maplewood Ct	Lake Road	80.19	12/10/2003	$14,206					$14,206
9989 43RD Ave	Lewelling	79.60	3/3/2004	$6,645	$6,645	2007-08	CIP-07-006	Logus Road Ph I	$0
9997 43RD Ave	Lewelling	23.15	3/3/2004	$1,932	$1,932	2007-08	CIP-07-006	Logus Road Ph I	$0
5024 Monroe St	Hector Campbell	50.00	3/26/2004	$5,679					$5,679
1750 Ochoco St	McLoughlin Ind.	600.00	5/21/2004	$62,400					$62,400
8636 28TH Pl	Ardenwald	50.00	8/6/2004	$4,800					$4,800
9626 29TH Ave	Ardenwald	70.00	8/30/2004	$6,080					$6,080
9634 29TH Ave	Ardenwald	70.00	8/30/2004	$6,080					$6,080
5878 Hill St	Lewelling	59.00	9/7/2004	$3,826	$3,826	2007-08	CIP-07-006	Logus Road Ph I	$0
5918 Hill St	Lewelling	59.00	9/3/2004	$3,826	$3,826	2007-08	CIP-07-006	Logus Road Ph I	$0
5928 Hill St	Lewelling	58.00	9/2/2004	$3,761	$3,761	2007-08	CIP-07-006	Logus Road Ph I	$0
8816 29TH Ave	Ardenwald	50.00	11/30/2004	$4,800					$4,800
5807 Hill St	Lewelling	70.00	12/23/2004	$4,540	$4,539	2007-08	CIP-07-006	Logus Road Ph I	$0
11401 Home Ave*	Hector Campbell	75.00	3/29/2005	$7,083					$7,083
11437 Home Ave*	Hector Campbell	65.00	3/29/2005	$6,139					$6,139
12119 21ST Ave	Island Station	65.00	6/20/2005	$5,710					$5,710
4953 Jackson St	Hector Campbell	50.00	6/30/2005	$4,800					$4,800
5822 Harrison St	Linwood	100.00	7/27/2005	$8,000					$8,000
12017 River Rd*	Island Station	50.00	10/25/2005	$9,101					$9,101
8606 28TH Pl*	Ardenwald	53.00	12/15/2005	$4,439					$4,439
	Ardenwald	82.00	12/15/2005	$6,867					$6,867
4115 Jefferson St	Hector Campbell	50.00	1/17/2006	$5,999					$5,999
8646 28th Ave	Ardenwald	50.00	4/12/2006	$6,645					$6,645
12113 River Rd	Island Station	75.00	3/23/2006	$9,964					$9,964
5174 Monroe St	Hector Campbell	59.00	9/18/2006	$14,221					$14,221
4014 Jackson St	Hector Campbell	50.00	12/18/2006	$9,359					$9,359
4006 Jackson St	Hector Campbell	50.00	4/3/2007	$9,019					$9,019
	Hector Campbell	100.00	4/3/2007	$18,039					$18,039
4549 Llewellyn St	Hector Campbell	50.00	4/24/2007	$9,359					$9,359
3104 Kelvin St	Ardenwald	72.00	5/8/2007	$13,273					$13,273
12917 Vernie Ave	Lake Road	20.00	5/11/2007	$4,642	$2,736	2007-08		BP #070608	$1,906
4117 Harrison St	Hector Campbell	75.00	11/30/2007	$16,764					$16,764
3406 Olsen St	Ardenwald	131.00	2/4/2008	$11,633					$11,633
4665 Monroe St	Hector Campbell	75.00	2/11/2008	$15,942					$15,942
	Hector Campbell	100.00	2/11/2008	$21,255					$21,255
3537 Edison St	Lake Road	70.00	2/25/2008	$2,400					$2,400
11300 23rd Ave	Historic Milwaukie	225.00	6/23/2008	$83,003					$83,003
11909 Linwood Ave*	Linwood	0.00	7/31/2009	$53,138					$53,138
4909 Llewellyn St	Hector Campbell	87.50	11/19/2008	$6,811					$6,811
3039 Olsen St	Ardenwald	58.00	1/6/2009	$9,000					$9,000
	Ardenwald		1/6/2009	$4,354					$4,354
5881 SE Harrison St	Linwood	104.00	4/13/2009	$19,458					$19,458
Total				**$620,402**	**$68,201**				**$552,201**

Note: Asterisk (*) denotes fees collected for specified improvement.
Date Prepared: April 2009

ATTACHMENT 9
Prelimnary Fee in Lieu of Construction Report by Neighborhood

Neighborhood	Fees Collected		Total Fees Colected	Total Fees Expended	Total Fees Remaining
	(for neighborhood improvement)	(for specified improvement)			
Historic Milwaukie	$83,003	$0	$83,003	$0	$83,003
Downtown Milwaukie	$0	$0	$0	$0	$0
Island Station	$15,674	$9,101	$24,775	$0	$24,775
Lake Road	$77,288	$0	$77,288	$22,736	$54,552
Linwood	$27,458	$61,027	$88,485	$0	$88,485
Hector Campbell	$142,403	$13,222	$155,625	$0	$155,625
Lewelling	$45,465	$0	$45,465	$45,465	$0
Ardenwald	$72,055	$11,306	$83,360	$0	$83,360
McLoughlin Industrial	$62,400	$0	$62,400	$0	$62,400

Date Prepared: April 2009

Transportation Code Amendment Project
Referral List for Titles 17 and 19
Land Use File ZA-09-02

Group	Recipient	Type	Sent
City of Milwaukie	JCB Counter Copy	Hard Copy + Cover Sheet	1/28/09
	City Hall Counter Copy	Hard Copy + Cover Sheet	1/28/09
	Engineering	E-mail	1/28/09
	Planning	E-mail	1/28/09
	Engineering Director	E-mail	1/28/09
	Planning Director	E-mail	1/28/09
	Public Works Director	E-mail	1/28/09
	Community Service Director	E-mail	1/28/09
	Building Official	E-mail	1/28/09
	CD/PW Director	Hard Copy	1/28/09
	Planning Commission	Hard Copy + Cover Letter	2/3/09
	City Council	City Council Letter	2/3/09
	Interim Mayor	Hard Copy + City Council Letter	2/3/09
	City Attorney	E-mail	1/28/09
External Agencies	Clackamas County Fire District	Hard Copy + Cover Letter	1/27/09
	ODOT	Hard Copy + Cover Letter	1/27/09
	Clackamas County (Ron Weinmann)	Hard Copy + Cover Letter	1/27/09
	Clackamas County (John Borge)	Hard Copy + Cover Letter	1/28/09
	Metro (Miranda Bateschell)	Hard Copy + Cover Letter	1/27/09
	Metro (Michael Jordan)	Hard Copy + Cover Letter	1/27/09
	Tri-Met	Hard Copy + Cover Letter	1/27/09
	Metro TOD (Megan Gibb)	E-mail	2/3/09
NDAs	Lake Rd	NDA Cover Letter to all officers and land use committee members (with link to electronic document)	1/27/09
	Island Station		1/27/09
	Historic Milwaukie		1/27/09
	Ardenwald		1/27/09
	Lewelling		1/27/09
	Hector Campbell		1/27/09
	Linwood		1/27/09
Interested Persons	Ed Parecki	E-mail + Letter	1/28/09
	Bill Hoesly	E-mail + Letter	1/28/09
	Charlie Clark	E-mail + Letter	1/28/09
	Bob Dant	E-mail + Letter	1/28/09
	Mike Wells	E-mail + Letter	1/28/09
	Gene Dieringer	E-mail + Letter	2/2/09
	Ernie Platt (Homebuilder's Association)	E-mail	1/28/09
	Bruce Goldson (Compass Engineering)	Hard Copy + Letter	1/28/09
	John Gessner (City of Fariview)	E-mail + Letter	1/28/09

Summary of Public Comments

The following is a summary of verbal and written comments received by the City in response to proposed code amendments to the City's transportation regulations (Land Use File ZA-09-02). A staff response, if any, follows each individual comment and is italicized.

- **Ray Bryan, Treasurer and Land Use Committee Member, Historic Milwaukie NDA:**

  I generally like the ideas brought out in the proposed amendments. They reflect the policies contained in the TSP, specifically those that allow for more street design flexibility.

- **David Aschenbrenner, Chair, Hector Campbell NDA:**

  Fee in lieu of construction money needs to be tracked and spent in the neighborhood.

  Staff Response: The proposed new code would require that the City expend fees collected through the fee in lieu of construction (FILOC) program in the neighborhood in which they were collected. It would also require that the City prepare an annual report on the FILOC program.

  The City should get the applicant to build the improvements whenever feasible even if it results in isolated improvements.

  Staff Response: It has been the City's practice to require improvements at the time of development. However, the proposed new code would explicitly require improvements at the time of development but for when construction of required improvements is determined to be unsafe or unfeasible as determined by the Engineering Director and the developer or property owner volunteers to pay a fee in lieu of construction of the required improvements.

  The City should coordinate with the neighborhoods to understand what kinds of street improvements they want on which streets so that the City develops cross sections that are in keeping with the community's preferences. The neighborhoods should develop a list of "streets of interest" for this purpose to guide future street design.

  Staff agrees that there is a need to look at key neighborhood streets and would like to work with the Neighborhood District Associations (NDA) to develop neighborhood-specific street design plans. Staff imagines a multi-step process whereby staff would work with the NDAs to: (1) identify streets of interest, (2) develop a series of street design types, and (3) determine what design type to apply to each street of interest.

- **Ed Parecki, Downtown Milwaukie Business Owner:**

  How will the City evaluate impacts to the transportation system when a development permit is issued to remodel an existing vacant building that has no tenant yet?

  Staff Response: The proposed new code would evaluate redevelopment projects as described in the bullet points below, recognizing that it is possible that both comparisons may need to occur at different points in time and that one, both, or neither could result in the City requiring transportation improvements:

  - *<u>When New Use Not Known</u>: Compare previous use to an outright allowed use in the applicable zone that: (1) has a conservative trip generation figure, and (2) would be supported by the building. Conduct an impacts analysis ONLY when it is known with certainty that the new use would be different from the previous use.*
  - *<u>When New Use Known</u>: Compare previous use to proposed new use.*

During the 2007 and 2008 appeal hearings for the project at Main and Monroe in downtown Milwaukie, we brought to the City's attention most of the weaknesses inherent in the code, yet the City insisted that they were correct in their interpretation the code. We clearly pointed out that the code was unconstitutional. The City now agrees. We clearly pointed out that the mere renovation of the exterior of a building would not produce any impacts to the City's transportation system. The City now agrees. We clearly pointed out that using the assessed value to determine whether a project shall comply with public area requirements was flawed. The City now agrees. Will the project still be held liable for improvements that were determined by a faulty code?

Staff Response:

1. "We clearly pointed out that the code was unconstitutional. The City now agrees."
City staff does not agree that the existing code is unconstitutional. However, in the case of the project at Main and Monroe, staff recognized that the existing code failed to describe the City's obligation to determine if the project had impacts to the transportation system and, if so, to ensure that any required public area improvements were proportional to those impacts. As a result, staff did not apply the existing code; staff applied an interpretation of the existing code. This interpretation directed staff to evaluate the project for impacts and to conduct a proportionality analysis to demonstrate that the required improvements were proportional to those impacts. The proposed new code would direct the City to do the same thing: evaluate a project's impacts; determine what street improvements, if any, are needed; and then analyze whether the needed improvements are proportional to the project's impacts.

2. "We clearly pointed out that the mere renovation of the exterior of a building would not produce any impacts to the City's transportation system. The City now agrees."
City staff did not agree with this assertion at the time of the appeal hearings, and still disagrees based on the fact that the requirements of the underlying zone and the interior improvements constituted a change in use from office to retail, even though the specific retail tenant had not yet been identified. Evaluating a project for impacts prior to the existence of a tenant is not unusual. It happens frequently, especially with speculative new construction, e.g. International Way Business Center on Harmony Road. That project was required to build improvements based on what was allowed by the underlying zone and reasonable assumptions about the types of tenants those buildings would support.

3. "We clearly pointed out that using the assessed value to determine whether a project shall comply with public area requirements was flawed. The City now agrees."
The City agreed during the appeal hearings that using assessed value to determine public area requirements was not optimal, which is why staff based its analysis on impacts rather than value.

4. "Will I still be held liable for improvements that were determined by a faulty code?"
The project at Main and Monroe has impacts to the transportation system and the City has the right and obligation to the community to require frontage improvements that are roughly proportional to those impacts. This determination was upheld by both Planning Commission and Council.

- **Gene Dieringer, Principle, Dieringer's Properties, Inc.:**

  The City needs to allow more street design flexibility so that staff and developers can be creative in designing street improvements that meet the intent of the code and suit the unique characteristics of any given site.

Staff Response: The proposed new code would allow for more street design flexibility by giving the Engineering Director the authority to apply a range of design solutions that take existing street and development conditions into consideration.

A developer or property owner shouldn't be liable for both frontage and off-site improvements.

Staff Response: Legal case law on this subject allows the City to exact both frontage and off-site transportation improvements when warranted by the impacts of a development project. Any off-site impacts and related off-site improvements would need to be identified in and supported by a formal transportation impact study.

A home should be exempt from transportation improvements even if it is intentionally torn down and rebuilt, so long as the square footage doesn't change. This would be consistent with the proposed exemptions for home remodels that don't increase square footage and for home reconstructions following accidental destruction that don't increase square footage.

Staff Response: The proposed new code attempts to balance the community's desire to improve the City's transportation system with reasonable and proportional transportation exactions. The proposed new exemptions are intended to be limited in scope in keeping with this policy approach. Additionally, the suggested additional exemption would not be consistent with existing sections of the code and how development standards are applied to sites that are redeveloped. Chapter 19.800, for example, which applies to nonconforming structures, currently exempts only those structures that are accidentally destroyed not those that are intentionally demolished.

There should also be some outright exemptions listed under "Applicability" (Section 19.1402) to be clear what kinds of exterior and interior building improvements (i.e. façade remodel, new lighting, etc.) would not have transportation impacts and would, therefore, not trigger transportation improvements.

Staff Response: The proposed new applicability section lists only those projects that have potential impacts to the transportation system. Façade improvements and routine maintenance and repair projects would not trigger transportation improvements because they do not result in "a new dwelling unit," "any increase in gross floor area," or "any projected increase in vehicle trips." Staff believes the proposed language is sufficiently clear.

- **Miranda Bateschell, Associate Regional Planner, Metro Regional Government:**

  Metro has reviewed the proposed amendments and does not have any comment on these changes beyond recognizing and supporting the policy of using an impact-based approach to exacting improvements.

- **Meganne Steele, TOD and Centers Development Project Manager, Metro:**

  How will the City evaluate impacts to the transportation system when a previously developed site has been vacant for a number of years? Will the new proposed use get credit for the previous use during the impact evaluation process?

  Staff Response: If an existing building is vacant for any amount of time and is internally refurbished to accommodate a new use, the proposed new code would consider the last previous use in that building for the purpose of evaluating impacts to the transportation system. However, if all or some of the buildings on the site were demolished at any point in time prior to the new use or if significant site changes were proposed (e.g. new buildings), the proposed new code would not consider the previous use for the purpose of evaluating

impacts to the transportation system. Redevelopment of a site that that has had all or some of its previously existing buildings demolished would be treated as new construction.

- **John Mermin, Bicycle Coordinator/Planner, Metro Regional Government:**

  Metro recommends adding language for pedestrian/bicycle paths (Section 19.1408.5). The RTP requires new residential and mixed-use development to provide a ped/bike accessway at least every 330 feet, except where prevented by barriers (i.e. topography, railroads, freeways, pre-existing development). The Milwaukie TSP (p.8-12) includes language saying that the City "requires new local connections that will result in a grid of vehicle access every 530 feet and bike/ped access every 300 feet." The proposed amendments should meet either the 330-foot RTP provision or the 300-foot TSP provision.

  Staff Response: The proposed new code was modified to provide for a pedestrian/bicycle connection every 300 feet per the City's Transportation System Plan (TSP).

  Metro recommends adding language for building orientation to RTP major transit stops (Section 19.403.13). The proposed amendments generally exceed the RTP requirement for transit improvements because they require improvements along all transit routes not just at major transit stops. However, they don't meet the more stringent RTP requirement that is specific to major transit stops.

  Staff Response: Staff believes that the existing code substantially complies with the RTP provisions for buildings adjacent to major transit stops.

- **Gail Curtis, Senior Transportation Planner, Oregon Department of Transportation:**

  ODOT recommends modifications to Section 19.1407 regarding notification to ODOT and ODOT Rail.

  Staff Response: The proposed new code was modified per ODOT's recommendation.

  ODOT recommends additional language to Section 19.1404 regarding the transportation impact study summary requirement and possible mitigation measures.

  Staff Response: The proposed new code was modified per ODOT's recommendation.

  ODOT recommends modifications to Section 19.1406 regarding when a fee in lieu of construction (FILOC) may be accepted.

  Staff Response: As proposed, FILOC may be accepted when required street improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development. Since the key criterion is that the project must be listed as a funded project in the CIP, extending the three-year time frame to five years would not substantially change when the City would accept FILOC.

- **Daryl Winand, Governmental Affairs Specialist, Portland Metropolitan Association of Realtors:**

  While the existence or lack of a sidewalk in a neighborhood may have some impact on a property's value, this is not a feature that is usually singled out by an appraiser when making an adjustment to the appraised value of that property. While improvements to the public right-of-way add value to the community, they do not necessarily increase the value of an individual property. However, quantitative data on this subject is lacking.

Transportation Code Amendment Project
Public Comments
Land Use File ZA-09-02

The following verbal comments were received by the City in response to proposed code amendments to the City's transportation regulations (Land Use File ZA-09-02). The full text of all written comments is attached. See Attachment 11 for a summary of all written and verbal comments with corresponding City responses.

Ed Parecki, Downtown Milwaukie Business Owner (Jan 27, 2009):

- How will the City evaluate impacts to the transportation system when a development permit is issued to remodel an existing vacant building that has no tenant yet?

David Aschenbrenner Chair, Hector Campbell NDA (Feb 3 & 12, 2009):

- Fee in lieu of construction money needs to be tracked and be spent in the neighborhood.
- The City should get the applicant to build the improvements whenever feasible even if it results in isolated improvements.
- The City should coordinate with the neighborhoods to understand what kinds of street improvements they want on which streets so that the City develops cross sections that are in keeping with the community's preferences. The neighborhoods should develop a list of "streets of interest" for this purpose to guide future street design.

Meganne Steele, TOD and Centers Development Project Manager, Metro (Feb 18, 2009):

- How will the City evaluate impacts to the transportation system when a previously developed site has been vacant for a number of years? Will the new proposed use get credit for the previous use during the impact evaluation process?

From: Ray Bryan [bryanchambers99@earthlink.net]
Sent: Sunday, February 08, 2009 12:49 PM
To: Shanks, Susan
Subject: Code Changes

Susan,

Thank you for all the hard work you have put into refining and reorganizing Milwaukie's code. I am not sure that my "issue" with the code is appropriate to address at this time perhaps it is too late in the process to add any new changes.

I have emailed back and forth with Ryan several months ago about the way retaining walls are regulated. To my best understanding they are regulated with fences. My first problem is the way a fence is measured does not fit a way a retaining wall should be measured. (top of the wall to the highest ground level one foot away) Under current code a retaining wall can be built of any height, with out any set back from the property line and with now requirement for a safety barrier. I mentioned to Ryan that I know it is difficult to write good code that foresees and allows the many legitimate situations where a retaining wall would be desired, however, I think that there should be some limits on what is allowed because with out those limits some folks will build what was previously unimaginable.

Let me know your thoughts, I am happy to address this separately from the current code revisions now in public comment stage.

As for all the other changes being made, I generally like the ideas brought out in the TSP for allowing more flexibility and I have a lot of respect for you and the work that you do. Depending how much time I have to spend, I may have some questions on the changes later.
Thanks,
Ray Bryan

From: Dieringer Properties, Inc. [Dieringerinc@integra.net]
Sent: Saturday, June 21, 2008 9:38 AM
To: Shanks, Susan
Subject: Re: City of Milwaukie Transportation Code Amendment (TCA) Project

Hi Susan,

I reviewed the Katie Mangles report for the June 24 mtg. Without reading the code and spending an enormous amounts of time studying it with different potential or historical scenarios or examples, it is very difficult to comment.

At a quick glance of the reading materials, it appears that staff is trying to address conflicts in the code, which is good of course. It also appears that staff is trying to get a little more flexibility in determining the issues at hand with any particular application.

Two comments I have, which are pretty generic:

1. Adjustments/Variances: These are broght up in several areas of discussion and how they can be cumbersome for staff and applicants.

Our experience: Criteria for applications is good, but only as a 'general rule', they shouldn't be "only" rule. One of the frustrations we had with redeveloping our King Road Shopping Center was that we had a plan that needed an adj/var that we believed met the intent of the code, even exceeded it. It was a better plan and we could demonstrate it. But staff was "stuck" in having to argue against it and say they couldn't support it because it didn't meet the criteria (however, privately, they were all in support of it). Ultimately we won, but barely. This kind of rule or attitude or approach, allowing for no flexibility, ties the hands of developers and can cause extra time, energy and money for both parties. This ridigity in interpretation doesn't allow developers to be creative in their solutions or staff to be supportive of an alternate design that meets the intent of the code. Being flexible in a design that meets or exceeds the "intent" of the code (even if an adj/var has to be applied for), should be met positively and staff should be able to actually support it without fear that they are "compromising" the code or the criteria. There are always exceptions to the rules and the code should allow for them thru the adj/var process, even if they don't meet the criteria for making the application.

2. Porportionality - Interesting topic, but I don't understand all the ins and outs. Unfortunately, I don't have the time. I find the comment interesting about triggers for off-site improvements vs. improvements along the site's frontage . I don't see where the City can 'double dip'. Maybe I am missing something, but it sounds like a developer could be liable to spend money for both? I don't think that would be fair. If a developer is putting money out for his own site's frontage improvements, he is investing in the community to the proportion of his site and the city and shouldn't be liable for improvements 'off site'. And if he pays fees for "off site" without making improvements to his own frontage, there shoud be some credit of record for when improvements are required to be made to his site.

Feel free to call me if you have any questions.

Peace,

Gene Dieringer
Dieringer's Properties, Inc.
503-659-1402

----- Original Message -----

From: Shanks, Susan
To: Shanks, Susan
Cc: Mangle, Katie
Sent: Friday, June 20, 2008 9:14 AM
Subject: City of Milwaukie Transportation Code Amendment (TCA) Project

Greetings!

As we recently discussed, the City has undertaken a code amendment project to make our transportation regulations easier to use, understand, and defend. In particular, the City will be evaluating what types of development projects should trigger public improvements, and, when triggered, which public improvements the City should encourage and/or require. The City will also be working to ensure that all regulations and standards are consistently described and referenced in order to avoid conflicts and confusion. To that end, this project involves a thorough review and possible reorganization of all relevant regulations and standards.

Staff will be briefing the Planning Commission on the status of this project at their June 24 meeting. The purpose of this briefing is to give Commissioners an overview of the main problems and potential solutions staff has identified and solicit their input on a few key policy issues. Since this briefing is the second item on the agenda, discussion may not begin until 7:30 p.m. We welcome your attendance and comment! You are also invited to read and comment on the Problems and Solutions Memo that project staff prepared for this briefing. It can be found by clicking on the following link and going to Agenda Item 7.1 at http://www.ci.milwaukie.or.us/committees/planning/2008/packets/PC062408p.pdf. Planning Commission meetings take place at City Hall on the second floor in Council Chambers.

I appreciate your interest in this project! Please feel free to call me if you have any questions or comments. Thank you.

* * * * * * * * * * * * * * * *

Susan P. Shanks
Senior Planner
Planning Department
City of Milwaukie
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

(p) 503-786-7653
(f) 503-744-8236
(e) shankss@ci.milwaukie.or.us

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From: Dieringer Properties, Inc. [Dieringerinc@integra.net]
Sent: Tuesday, February 03, 2009 2:56 PM
To: Shanks, Susan
Subject: Re: FW: City of Milwaukie -- Proposed Transportation Code
Amendments

HI Susan,
I did a quick blush through the document. It is voluminous and detailed and I don't have that kind of time to study it.
But I wanted to make a couple comments on "exemptions" and
"applicability" that I thought of or wondered about as I looked at it.
Something to think about:

1. A home is exempt from transportation if the sf doesn't change during a remodel or accidental destruction (ie: fire) and is reconstructed to the same sf. Since it is in the City's best interest to maintain (*even
improved)* the housing stock, I think that a home should be exempt even if it torn down and rebuilt, so long as the sf doesn't change. It might encourage reconstruction of older homes that are not worth saving, thus bringing the structure up to code and improving the City's housing
stock. More than likely a new home would have more sq ft anyway, but
provided the sf doesn't change, it shouldn't matter whether it was accidently destroyed or purposely torn down. I think it would be in the City's best interest to encourage the improvement of the City's housing stock.
2. Under "Applicability" (section 19.1402), I think there should be some outright exemptions listed just like there is in Residential. It would help clarify and minimize time and costs of both parties in interpretation and applicability. While one could probably assume that a bldgs face lift wouldn't impact traffic, I can also see the City taking the position that it can. Building owners need the incentive and encouragement to remodel and maintain their bldgs without fear that there would be traffic impact costs. A commercial bldg that is getting only a face lift with no change in sf (ie: fascia remodel, new lighting,
etc) should be exempt outright. Thus the City would be encouraging remodeling to maintain commercial building stock as well as the quality of living. Instead of potentially penalizing owners with additional fees & expenses for keeping their buildings up to date. An owner should be able to sight an exemption rather than argue their case. It costs money, time and is frustrating. Exterior and interior remodels, while needing a permit, shouldn't be a trigger or a penalty but an incentive to maintain and update existing older buildings.
3. Similar to #2 above, a remodel to the interior of a bldg should be exempt provided sf and use doesn't change. As an example, if Safeway were to remodel their interior in 10 years by rearranging some departments, adding plumbing or electrical, etc, it should NOT trigger transportation. An owner should be able to sight this exemption. The City (or the City Engineer at his discretion) should NOT be able to take a position that this "might" impact transportation. Interior and exterior remodels is a cost of doing business and remaining competitive in the market so businesses can stay in business. They should not be penalized with this extra burden or concern. The City should encourage owners & businesses to maintain buildings' values and the City's quality of living by updating the insides and outsides of building.... in other words, they shouldn't be penalized for keeping exteriors and interiors up to date and modern.

That's it....
Call if you need any clarifications or have questions.

Gene Dieringer
Dieringer's Properties, Inc.
10505 SE 44th Ave
Milwaukie OR 97222
503-659-1402

Shanks, Susan wrote:
> Second time is the charm . . .
> Have a great day!
>
> *From:* Shanks, Susan
> *Sent:* Monday, February 02, 2009 12:02 PM
> *To:* dieringerinc@earthlink.net
> *Subject:* City of Milwaukie -- Proposed Transportation Code
> Amendments
>
> Hi Gene,
>
> I spoke with you about the City's transportation code amendment
> project last year, and I finally have a draft document to share with
> you. Please find attached a letter that describes the proposed code
> amendments, where you can obtain them, and how you can comment on
> them. I very much welcome your feedback! Please feel free to
> contact me should you have any questions. Thank you!
>
> Susan P Shanks | Senior Planner
> Planning Department | City of Milwaukie Public Services Facility |
> 6101 SE Johnson Creek Blvd, Milwaukie OR 97206
>
> (P) 503-786-7623
> (F) 503-774-8236
> (E) shanks@ci.milwaukie.or.us <mailto:shanks@ci.milwaukie.or.us>
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RS PAGE 446

From: Ed Parecki [ed@parecki.com]
Sent: Sunday, February 22, 2009 9:57 PM
To: Shanks, Susan
Subject: Re: City of Milwaukie -- Proposed Transportation Code Amendments
Dear Ms. Shanks:

This issue brings up some very old and very sore wounds. I am perplexed at the City's attempt to "renovate" the code in order to make it more fair. During the hearings in October of 2007 we brought to the City's attention most of the weaknesses inherent in the Code, yet the City insisted that they were correct in their interpretation the Code. Here we are one and a half years later and the City now agrees with our arguments:

- Making the code more clear and consistent.
- Ensuring that transportation improvements are being required in a manner that is fair, consistent, and constitutional
- Requiring proportionality analyses for transportation-related exactions as appropriate. This ensures that the City's code conforms to constitutional case law on this subject.

We clearly pointed out that the code was unconstitutional. The City now agrees.
We clearly pointed out that the mere renovation of the exterior of a building would not produce any impacts to the City's transportation system. The City now agrees.
We clearly pointed out that using the assessed value to determine whether a project shall comply with public area requirements was flawed. The City now agrees.

I want to know if I will still be held liable for improvements that were determined by a faulty code. Bear in mind that the letter I signed to construct public area requirements was signed under protest (and duress). I believe the City is responsible for inhibiting the success of the project. First by the erroneous adhesion to Code. Second, in sabotaging the project by misleading potential tenants.

Sincerely,

Ed Parecki
(503) 977-9988

On Wed, Jan 28, 2009 at 12:43 PM, Shanks, Susan <ShanksS@ci.milwaukie.or.us> wrote:

> **Greetings!** You are receiving this e-mail because you have expressed an interest in the City's transportation code amendment project. Please find attached a letter that describes the proposed code amendments, where you can obtain them, and how you can comment on them. We very much look forward to your feedback! Please direct all questions or comments to Susan Shanks. Her contact information is provided below and in the attached letter. Thank you!
>
> Susan P Shanks | Senior Planner

Planning Department | City of Milwaukie
Public Services Facility | 6101 SE Johnson Creek Blvd, Milwaukie OR 97206

(P) 503-786-7653
(F) 503-774-8236
(E) shankss@ci.milwaukie.or.us

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Portland Metropolitan
PMAR
Association of Realtors®

February 9, 2008

Ms. Susan Shanks, Planner
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Dear Susan,

Thank you for contacting the Portland Metropolitan Association of Realtors regarding the City of Milwaukie's effort to verify the accuracy of its assumption that a transportation improvement - specifically in this case the installation of a sidewalk - automatically translates into an increase in the value of the house or property in front of which such improvement has been made. Speaking with several PMAR Realtor members and real estate appraisal firms - I would share with you the following insights.

When appraising single-family properties the appraiser is looking for comparable sales in the immediate neighborhood of the subject. Typically you will find that the comparables will generally have the same type of street improvements as the subject property. While the existence or lack of a sidewalk may have some impact on a property's value this is not a feature that is usually singled out in making an adjustment.

While an improvement made to any public-right-of-way adds value to the entire community, such does not automatically or necessarily ever translate into added value to a house situated on a property. An assumption that a house will fetch a higher dollar amount merely because of a required transportation improvement is far reaching in that it is the market that drives the amount a potential homebuyer is willing to remit for the property.

Although perhaps aesthetically more appealing to a would-be purchaser, the inclusion of a sidewalk does not guarantee a willingness or ability on a buyer's part to pay a higher selling price needed by the current owner to recoup the costs of installation through the sale of the house.

Never hesitate to contact me at any time regarding matters related to real estate.

Best regards,

Daryl Winand
Governmental Affairs Specialist
503-459-2162 Direct

REALTOR®

5331 SW Macadam Avenue, Suite 207
Portland, OR 97239
503-228-6595 Fax503-228-4170

From: Miranda Bateschell [Miranda.Bateschell@oregonmetro.gov]
Sent: Thursday, February 19, 2009 1:48 PM
To: Shanks, Susan
Cc: Meganne Steele; Gerry Uba
Subject: RE: Proposed Code Amendments to Milwaukie Municipal Code (File No. ZA-09-02)

Susan,

It was a pleasure meeting with you yesterday. Thanks again for all of your time in discussing file no. ZA-09-02 with Meganne Steele and I. We have reviewed the proposed amendments and we do not have any comment on these changes beyond recognizing and supporting the policy of using an impact-based approach to exacting improvements. We would also like to express our interest in working with the City as it moves forward with updates to SDCs, particularly transportation SDCs, to implement a similar impact-based approach into these methodologies and integrate major needed improvements into the CIP in order to use SDC funds for their development.

Thanks again,

Miranda

Miranda D. Bateschell
Associate Regional Planner, Brownfields Recycling Program Manager
Planning & Development Department
503 797-1817
fax: 503 797-1930
miranda.bateschell@oregonmetro.gov

Metro
600 NE Grand Avenue
Portland, OR 97232
www.oregonmetro.gov
Metro | People places. Open spaces.

From: Shanks, Susan [mailto:ShanksS@ci.milwaukie.or.us]
Sent: Monday, February 02, 2009 1:24 PM
To: Miranda Bateschell
Subject: FW: Proposed Code Amendments to Milwaukie Municipal Code (File No. ZA-09-02)

Hi Miranda,

Our database did not have your correct e-mail address, and it took a while for the system to boot it back to me. I'm sorry for the delay in getting this resent to you. Please let me know if you have any questions.

Susan P Shanks | Senior Planner
Planning Department | City of Milwaukie
Public Services Facility | 6101 SE Johnson Creek Blvd, Milwaukie OR 97206

(P) 503-786-7653
(F) 503-774-8236
(E) shankss@ci.milwaukie.or.us

From: Shanks, Susan
Sent: Wednesday, January 28, 2009 10:21 AM
To: 'bateschell@metro.dst.or.us'; 'bollh@trimet.org'; 'gail.e.curtis@odot.state.or.us'; Whitely, Doug; 'ronw@co.clackamas.or.us'
Subject: Proposed Code Amendments to Milwaukie Municipal Code (File No. ZA-09-02)

Greetings!

You should be receiving a copy of the City of Milwaukie's proposed code amendments in the mail shortly. An electronic version of these amendments is available on the Planning Department's website at: http://www.ci.milwaukie.or.us/departments/planning/TCAReferral.pdf.

Figure 19.1403 entitled "Process for Determining Transportation Facility Improvements" was accidentally not included in your hard copy packet. I have attached it to this e-mail for your review. It should follow Page 24 of the proposed code amendments for Chapter 19.1400. I apologize for the oversight and hope it doesn't cause you any inconvenience.

Please let me know if you have any questions or difficulty opening the attached document. I look forward to hearing your comments.

Thank you!

Susan P Shanks | Senior Planner
Planning Department | City of Milwaukie
Public Services Facility | 6101 SE Johnson Creek Blvd, Milwaukie OR 97206

(P) 503-786-7653
(F) 503-774-8236
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http://cityofmilwaukie.org/

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Schedule.

From: John Mermin [John.Mermin@oregonmetro.gov]
Sent: Tuesday, February 17, 2009 11:22 AM
To: Shanks, Susan
Cc: Miranda Bateschell; Meganne Steele; Tom Kloster
Subject: FW: Milwaukie code amendments

Attachments: Final 2035 Chapter 7 Implementation.pdf

Hi Susan,
Overall the code language looks great! I checked with the RTP manager, Tom Kloster, and we would like to comment on those two areas you and I discussed last week - street connectivity and building orientation/setback/ amenities at RTP major transit stops.

I won't be able to make it to the meeting tomorrow in Milwaukie, but I think the comments are pretty straightforward. Let me know if you have any questions.

Thanks!
John

Street Connectivity
It looks like most of the RTP requirements are captured. The one area where we recommend adding new language is for bicycle/pedestrian accessways (19.1408.5) The RTP requires new residential and mixed-use development to provide a bike/ped accessway at least every 330 feet, except where prevented by barriers (i.e. topography, railroads, freeways, pre-existing development). The Milwaukie TSP (p.8-12) includes language saying that the City "requires new local connections that will result in a grid of vehicle access every 530 feet and bike/ped access every 300 feet." It's unclear if the code language in 19.1408.5 B meets the 300 feet TSP provision or the 330 ft RTP provision. Perhaps you could add a fourth bullet under 19.1408.5 B to clarify:

" In residential and mixed-use districts, where a street connection is not feasible, provide pedestrian/ bicycle path at least every 330 feet."

Building orientation/setbacks/amenities at Major Transit Stops
The code language (19.403.13) is really good and covers all transit routes, going beyond the RTP requirement (originating in the Oregon Transportation Planning Rule) which just covers "Major Transit Stops." However, the requirements at these select stops is a little more stringent than what Milwaukie is requiring for all transit routes. We recommend referencing these more stringent requirements at RTP Major Transit Stops, by adding language at the end of section 19.403.13, such as this:

"The following requirements apply to new retail, office and institutional buildings on sites at RTP major transit stops.

A. Building Orientation to RTP Major Transit Stops. New buildings shall provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.

B. Maximum Setbacks Adjacent to RTP Major Transit Stops. New buildings shall be located within 20

feet of transit stop (or provide a pedestrian plaza at transit stop)

C. Transit stop amenities at RTP Major Transit Stops. New buildings shall provide:
   1. A transit passenger landing pad accessible to disable persons (if not already exiting to transit agency standards).
   2. An easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.
   3. Lighting at a transit stop (if not already existing to transit agency standards)."

From: John Mermin
Sent: Friday, February 13, 2009 11:49 AM
To: 'shankss@ci.milwaukie.or.us'
Subject: Milwaukie code amendments

Hi Susan,
I'm reviewing the proposed Milwaukie code amendments to ensure consistency with RTP requirements.

I have a couple questions on two areas:

- Local street connectivity (see attached RTP ch.7 p.7-18 – 7-19)
- Building orientation to transit requirement at Major transit stops (see attached p.7-25 – midway down page)

I think I've found some related text in the Milwaukie code, but wanted to ask for your help to make sure it's all there. The stuff I found is in sections "E. Street Layout and Connectivity" under 19.12408.1 & Building Orientation to Transit 19.403.13.

I'll give a call to chat soon.
Thanks,
John

Oregon
Theodore R. Kulongoski, Governor

Oregon Department of Transportation
ODOT Region 1
123 NW Flanders St
Portland, OR 97209
Telephone (503)731-8200
FAX (503)731-8259

March 10, 2009

Planning Commission
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Subject: Proposed Municipal Code Changes (File No. ZA-09-02)

Dear Chair Klein and Planning Commission Members,

Thank you for the opportunity to participate in the review and update of the City of Milwaukie Municipal Code. ODOT would like to recommend language pertaining to notice and coordination with the ODOT Rail Division. We would also like to request additional time for review and comment on the transportation evaluation and mitigation sections. Susan Shanks has suggested that it will be workable for us to get our comments in by March 27th in order to be considered. I apologize that our comments are not available before that date.

Recommended Language to ensure compliance with Oregon Revised Statute 197.794 pertaining to notice and coordination with ODOT Rail Division:

> **Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a public railroad crossing, or a modification is proposed to an existing crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment, in conformance with the provisions of (*add city municipal notice of land use section*). Private crossing improvements are subject to review and licensing by the rail service provider.

Sincerely,

Gail Curtis

Gail Curtis, AICP
Senior Transportation Planner

Oregon
Theodore R. Kulongoski, Governor

Oregon Department of Transportation
ODOT Region 1
123 NW Flanders St
Portland, OR 97209
Telephone (503)731-8200
FAX (503)731-8259

March 27, 2009

Susan Shanks, Senior Planner
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

Subject: Proposed Municipal Code Changes (File No. ZA-09-02)

Dear Ms. Shanks,

Thank you for the opportunity to participate in the review and update of the City of Milwaukie Municipal Code. As promised, we are providing additional comments on the current zone changes. Our recommended modifications pertain to Section 19.1404, the traffic impact analysis requirements which are attached.

Sincerely,

Gail Curtis

Gail Curtis, AICP
Senior Transportation Planner

Attachment: Recommended Modifications

ODOT RECOMMENDED ZONING CODE AMENDMENTS

Section 19.1404

19.1404.3 TIS Requirements

B. TIS Content: *Add the following subsection 1:*

1. Introductions and Summary. ~~This section should~~ Include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for city and county streets and volume to capacity for state roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; ~~and~~ proposed mitigation(s); a safety analysis; and traffic queuing and delays at study area intersections.

19.1404.4 Mitigation *Add the following to an existing subsection or add Section C:*

C. Mitigation may be recommended by the State Authority (ODOT) in circumstances where a state facility is impacted by a proposed development.

19.1406.A(3) Fee in Lieu of Construction

Change reference of "within three (3) years of .." to five (5) years *since mitigation such as a traffic signal may require a longer period before it is warranted.*

19.1407.A(1) Agency Notification and Coordinated Review

Change reference of "If the proposed development generates more than 200 vehicle trips per day" to 100 vehicle trips per day. Retain additional reference to 1,320 feet.

February 24, 2009

City of Milwaukie Planning Commission
6101 SE Johnson Creek Blvd
Milwaukie, Oregon 97206

Re: Milwaukie Transportation Code Update Project

Dear Planning Commission Members,

We are writing this letter to express our support for the proposed code amendments included with the Milwaukie Transportation Code Update Project. Our role as land use consultants in this project was to provide technical assistance and professional expertise during the evaluation and refinement of Milwaukie's transportation standards and regulations. As such, we worked closely with City planning and engineering staff to identify existing issues, examine potential solutions, and create new and revised code language to best meet the goals of the project.

It is our opinion that planning staff conducted a thorough evaluation of the different approaches available to address the identified issues. The recommended code amendments presented with this packet represent the most appropriate choices given the City's need to provide a balanced and equitable approach to transportation improvement requirements. The amendments achieve the stated project goals and are consistent with the Oregon Transportation Planning Rule (TPR), which contains a list of transportation-related elements that must be included in a city's development code. Furthermore, these amendments will provide needed clarity and restructuring that will make the code a more efficient and user-friendly document for both staff and applicants.

Based on our experience, the recommended amendments to Milwaukie's code are comparable to other, similar jurisdictions in Oregon. Specifically, the recommended impact-based approach to determining transportation requirements has been successful in other cities. This approach will alleviate the "fairness" issues that have arisen in Milwaukie as a result of the existing value-based

approach. In addition, the recommended amendments address the issues of proportionality and fee-in-lieu-of-construction more effectively. They also allow staff the flexibility needed to function within the unique set of circumstances in Milwaukie.

For the above reasons, we support and recommend the proposed code amendments with a high level of confidence.

Thank you for your consideration.

Sincerely,

Mary Dorman, Project Manager

Serah Overbeek, Project Planner

cc. Susan Shanks, City of Milwaukie

MILWAUKIE
Dogwood City of the West

Interoffice Memorandum

To: Susan P. Shanks, Senior Planner

From: Kenneth Asher, CD/PW Director, and Alex Campbell, Resource & Econ. Dev. Spec.

CC: Katie Mangle, Planning Director

Date: February 26, 2009

Re: CD Staff Concurrence with Proposed Amendments to City Code Public Area Requirements

---

The Community Development and Public Works Director and Resource and Economic Development Specialist were closely involved in scoping the Transportation Code Amendment process in general, and the Public Area Requirement (PAR) work in particular. Community Development (CD) staff believes the TCA proposal will improve the clarity of the City's Code; make the PAR calculation and exaction process more transparent; and preserve the City's ability to implement the vision developed in the Downtown/Riverfront Framework.

Planning staff consulted CD on multiple approaches to address City Council concerns about the burden the existing PAR code places on downtown development/re-development. The obvious question was whether to recommend allowance of partial compliance with PAR standards to reduce the PAR burden on private development, or to lower the standards themselves. CD advised against both of those approaches for several reasons:

- First, they did not meet the Council's stated desire to provide a better "balance" between public and private contributions. CD staff felt strongly that the only way to actually improve that balance would be by establishing a funding source to make a public contribution to these improvements. Council has directed staff to study urban renewal funding for this purpose.
- Second, reducing the standards or allowing partial compliance would move away from the goals embodied in the Downtown/Riverfront plan. Even if such an approach (lowering standards to encourage new investment) were to "succeed," a potential result would be a series of minimal, low-cost reinvestments to extend the useful life of low-value structures in downtown with concurrent, small and spotty upgrades to various elements in the public realm. Such an investment pattern would actually hold downtown development and assessed values at or close to existing levels of public and private amenities for another generation or more, foreclosing the possibility of realizing higher assessed value in the downtown while frustrating progress toward the community's planned goals for downtown.
- Third, the recommendations to: expand the parameters of the FILOC program to include downtown; shift from a permit-value-based approach to an impacts-based-approach; and explicitly include a rough proportionality analysis, all mitigate some of the most problematic aspects of the old PAR code. The net result is a more predictable set of requirements and more

flexibility for developers in how to provide their share of needed improvements. Equally importantly, the recommendations preserve the community's stated expectation for a high-value, pedestrian-friendly downtown.

Without also providing a public source of funds, the proposed TAC/PAR package by itself does not fully achieve Council's stated goal to re-balance the PAR burden. However, Council has directed staff to study a program that can provide that balance. Given the strong support in the community as a whole for the aspirations embodied in the PAR standards themselves, lowering the downtown standards would move in the wrong direction. The changes proposed by the Planning Department, by contrast, represent a substantial and positive step towards implementation of these important community goals. The Community Development staff concurs with the recommendations and appreciates the hard work that has gone into this important project.

Fee Schedule Amendment Proposal

The following changes are proposed to the Fee Schedule in response to the proposed code amendments to MMC Chapter 19.1400 (land use file ZA-09-02). They ensure that the Fee Schedule and the Municipal Code are consistent with one another.

- Deletion of Type I and Type II Transportation Plan Review (TPR) applications. The proposed new code eliminates the Type I and II land use review process for transportation facilities review.
- Renaming of remaining TPR application to Transportation Facilities Review. The proposed new application name and acronym are consistent with the language in the proposed new code. The new name and acronym, i.e. TFR, are proposed so as to avoid confusion with the State acronym for Transportation Planning Rule, i.e. TPR.
- Increase in partition, replat, and subdivision fee applications by $375. These types of land division applications always trigger transportation facilities review, the existing fee for which is $750. When a transportation facilities review is concurrent with a land division application, the fee is reduced by half to $375. Since the Type I and II land use review processes are proposed for elimination, the fees for these reviews have been shifted over to the associated land division applications.

A few housekeeping changes are also proposed. They are as follows.

- Addition of language to Administrative Provisions section. The proposed language is intended to clarify that NDA-sponsored appeals are exempt from the Appeal fee pursuant to a previously adopted Council resolution.
- Reconfiguration of Signs section. The proposed language is intended to differentiate between land use and building permit Sign Review fees and the different types of Sign Review land use applications.