

**CITY OF MILWAUKIE  
CITY COUNCIL REGULAR SESSION  
OCTOBER 2, 2012**

**CALL TO ORDER**

**Mayor Ferguson** called the 2135<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Council President Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Senior Planner Ryan Marquardt, Associate Planner Li Alligood,

Media: Victoria Edwards, *The Oregonian*

Mayor Ferguson called for a moment of silence in memory of Bev Miller who passed away on September 27, 2012.

**PLEDGE OF ALLEGIANCE****PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****Presentation by Power Past Coal and the Milwaukie Coal Task Force**

**Bethany Cotton** and **Chris Ortolano** provided a summary of findings from meetings they had attended and studies they had read. Power Past Coal was an alliance of health, environmental, clean-energy, and community groups working to stop coal export from the West Coast.

**Ms. Cotton** said it was unfathomable to think that the Columbia Gorge would be turned into a coal chute. This was not a partisan issue but one of whether this City, State and region tied its future to the dirtiest fossil fuel on the planet. Many were voicing concerns about impacts to the environment and public health. She read the Vision Statement from Milwaukie's Comprehensive Plan and how the City would look in 2015. She discussed the vision of a coal-free future and closure of the Boardman Plant at the end of the decade. She showed a slide of a 1-1/2 mile long coal train travelling through the Columbia Gorge and the alignment through Milwaukie. Export proposals were not answering questions about emergency responses to derailments, fires, or accidents, and she questioned corporate responsibilities. Millions had been spent restoring our waterways, so why expose them to pollution? She urged a comprehensive Environmental Impact Statement (EIS) for each proposal including a health impact analysis before permits were issued. Ms. Cotton called for a transparent public process that would protect the Milwaukie community from the specter of coal.

**Councilor Hedges** asked Ms. Cotton if coal trains derailed more frequently than other types of trains.

**Ms. Cotton** replied that coal dust got into the ballasts resulting in more derailments.

**Mayor Ferguson** said his interactions with citizen groups had raised his awareness of what was actually passing through the City by rail. He wanted to ensure open communication with all parties and protection of the community's health and safety including emergency response.

**Ms. Cotton** provided a history of failed coal efforts in the country.

**CITY COUNCIL REGULAR SESSION – OCTOBER 2, 2012**

**APPROVED MINUTES**

Page 1 of 6

**Mr. Ortolano** stated the Milwaukie Coal Task Force had drafted a resolution similar to Eugene's for the Council's consideration. He discussed the proposals all of which travelled the Columbia Gorge. He noted the Iron Workers will not be building barges. He was corrected by a member of the audience who said they would be building terminals. This was not about jobs but the future livability of our State and cities. He urged the City Council to look at further scientific and health information and pointed out the proximity of homes and businesses to the Union Pacific (UP) line. The proposed resolution called for a comprehensive independent Health Impact Analysis before any permits were approved for the coal export project. Further, it supported Governor Kitzhaber's request for a comprehensive environmental impact statement (EIS) to examine the health and environmental impacts of the proposals. Many who attended the Coal Task Force community forum were elderly and could not to pick up and move. He was not insensitive to the idea of jobs but questioned how many jobs might be lost along the rail lines and how many small businesses might suffer economic losses. He discussed the potential for increased respiratory and pulmonary diseases.

**Matt Rinker**, Coal Task Force, Ardenwald-Johnson Creek Neighborhood District Association (NDA), spoke in support of the Power Past Coal and Milwaukie Coal Task Force presentations. He appreciated the City Council's due diligence effort. The Ardenwald Johnson Creek Neighborhood unanimously opposed coal shipments through the Milwaukie area. He felt it was asking a lot of communities to get coal from the Powder River to the Port of Coos Bay.

**Bryan Dorr**, Milwaukie, spoke on his own behalf about the issues. He listened to the discussions and agreed with those opposed to the coal trains because of dust wafting into residential and commercial properties, gardens, groundwater and watersheds. How would businesses be affected along the route? Unfortunately, coal trains were open and unsecured. He was opposed to the proposal unless a better, safer way to transport coal was identified.

**Gretchen Brauer-Rieke**, Milwaukie, read the *Oregonian* article and attended the community informational meeting. The UP line was less than 3 blocks from her property; it was in her back yard. Everyone already knew coal dust was bad, and it was important to find a way to say "no."

**Victoria Wheeler**, Milwaukie, lived in the City for the quality of life; it was more relaxed than Portland. Her life and the lives of others would be shortened if the coal trains were allowed to go through the City of Milwaukie. She was concerned about protecting homes and schools. She supported thorough health and environmental studies.

**Greg Peden**, Alliance for Northwest Jobs and Exports, Portland, spoke about Oregon jobs and the current economic crisis. The Alliance was working hard to put people back to work. For example, 1 in 4 jobs was trade related including transportation infrastructure and port facilities. He heard questions about health and safety. What has not been stated were the processes in place to review those questions? On the federal level, the Corps of Engineers and on the State level the Department of Environmental Quality (DEQ), were tasked with reviewing and answering the questions. He noted that the Port of Coos Bay had not applied for permits nor was an active project at this time. He did not see the relevancy of comments about past business failures in the energy market. This was absolutely about jobs and where they would occur. He suggested Milwaukie talk with the City of St. Helens

**Mayor Ferguson** stated Milwaukie was working closely with the Port of Coos Bay and continuing through the public process to develop a resolution. Mr. Callery, Port of Coos Bay, was also researching cutting edge technology.

**Council President Chaimov** asked why clients opposed a comprehensive EIS.

**Mr. Peden** replied that process was not used by the federal government on these types of projects. The second issue had to do with the standards some wished to be applied to rail and barge proposals. What if this was corn and towns opposed its export. A country cannot function that way.

**Jodi Parker**, Columbia-Pacific Building Trades, Portland, which represented 26 locals and was the voice of building trades in the region. The proposals were good for Oregon's economy and should go through review. She did not believe the City of Milwaukie should put up roadblocks to jobs and revenues. If the terminals were not built in Oregon, they would go somewhere else where there were fewer laws. How does that help our shared environment? Projects strengthen revenues. With oversight we can have a clean environment. In the end the choice was to support the project or put up roadblocks. She submitted an Oregonlive.com article titled "Anti-coal action from Portland City Council would widen rural-urban divide" by Coos Bay resident John Whitty.

**Brock Nelson**, Union Pacific Director of Public Affairs, Portland, provided neutral comments and handed out a fact sheet for the City Council's further review. Exporting coal was clearly an issue in the Northwest. The 2 to 4 trains in the Port of Coos Bay project would not be a sizable increase to existing train traffic. Treating coal with surfactants was the current best technology. He noted that UP would continue to invest in fluid and efficient movement of materials through the City of Milwaukie and added that coal trains were no longer than any other trains coming through the City. Trains a mile in length travelling at 30 miles an hour will take about 2 minutes to clear a crossing.

**Councilor Loomis** asked if more coal dust swirled out when the cars were full or returning empty. He also asked about the effect on the soil.

**Mr. Nelson** thought there was more coal dust close to the mine, and currently it did not seem to be an issue. He had no experience with anything leaking out of the bottom and imagined shippers would want to be as efficient as possible.

**Russ Garnett**, Roofers-Waterproofers Local 49, addressed the question of jobs in Oregon. A lot of work had been done on solar and wind power projects, but those would not solve the problems. About 40% of power was generated by coal. Powder River Basin coal was cleaner with a lower sulfur content which was why other countries wanted this coal. It was a better quality coal and a real opportunity for the Pacific Northwest.

**Councilor Hedges** based his concerns on his experience in the coal fields of England. The U.S was an ethical country that put the environment first. He compared the beauty of the Columbia River Gorge to the paper mill in Oregon City. We know better than to do something like that now, and people did not want to contaminate the environment or compromise their health with coal dust. He did not feel it was worth the damage that might be inflicted.

**Mayor Ferguson** said the City Council would deliberate on its position at the October 16, 2012, regular session.

#### **CONSENT AGENDA**

**Mayor Ferguson** announced item B, the resolution directing staff to initiate amendments to Title 19 was removed from the consent agenda for discussion.

It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the consent agenda as presented.

**A. City Minutes of:**

1. August 21, 2012 Regular Session;
2. August 28, 2012 Study Session;
3. September 4, 2012 Work Session;
4. September 4, 2012 Regular Session; and
5. September 18, 2012 Work Session

Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [5:0]

**AUDIENCE PARTICIPATION**

**Richard Cayo**, Milwaukie, recommended the City Council do some online research on the Centralia Steam Plant. He suggested that all police officers should issue citations to put money in the City coffers. Milwaukie taxpayers were the shareholders, and he urged them to act wisely and take back control of the City. If not, then this Garden of Eden would no longer be livable. A person's vote always counted, and when the next election came along he urged everyone to vote. If you want to solve problems, then put officers on the street issuing citations and stop spending money on the baseball stadium.

**Les Poole**, Oak Grove, discussed the threat of light rail and the slaughter of trees on the Trolley Trail. This was all occurring without permits, and the degradation of parks was in clear violation of the municipal code. These were not minimum impacts to a public resource purchased with public funds. He indicated he expected a response to his email request to Mr. Asher.

**Mr. Monahan** would prepare an email response for Mr. Poole. He noted the request had not come in via email and that he received copy of letter late today.

**PUBLIC HEARING**

None scheduled.

**OTHER BUSINESS****A. Initiation of Code Amendments for Downtown Zoning – Resolution**

**Councilor Hedges** understood the public area requirements (PAR) were still being discussed amongst the City Councilors, and he was concerned about public consultation. He did not want to go into this without clarification and formulation of the City Council's policy and how that played in with South Downtown.

**Council President Chaimov** understood action this evening was not essential and could be picked up at the next meeting after Councilor Hedges and Mr. Asher had a chance to discuss the matter.

**Councilor Miller** said there was a rumor that the PARs would not be in effect south of Washington Street. He felt they should be applied equally in the downtown area. He would not support going forward with anything on PARs until the City Council was clear on what it wanted.

**Mayor Ferguson** said this matter would be tabled to next City Council meeting.

**B. Residential Development Standards Code Amendments, File #ZA-11-03, CPA-11-04 – Ordinance**

**Mayor Ferguson** summarized earlier actions. The legislative Comprehensive Plan amendment File #CPA-11-04 and amendments to Municipal Code Titles 14, 17, and 19

**CITY COUNCIL REGULAR SESSION – OCTOBER 2, 2012**

**APPROVED MINUTES**

Page 4 of 6

File #ZA-11-03 initiated by the City of Milwaukie was read for the first time at the September 18, 2012, City Council meeting. The public testimony portion of the hearing was closed at that time, and the Council voted 3 – 2 for the first reading of the ordinance with a number of revisions. He called upon staff to discuss those revisions to be followed by Council deliberation and decision.

#### Staff Report

**Mr. Marquardt** provided the staff report with a review of the revisions identified at the last meeting. These revisions included revisions for notification of detached accessory dwelling units (ADU), crediting vinyl lap siding as a design feature, setting the eyes on the street at 12%, and incorporating amendments proposed in attachments 2 and 3 of the September 18, 2012 staff report.

#### Questions from the City Council:

**Councilor Miller** was concerned about privacy and stated he would not support the amendments because there was no public process.

**Councilor Hedges** discussed ADUs and said he did not like the fact people could not comment. The additional \$800 fee would only be about 1% of the cost of the ADU. He thought the review should be tighter and that all ADUs should go through a Type II review.

It was moved by **Councilor Hedges** and seconded by **Councilor Miller** that all ADUs regardless of square footage require a Type II review. Motion failed with the following vote: Councilors Hedges and Miller voting “aye” and Councilors Loomis and Chaimov and Mayor Ferguson voting “no.” [2:3]

#### Deliberations and Decision

It was moved by **Councilor Loomis** and seconded by **Mayor Ferguson** for the second reading by title only and adoption of the ordinance amending the City of Milwaukie Comprehensive Plan Chapter 4, and the Milwaukie Municipal Code Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance, to update the City’s Residential Development and Design Standards (Files ZA-11-03, CPA-11-04). Motion passed with the following vote: Councilors Loomis and Hedges and Mayor Ferguson voting “aye” and Councilors Chaimov and Miller voting “no.” [3:2]

**Mr. Monahan** read the ordinance for the second time by title only.

**Ms. DuVal** polled the Council. Councilors Loomis and Hedges and Mayor Ferguson voting “aye” and Councilors Chaimov and Miller voting “no.” [3:2]

#### **ORDINANCE 2051:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN CHAPTER 4, AND THE MILWAUKIE MUNICIPAL CODE TITLE 14 SIGN ORDINANCE, TITLE 17 LAND DIVISION ORDINANCE, AND TITLE 19 ZONING ORDINANCE, TO UPDATE THE CITY’S RESIDENTIAL DEVELOPMENT AND DESIGN STANDARDS (FILE ZA-11-03, CPA-11-04)**

#### **C. Council Reports**

**Mayor Ferguson** and Councilors reported on meetings they had attended on behalf of the City and announced upcoming events.

**ADJOURNMENT**

It was moved by Council President Chaimov and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges, and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 9:02 p.m.

Respectfully submitted,



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Pat DuVal, Recorder

# REGULAR SESSION

Date: 10/2/12



I wish to address City Council on Agenda Item # 2.A

Name: Matt Rinker

Organization: Ardenwald-Johnson Creek NDA

Address: 

Phone: 

E-mail: 

- Speaking in support       Speaking in opposition  
 Providing neutral comments / or asking questions of clarification

Comments:

I wish to speak in support of the Power Past Coal  
↳ Milwaukee Coal Test Force presentations.



Date: 02 OCT 2012

I wish to address City Council on Agenda Item # 2A

Name: Bryan Dorr

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Speaking in support



Speaking in opposition

Providing neutral comments / or asking questions of clarification

Comments:

Coal Train same position as matt.

Date: 10/2/12



I wish to address City Council on Agenda Item # 2A

Name: Gretchen Brauer-Rieke

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

- Speaking in support <sup>?</sup>  Speaking in opposition
- Providing neutral comments / or asking questions of clarification

Comments: against coal trains

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Date: 10/2/12

I wish to address City Council on Agenda Item #  
2A

Name: Victoria Wheeler

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

- Speaking in support
- Speaking in opposition
- Providing neutral comments / or asking questions of clarification

Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: 10/2



I wish to address City Council on Agenda Item # 2A  
Peden

Name: Greg Peden

Organization: Alliance For NW Jobs & Exports

Address: 

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

- Speaking in support
- Speaking in opposition
- Providing neutral comments / or asking questions of clarification

Comments:  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: 10/2/2022



I wish to address City Council on Agenda Item # 2a

Name: JODI GUEZZIO PARKER

Organization: COLUMBIA PACIFIC BUILDING TRADES

Address: 

Phone: 

E-mail: 

- Speaking in support
- Speaking in opposition
- Providing neutral comments / or asking questions of clarification

Comments: PRO COAL EXPORT COMMENTS

Date: 10-2-2012



I wish to address City Council on Agenda Item # 2A

Name: Brock NELSON

Organization: UNION PACIFIC

Address: 

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Speaking in support

Speaking in opposition

Providing neutral comments / or asking questions of clarification

Comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: 10-2-12



I wish to address City Council on Agenda Item #  
coal Resolution

Name: Russ Garnett

Organization: ROOFERS - WATERPROOFERS LOCAL 49

Address: 

Phone: 

E-mail: 

Speaking in support



Speaking in opposition

Providing neutral comments / or asking questions of clarification

Comments:

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Date: OCT 02 - 2012

(4)



I wish to address City Council on Agenda Item # OTHER

Name: RICHARD CAYO

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Speaking in support

Speaking in opposition

Providing neutral comments / or asking questions of clarification

Comments:

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Date: \_\_\_\_\_

I wish to address City Council on Agenda Item #

*C. COMMUN*

*4*

Name: *LES POOLE*

Organization: \_\_\_\_\_

Address: *MILWAUKEE*

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Speaking in support

Speaking in opposition

Providing neutral comments / or asking questions of clarification

Comments: *T. TRAL*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Bethany Cotton**

**Greenpeace USA**

812 SW Washington Street, Suite 1050

Portland, OR 97205

cell (503) 327.4923

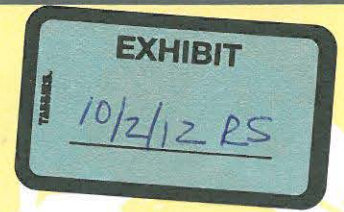
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**GREENPEACE**

# Will Oregon power past coal?



**COAL COMPANIES**, in the face of shrinking domestic demand, have a new plan: strip mine coal largely from public land in Montana and Wyoming, transport it on mile-long coal trains to massive proposed coal export terminals along the Columbia River and our coastline, and then ship it to Asia.

## WHO'S BEHIND THESE PLANS?

The world's largest coal companies, including Australian-based Ambre Energy, American coal giant Arch Coal and Kinder Morgan.

## CONGESTION FROM COAL TRAIN TRAFFIC

Communities near or bisected by rail lines, including The Dalles, Hood River, Rainier, St. Helens, Scappoose, Portland, Salem, Reedsport, and Eugene could see a dozen mile+ long coal trains rolling through town every day. A terminal handling just 10 million tons of coal annually would add more than 700 noisy mile-long coal trains traveling Oregon's rail system every year. The three OR terminals would total 50 million tons of coal per year. A single slow-moving coal train can obstruct a rail crossing by six minutes or more. Increased traffic delays at busy rail crossings would clog commuter traffic and could slow response times for emergency responders.

## COMMUNITIES CUT OFF FROM COAL TRAINS

Added coal train traffic along Oregon's rail line would limit access to neighborhoods, schools, business corridors, ferry terminals, and hospitals close to the tracks.

## HEALTH IMPACTS FOR OREGON

**Coal Train Emissions and Dust:** Diesel exhaust and coal dust from coal trains can cause serious long-term health problems like lung and heart disease and cancer. Diesel exhaust is associated with asthma, cardiopulmonary disease and increase incidences of cancer. Burlington Northern Sante Fe (BNSF) railroad studies estimate at least 500 pounds of coal can be lost in the form of dust from each rail car enroute. The wide ranging health dangers of coal dust include exposure to toxic heavy metals like mercury, arsenic and lead, and increased rates of asthma, especially in children.

Coal dust would pollute our prized clean air and waterways, and negatively impact our beloved and majestic Columbia River Gorge National Scenic Area.

**Toxic fish:** Mercury and other pollutants from coal burned in Asia blow across the Pacific and deposit along the West Coast of North America where they poison our air, water, fish, and food supply.

(cont)



Oregon communities, including the Columbia River Gorge could see polluting 1.5 mile-long coal trains rolling through town every day.

PHOTO CREDIT: DANIEL DANCER



The wide ranging health dangers of coal dust include exposure to toxic heavy metals like mercury and increased rates of asthma, especially in children.

PHOTO CREDIT: PAUL K. ANDERSON

#### IMPACTS TO OUR WATERWAYS AND REGION

To feed both Oregon and Washington terminals, trains would travel through the Columbia Gorge, impacting communities and spewing dirty and dangerous coal dust along the windy corridor. Close to the terminals, shorelines would be given over to industrial sites with enormous piles of coal and constant dust.

The companies plan to ship the coal in massive cargo ships. One proposal calls for barging coal down the Columbia – at minimum four barges every day - and transloading the coal to ships. These vessels would pose continuous threats to the Columbia River, our precious coasts, wetlands, waterways, fisheries and wildlife, as well as existing and more sustainable uses of the river corridor. The coal ships would pass through the Columbia River Bar to the Pacific – considered the most dangerous bar in the world.

Exporting coal promotes deeper global fossil fuel dependence. It delays the urgently needed transition to cleaner alternatives. It makes climate disruption inevitable, including extreme flooding and ocean acidification, impacting our shorelines, waterways, and shellfish and salmon based economies.

#### FOR THE ECONOMY

Major public ports, such as the Ports of Vancouver and Portland have rejected coal export proposals. The sites now proposed for coal exports have the potential to generate hundreds of local jobs in light industrial and smart-tech growth instead of being mired in a single-commodity, unpredictable dirty export trade. Increased coal train traffic could lower property values along the rail lines and would create congestion and add costs for critical business corridors and emergency response. Coal dust and congestion could drive away investors for new developments in rail-adjacent communities. Increased public health costs would largely be borne by taxpayers.

#### OREGON CONTACTS:

- Dan Serres  
Columbia Riverkeeper  
dserres@gmail.com  
503-890-2441
- Bethany Cotton  
bethany.cotton@greenpeace.org  
503-327-4923
- Laura Stevens  
Sierra Club  
laura.stevens@sierraclub.org  
503-238-0442 x 305
- Samantha Lockhart  
Friends of the Columbia Gorge  
samantha@gorgefriends.org  
503-241-3762 x110

“Oregon could find itself helping China and others become more coal-dependent while the state works hard to cut its own greenhouse gas emissions by phasing coal out.”

— THE OREGONIAN, 4/19/12

## WHAT YOU CAN DO:

1

Call Governor Kitzhaber at 503-378-4582 and tell him “I strongly oppose construction of coal export terminals in Oregon that would pollute the air we breathe and the water we drink. Please deny all state permits for proposed coal export projects in Oregon.”

2

Tell Senator Wyden and Senator Merkley “It’s time you demand a comprehensive review of the total impacts from all six proposed coal export terminals in Oregon and Washington, including health, environmental and economic impacts.” Congressional switchboard: 202-224-3121

We are a growing coalition of organizations sharing a common interest to prevent the West Coast from becoming a high volume coal corridor.

**Primary Partner Organizations include:** Climate Solutions, Columbia Riverkeeper, Earthjustice, RE Sources for Sustainable Communities, Sierra Club, Washington Environmental Council, Western Organization of Resource Councils

**POWER PAST COAL**

**communities against coal export**

powerpastcoal.org | facebook.com/powerpastcoal



**POWER  
PAST COAL**

**communities against coal export**

## **Coal is the dirtiest fossil fuel, by far.**

Northwest states are turning to cleaner energy and phasing out coal.

Coal companies, seeing little future growth domestically, have a new plan:  
*strip mine coal in Montana and Wyoming, ship it on rail cars  
through Washington and Oregon, and sell it to Asia.*

Shipping up to a hundred million tons of coal a year through West Coast communities would spread toxic coal dust along the rail lines, clog our railroads, ports, and highways, risk our families' health, pollute our air and water, and worsen the climate crisis.

**We can do better.**

We need to

# POWER PAST COAL

The Powder River Basin in Wyoming and Montana is one of the largest coal reserves in the world. The easiest gateway to get that strip-mined coal to Asia is through West Coast ports, especially in Washington and Oregon.

The nation's two largest coal companies, Arch Coal and Peabody, along with Australian-based Ambre Energy, are working on massive coal export terminals at Longview, WA and Cherry Point, north of Bellingham, WA. There are also potential proposals for many other communities, including:

- Grays Harbor, WA
- Boardman, OR
- Coos Bay, OR
- St. Helens, OR

They aim to move the strip-mined coal from the Powder River Basin along rail lines to the coast, endangering every community along the way.

## health impacts of coal transport and burning

The wide ranging health dangers of coal dust include exposure to toxic heavy metals like mercury and increased rates of asthma, especially in children. Burlington Northern Sante Fe (BNSF) railroad studies estimate up to 500 pounds of coal can be lost in the form of dust from each rail car en route. Coal dust and diesel exhaust from coal trains and cargo ships can cause serious long-term health problems like lung and heart disease and cancer. Coal dust would pollute our clean air and water.

More coal burning in Asia means more toxic air pollution travelling across the Pacific to contaminate West Coast rivers, lakes and fish.

## congestion from coal train traffic

At two terminals alone, Cherry Point and Longview, Ambre Energy, Arch Coal and Peabody Energy could ship at least 100 million tons of coal per year through Wash-

ington state — and this does not count other possible terminals in Washington and Oregon. Transporting that much coal would add more than 8,000 noisy mile-long loaded coal trains to Washington's rail system every year.

Communities in and along rail lines and near the coal export terminals could see 20 or more coal trains rolling through town every day. Increased traffic delays at busy rail crossings would clog commuter traffic and could slow response times for emergency responders and limit access to neighborhoods, schools and business corridors.

Many neighborhoods targeted for increased train traffic are lower-income communities that are already overburdened with pollution and economic development challenges.

## more environmental problems

It means increased strip mining in Montana and Wyoming. New and

expanded mines would put more communities at risk, and would threaten precious water and long term productivity of fragile farm and rangelands and wildlife habitat.

Close to the terminals, shorelines would be given over to industrial sites with enormous piles of coal and constant dust. For example, the proposed terminal site at Cherry Point would span 1200 acres, fill 131 acres of wetlands and sit directly on herring grounds, which are a primary food source for Chinook salmon.

Exporting coal promotes deeper global fossil fuel dependence. It delays the urgently needed transition to cleaner alternatives. It makes climate disruption inevitable, including extreme flooding, drought, food shortages and ocean acidification — costs that fall most heavily on those who can least afford it and did the least to cause it.

It would impact communities in the Northwest, North America and around the globe.

*continued on back page*

## > regional and global impacts

U.S. coal companies would provide our global competitors with a cheap, dirty fuel. By encouraging rapid expansion of new coal plants in Asia, coal export would lock the world into emission levels that essentially guarantee catastrophic climate impacts, in the Northwest and abroad. We would also have more greenhouse gas emissions from increased coal train and ship traffic.

Mercury and other pollutants from coal-burning power plants travel from Asia to the West Coast of North America where they poison our air, water, fish and food supply.

We would have reduced economic investment and development in waterfront communities on the Columbia River and Puget Sound—where coal trains would dominate shorelines—bringing negative economic impacts to the Northwest.

## Moving and storing coal is dirty, dangerous and disruptive

### > the mines

The Powder River Basin is the largest source of coal in the U.S. Non-competitive, single buyer coal leases from public lands allow any coal company from any country to mine coal dirt cheap.

The coal is strip-mined, polluting water and destroying valuable rangeland and habitat.

Coal mining also causes significant air pollution in the coal fields and local communities.

### > the trains

Coal trains are the loudest and the heaviest trains on the rails.

Diesel particulates from the coal trains dramatically increase cancer, asthma and other ailments.

Noise exposure can cause learning impairments in children.

If the companies build the coal terminals to export 100+ million tons, estimates have at least 40 additional loaded and empty coal trains moving through Washington's rail system every day.

### > the terminals

The proposed terminals at Cherry Point and Longview could ship 100+ million tons through Northwest ports each year.

The Cherry Point site could have 80 acres of uncovered coal piled up to 85 feet high—2.75 million tons at a time—which would release coal dust onto surrounding farms, fields, homes, wetlands and marine waters.

To build these terminals, the companies and their partners need to fill and degrade wetlands, potentially destroying wetland and marine ecosystems on which salmon, orcas and fish depend.

### > the ships

Every year over 200 of the worlds' biggest, most accident-prone ships would clog the already crowded Straits of Juan de Fuca and Georgia. This would mean ongoing threats to wetlands, waterways and wildlife from potential ship collisions.

While in port these ships burn tons of diesel fuel adding to air pollution and health impacts—few bulk carriers can utilize shore power.

### > the power plants

Coal power plants emit at least 1.6 tons of climate changing gases for every ton of coal burned. A single large plant can emit upwards of 10 million tons of climate pollution a year.

Recent scientific studies show that Asia is an increasing source of mercury and other pollutants on the West Coast.

Disposal sites for coal ash release toxic contaminants such as lead, boron, selenium, cadmium, thallium and other pollutants into the surrounding air and water.



WHO IS IMPACTED

Communities in the Powder River Basin, MT and WY

Cities and towns on rail lines from MT to OR and WA

Communities and ecosystems by Cherry Pt, WA, Longview, WA, Grays Harbor, WA, Boardman, OR, Coos Bay, OR and St. Helens, OR

Freshwater and marine ecosystems

Communities, countries, the planet, our future

WHO BENEFITS

COAL COMPANIES INCLUDING PEABODY, ARCH COAL AND AMBRE ENERGY

RAIL COMPANIES INCLUDING BNSF, RAIL AMERICA AND UNION PACIFIC

SSA MARINE, GOLDMAN SACHS, COAL COMPANIES

PRIVATE SHIPPING COMPANIES, COAL COMPANIES

COAL COMPANIES, PRIVATE UTILITIES, INVESTORS, ASIA

power past climate change power past  
toxic fish at the table power past delays  
noise power past selling our kids' future  
coal dust power past fossil fuels power past



PHOTO: PAUL K. ANDERSON

*The proposed terminals would ship at least 100 million tons through Northwest ports each year.*



PHOTO: PAUL K. ANDERSON

*Coal trains are the loudest and the heaviest trains on the rails, losing hundreds of pounds of dust en route.*



PHOTO: TIM WAGNER

*Coal power plants emit at least 1.6 tons of climate changing gases for every ton of coal burned.*

*continued from interior*

### **We can do better**

Coal companies stand to make huge profits. The West Coast, especially the Northwest, would pay the price. We can do better than shoveling coal to build our region's economy.

We need to power past coal. We can build strong local economies and keep the places we love intact for our families. We won't sell the soul of our communities for coal. The costs to our health, quality of life, and our home towns are too high.

Our region has a long and proud history of economic leadership. New and traditional industries alike provide good jobs here while protecting our quality of life. We should look forward and build on those strengths – not lurch backward toward a 19th century coal economy.

Pioneering a sustainable prosperity is both our responsibility and one of our greatest economic opportunities;

**POWER PAST COAL**  
**communities against coal export**

[powerpastcoal.org](http://powerpastcoal.org) | [facebook.com/powerpastcoal](https://facebook.com/powerpastcoal)

coal export would bind us – economically, politically, and morally – to the opposite path: a global economic development strategy that is fundamentally incompatible with energy security and climate stability.

Washington State Commissioner of Public Lands Peter Goldmark, Washington Governor Christine Gregoire, Oregon Governor John Kitzhaber, city and county officials and others can be leaders in saying no to coal export and yes to continuing a legacy of leadership on addressing climate change and a building a clean-energy economy. They need to hear from you today. Learn more and join the effort: [www.powerpastcoal.org](http://www.powerpastcoal.org)

We are a growing coalition of organizations sharing a common interest to prevent the West Coast from becoming a high-volume coal corridor.

#### **PRIMARY PARTNER ORGANIZATIONS INCLUDE:**

Climate Solutions  
Columbia Riverkeeper  
Earthjustice  
RE Sources for Sustainable Communities  
Sierra Club  
Washington Environmental Council  
Western Organization of Resource Councils



**The Register-Guard**<http://www.registerguard.com/>

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**GUEST VIEWPOINT: Cost-benefit analysis of coal trains deep in red**

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**BY ERNIE NIEMI****Published:** Today

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Eugene City Council members soon will weigh the pros and cons of a proposal to ship coal by train through the city to the Port of Coos Bay. The coal — 10 million tons per year — would be shipped to Asian countries, where it would be burned for electricity and manufacturing.

Much of the discussion likely will focus on the jobs, coal dust, and other local effects that directly would accompany coal exports. Far more serious effects, however, would materialize both here and elsewhere as the coal is burned.

Most benefits from exporting coal would accrue to the companies that export it and the countries that import and burn it. The primary local benefit would be jobs. A study of the proposal estimates that, at full operation, coal exports would generate 544 jobs in Oregon, paying a total of about \$36 million per year.

The local costs would affect more people, but would be harder to see. They include impaired health for people exposed to coal dust, as well as deaths, injuries and property damage from train-related accidents. The trains passing through town also would generate delays at rail crossings and noise pollution for nearby homes, businesses and parks.

The most serious cost of coal exports, however, would materialize as the coal is burned, producing carbon dioxide. Data from the federal Environmental Protection Agency indicate that burning the coal shipped through Coos Bay each year would produce about 18 million metric tons of carbon dioxide.

These emissions would accelerate changes in the atmosphere and climate that are imposing costs on communities here and abroad. The costs materialize in countless ways. CO2 emissions are associated with more frequent and severe droughts and storms, and the expansion of insect infestations and wildfires.

In 2010, a federal task force, using existing data, attempted to monetize the costs resulting from CO2 emissions and reported that \$21 per metric ton of CO2 is the best estimate of those costs. That value suggests that the burning of the coal shipped through Coos Bay would impose damage of at least \$378 million annually on communities around the world.

A just-published critique of the task force's report argues that the costs from CO2 emissions would be higher — at least \$55 per metric ton, and perhaps \$250. Multiplying these numbers times the 18 million metric tons of CO2 that would result from burning the coal exported through Coos Bay indicates the annual economic damage would total \$1 billion to \$4.5 billion.

In other words, for every dollar of the \$36 million of annual income the export of coal would generate for workers in Oregon, the subsequent burning of the coal would impose damage, somewhere in the world, of at least \$10 and perhaps as much as \$125.

It is impossible to know how much of this damage would fall on residents of Eugene and other Oregonians, but does it really matter? Is the promise of \$36 million in workers' earnings for Oregonians enough for us to facilitate an activity that would impose much larger costs on others?

For many, especially those hoping to land a coal-related job, the answer might not be easy. But consider this: We're not the only ones wrestling with this issue. Communities around the world also are deciding if, to gain coal-related jobs, they will impose huge costs on others. Of course, these "others" include us, right here in Eugene.

If everybody facilitates the burning of more coal, we lose. Big time. A 2009 study involving more than a dozen economists estimated some of the costs to Oregon if the emissions of greenhouse gases continue to grow at the rates of recent years.

The result? About \$3.3 billion per year by 2020, or \$1,900 per household. The actual costs, accounting for those not covered by the study, would be even greater.

That all means that any evaluation of coal exports should look beyond the pros and cons of the export activities themselves and the local jobs they would produce. If we encourage the burning of coal, we should expect other communities to do the same. We'll have a never-ending cycle of coal addiction and economic violence.

We'll impose costs on them, they'll impose costs on us, and we'll all end up worse off.

For some, however, it may not matter that the costs of coal exports outweigh the benefits. They may assert that we should go ahead with coal exports and reap the new jobs because, if we don't, others will. Or they may say that the time is not ripe for opposing coal exports because the world's economy is too dependent on coal.

These arguments are not surprising. Their cousins often appear when people face the difficult challenge of halting addiction and violence. Overcoming the challenge requires answering these questions: What is the morally right thing to do? If we don't provide leadership to stop the burning of coal, who will? If we don't act now, when will we?

Here, a weighing of all the economic pros and cons of coal exports can provide guidance. So too can the Golden Rule.

Ernie Niemi is president of Natural Resource Economics Inc. in Eugene.

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# Coal Export

## A history of failure for western ports

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August 2011

(Updated August 2012)

By Brett VandenHeuvel, Columbia Riverkeeper  
and Eric de Place, Sightline Institute

Communities in Oregon and Washington are weighing the prospect of coal export facilities. Proponents of shipping American coal to Asia argue that coal will bring significant economic benefits to the region. In this research memo, we examine the risks of coal markets, review the history of coal exports on the West Coast, and evaluate the employment dimensions of coal terminals.

### Contents:

1. Coal is “the most risky bulk mineral market”
2. Coal has a history of failure on the West Coast
3. Coal export is a poor strategy for jobs
4. A Longview case study: Alcoa clean ups provide more jobs

## 1.) Coal is “the most risky bulk mineral market”

Coal companies are asking Pacific Northwest ports to dedicate large terminals to ship US coal to Asia. But coal is so unattractive that many ports are rejecting coal, despite aggressively pursuing new business. Recently, the Port of Tacoma, located on Puget Sound, the Port of Grays Harbor on the Washington coast, and the Columbia River Ports of Vancouver, Kalama, and Portland have all considered—and rejected—coal export proposals.

### Port of Tacoma

The headline of *Platts Coal Trader* said it all: “Tacoma Port torpedoes coal terminal plan.” The Port of Tacoma stated that it rejected a large export proposal in 2010 because of a “multitude of business and community factors.”<sup>1</sup> Local citizens had strong concerns about the health effects of coal dust and the impact of coal trains.

### **Port of Grays Harbor**

In early 2011, RailAmerica announced that it was evaluating a plan to export roughly 5 million tons of coal from the Port of Grays Harbor on the Washington coast. But after careful study, RailAmerica shelved the plan, stating that: "...we believe that there are other uses and other opportunities for that terminal that are much more likely to generate jobs, economic development, tax revenues, (and provide a) general increase in business for the Port and, of course, for RailAmerica."<sup>2</sup>

### **Port of Vancouver**

The *Columbian* newspaper framed up the Port's choice, writing, "faced with a choice of helping to grow food or feed industry, the Port of Vancouver picked a fertilizer ingredient over the dirtiest fossil fuel on the planet."<sup>3</sup>

Larry Paulson, the Port of Vancouver's executive director, pointed out that "coal facilities have a tendency to come and go," and that was a big reason why Vancouver favored a terminal for potash, a more stable commodity.<sup>4</sup> The Port's operations manager, Mike Schiller, put it even more directly: "coal is the most risky bulk mineral market."<sup>5</sup>

### **Port of Kalama**

Kalama rejected a coal export proposal from Millennium Bulk Terminals in 2010. Kalama told Millennium that "after considerable deliberation on the issue, the Port will not be moving forward with plans for a coal export facility."<sup>6</sup> After the rejection, Millennium now seeks to site its project in Longview.

### **Port of Portland**

The Port of Portland made clear that "a coal terminal is off the table for existing and future Port of Portland facilities."<sup>7</sup> A media statement explained, "The Port needs to be reflective of the community and its values. Coal doesn't seem to fit within those values."<sup>8</sup>

Perhaps heeding the Port of Vancouver's statement that "coal is the most risky bulk mineral market," no public port has voted to approve a coal export terminal. Coal is a notoriously unstable and risky commodity. That's why business reporter David Gambrel, writing for the industry publication *Coal Age*, recently questioned whether new export facilities on the West Coast really make sense:

Will there be sufficient demand to justify a new coal supplier...? Let us not forget the same China that threatened to export coal 10 years ago is

now viewed as a buyer with deep pockets and endless demand. How long will this last?<sup>9</sup>

It's an important question. Coal exports from Washington would rely on Asian markets that have historically been fickle. China, which has large domestic coal reserves, is both an importer and exporter of coal. It's enough to make some insiders, including Deutsche Bank commodities analysts, believe that the coal export market to China may be overhyped.<sup>10</sup>

## 2.) Coal has a history of failure on the West Coast

If Deutsche Bank is right that coal is currently overhyped, it wouldn't be the first time. West Coast port cities have already gambled and lost on coal export facilities. After investing millions of dollars in infrastructure and setting aside sizeable harbor acreage to coal export facilities, both Portland and Los Angeles watched their promised revenue from coal exports evaporate.

Worse yet, local communities were stuck with the tab. The abandoned coal export facilities locked up millions of dollars in stranded investments and clean-up expenses, not to mention years-long missed opportunities for more durable economic development choices.<sup>11</sup>

### What happened in Portland?

The early 1980s saw a rush of coal companies proposing export terminals in Washington and Oregon to satisfy a hungry Asian market. Longview, Kalama, Vancouver, and Astoria all entertained proposals, but the Port of Portland bought in.<sup>12</sup> Portland committed to a 25-year lease with Pacific Coal for 90 acres and 900 feet of prime riverfront for a coal export terminal.<sup>13</sup> Governor Atiyeh even broke ground at the site with a giant gold-painted power shovel in 1982.<sup>14</sup>

The Port and investors spent \$25 million building a coal export terminal.<sup>15</sup> Two years later, the project imploded after Asian markets proved unstable, unreliable, and not-so-hungry. After a five-month investigation, the *Oregonian* reported, "Port and Pacific Coal officials heedlessly plunged ahead despite clear warnings that they might never move a solitary lump of coal."<sup>16</sup>

Contractors didn't get paid, borrowers defaulted, and lawsuits flourished.<sup>17</sup> By betting on coal, the Port wasted prime industrial land, money, and jobs. The *Oregonian* noted:

Analysts later determined that coal export failed because the Asian demand was based on promises rather than actual long-term contracts. And international

banks studying the issue found that the demand for coal had been 'vastly overstated.'<sup>18</sup>

Soon after the Port of Portland collapse, nearly all other West Coast coal plans were scrapped.

### **What happened in Los Angeles?**

Despite Portland's dramatic failure in the 1980s, a decade later Los Angeles forged ahead with another "world-class" coal export facility. In the early 1990s, coal giant Peabody led a consortium of investors that promised jobs, tax revenue, and environmental protection with a new coal export terminal at the Port of Los Angeles (LAXT).<sup>19</sup> The enormously divisive project alarmed neighbors and nearby workers.<sup>20</sup>

A 1993 *Los Angeles Business Journal* article seems to prefigure today's debates in the Northwest:

... although the terminal will create jobs and taxes throughout Southern California, the terminal will have a negligible impact on L.A. County because the product (coal) is sourced from other states and the automated terminal won't generate many direct jobs.<sup>21</sup>

And:

The City of Long Beach filed a lawsuit July 14, alleging that the Port of L.A.'s environmental impact report doesn't adequately address the negative environmental impact of coal dust that will be spewed from the massive uncovered storage pile of coal and petroleum coke.<sup>22</sup>

Fears proved well-founded. The terminal experienced at least two fires after dangerous amounts of coal dust accumulated in the ship-loading machinery.<sup>23</sup> By that time, however, Peabody was no longer around; perhaps sensing market weakness, they dropped out of the consortium before the terminal was built.

The facility closed just six years after it opened owing to unfavorable market conditions.

When the facility shut down, the City of Los Angeles had to write off \$19 million of capital investment, and forfeit \$94 million in expected revenue.<sup>24</sup> Ultimately, the city was sued for improperly managing the site – and for failing to consider alternative uses of the site – and taxpayers shelled out \$28 million to settle the suit.<sup>25</sup>

### **3.) Coal is a poor strategy for jobs.**

Each of the coal export facilities planned for Washington would occupy hundreds of acres of prime waterfront shipping property with storage for raw coal. There are far more job-intensive uses for port lands. For example, a marine construction company leasing just 3.5 acres of land and a new cold storage facility on 17 acres of land at the Port of Tacoma are each expected to generate 100 new jobs.<sup>26</sup> A Port of Seattle economic impact study found that shipping 1,000 metric tons of grain—a bulk commodity like coal—generated just 0.09 jobs, compared to 0.57 jobs for containerized cargo and 4.2 jobs for “break bulk” cargo, such as big machines or goods shipped on pallets, which requires more handling.<sup>27</sup> A study at the Port of Baltimore came to similar conclusions, finding that coal export supports just 0.11 jobs per 1,000 metric tons, as compared to 0.41 for other dry bulk commodities, 0.43 jobs for containerized cargo, and even 1.71 jobs for autos.<sup>28</sup>

Millennium Bulk Terminals in Longview estimates that it would employ 70 people to move about 5 million tons of coal.<sup>29</sup> Millennium’s purchase of the property displaced 50 workers from the previous employer, however, so the net gain would be 20 jobs.<sup>30</sup> In Bellingham, project developers say that a 24-million-ton facility, which is planned to be operational in 2015, would employ 89 workers. Proponents estimate that in 2026, if the entire 54 million ton facility is completed, the coal terminal would directly employ about 280 people.<sup>31</sup>

It’s important to understand the jobs numbers in context. The result is that coal exports at Longview, even if the entire 70 jobs are counted, can only be counted on to directly increase employment in Cowlitz County by less than two tenths of one percent. Meanwhile, coal exports at Cherry Point would directly increase employment in Whatcom County by less than one tenth of one percent by 2026.<sup>32</sup>

It is also important to weigh the promise of jobs against the economic threats of investing in the “most risky” coal market. Portland’s gamble on coal was ridiculed for costing jobs: “By signing a 25-year lease with Pacific Coal, Port officials tied up 90.69 acres of riverfront land suitable for heavy industry at a time when the Portland area desperately needed jobs.”<sup>33</sup>

Today, it is not surprising that the Ports of Tacoma, Vancouver, Kalama, and Portland are leery of investing in coal after the history of failure.

#### **4.) A Longview case study: Cleaning up a dirty site attracts jobs**

Millennium proposes to use a former mill site owned by Alcoa in Cowlitz County to export coal. The site, which features 416 acres of prime waterfront industrial land, is contaminated with pollution from the mill operation. Cowlitz County now faces a choice for the site: approve Millennium’s proposed coal export terminal or force Alcoa to clean

it up to attract other business. Alcoa has already signed an Agreed Order with the Department of Ecology, in 2007, that mandates Alcoa to clean up the site's pollution.<sup>34</sup>

Alcoa has a good track record cleaning up aluminum mills and selling the land for more productive uses. In the last 5 years, Alcoa has successfully completed cleanup of former aluminum mills in Troutdale, Oregon and Vancouver, Washington.<sup>35</sup> Alcoa even received a national award for its cleanup of the Troutdale site.<sup>36</sup> Both sites are now active industrial areas.

In Troutdale, the recently cleaned site is now the home of a FedEx Ground regional distribution center that employs over 750 people.<sup>37</sup> And in Vancouver, the Port purchased Alcoa's cleaned up 218-acre mill site and now expects up to 1,000 new jobs there. The Vancouver site, now called Terminal 5, will be put to immediate use to construct improved rail service and accommodate a surge in wind turbines and other cargos, while preparing for more development of the marine terminal in the near future.<sup>38</sup>

The employment numbers for coal exports don't stack up well. The proposed coal export terminal at Longview would occupy 416 acres of heavy industrial waterfront property and produce 70 jobs (with a net gain of 20 new jobs)—less than 0.2 jobs per acre. By contrast, the Troutdale facility occupies 700 acres of heavy industrial property, but supports 1.1 jobs per acre. The Port of Vancouver site, with 218 acres of heavy industrial waterfront, generates 4.6 jobs per acre.<sup>39</sup>

## Conclusion

West Coast coal terminals have a history of failure. The terminals locked in otherwise productive land use for years without delivering on promises of tax revenues and jobs. The cost of these failures is borne by the communities. When the facilities don't work out, the specialized equipment is difficult to remove or resell. Land and water pollution at coal export harbors is both inevitable and potentially irreversible. Millions must be spent to approximate clean-up and rededicate the land, often to lower-value uses.

*Brett VandenHeuvel is executive director of Columbia Riverkeeper, a nonprofit organization that works to protect the Columbia, reduce toxic pollution in river communities, and restore salmon runs.*

*Eric de Place is senior researcher at Sightline Institute, an independent, nonprofit research and communications center—a think tank—for the Pacific Northwest.*

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<sup>1</sup> Peter Gartrell, "Port of Tacoma Torpedoes Coal Export Terminal Plan," Platts Coal Trader, November 22, 2010.

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- <sup>2</sup> Angelo Bruscas, "RailAmerica drops pursuit of coal terminal for Grays Harbor," *The Daily World*, August 14, 2012, <http://thedailyworld.com/sections/news/local/railamerica-drops-pursuit-coal-terminal-grays-harbor.html>.
- <sup>3</sup> Aaron Corvin, "Port Dodges Coal, Embraces Potash," *Vancouver Columbian*, April 3, 2011, <http://www.columbian.com/news/2011/apr/03/dodging-coal-embracing-potash-the-port-of-vancouve/>
- <sup>4</sup> Aaron Corvin, "Port Dodges Coal, Embraces Potash," *Vancouver Columbian*, April 3, 2011, <http://www.columbian.com/news/2011/apr/03/dodging-coal-embracing-potash-the-port-of-vancouve/>
- <sup>5</sup> Email from Mike Schiller, operations manager, Port of Vancouver, Washington to Alastair Smith, November 20, 2008 (obtained from Public Records Act request).
- <sup>6</sup> Email from Mark Wilson, development manager, Port of Kalama, to Mark Wilson, Ambre Energy, July 6, 2010.
- <sup>7</sup> May 25, 2011 Port of Portland letter to Columbia Riverkeeper, Enclosure 1 ("talking points" dated March 22, 2011).
- <sup>8</sup> May 25, 2011 Port of Portland letter to Columbia Riverkeeper, Enclosure 1 ("talking points" dated March 22, 2011).
- <sup>9</sup> Dave Gambrel, "Building a Coal Terminal on the West Coast," *Coal Age*, November 18, 2010, <http://www.coalage.com/index.php/features/763-building-a-coal-terminal-on-the-west-coast.html>.
- <sup>10</sup> "Improved Domestic Coal From China May Slow Imports," June 21, 2011, <http://www.marketwatch.com/story/improved-domestic-coal-out-from-china-may-slow-imports-2011-07-21>.
- <sup>11</sup> In Los Angeles, for example, the city's projected losses were to include: writing off the city's \$19 million investment; forfeiting nearly \$94 million in projected revenue; losing access to 117 acres of harbor land; paying \$1 million to clean up approximately 36 acres of that land. (See Patrick McGreevy, "L.A. Weighs Costly Exit From Coal Terminal," *Los Angeles Times*, June 14, 2003, <http://articles.latimes.com/2003/jun/14/local/me-coal14>.)
- <sup>12</sup> Eric Goranson, "Coal's once bright future goes up in smoke," *The Oregonian*, February 14, 1983.
- <sup>13</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.
- <sup>14</sup> Bob Olmos, "Pacific Coal terminal under way in Portland," *The Oregonian*, March 2, 1982.
- <sup>15</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.
- <sup>16</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.
- <sup>17</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.
- <sup>18</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.
- <sup>19</sup> "Planned coal-export terminal promises jobs, taxes," *Los Angeles Business Journal*, August 23, 1993, <http://www.entrepreneur.com/tradejournals/article/14361631.html>.
- <sup>20</sup> Deborah Belgum, "Huge Coal Storage Facility Fuels Fears," *Los Angeles Times*, August 16, 1996, [http://articles.latimes.com/1996-08-16/local/me-34702\\_1\\_coal-storage](http://articles.latimes.com/1996-08-16/local/me-34702_1_coal-storage).
- <sup>21</sup> "Planned coal-export terminal promises jobs, taxes," *Los Angeles Business Journal*, August 23, 1993, <http://www.entrepreneur.com/tradejournals/article/14361631.html>.
- <sup>22</sup> "Planned coal-export terminal promises jobs, taxes," *Los Angeles Business Journal*, August 23, 1993, <http://www.entrepreneur.com/tradejournals/article/14361631.html>.
- <sup>23</sup> Exponent, "Coke and Coal Shiploader Fire: Los Angeles Port," <http://www.exponent.com/Coke-and-Coal-Shiploader-Fire-Los-Angeles-Port/>.
- <sup>24</sup> Patrick McGreevy, "L.A. Weighs Costly Exit From Coal Terminal," *Los Angeles Times*, June 14, 2003, <http://articles.latimes.com/2003/jun/14/local/me-coal14>.
- <sup>25</sup> LAXT's development and subsequent closure also sparked a firestorm of lobbying, backroom deals, and lawsuits. As one city councilmember at the time put it, "Every lobbyist I have ever heard of is in this chamber... I would like to

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know where, if [the terminal] is on the verge of bankruptcy, they got the money to hire all these lobbyists." The *LA Times* reported that the terminal, "made 25 political contributions totaling more than \$10,000 to city officials and candidates including Mayor James K. Hahn and his sister, Councilwoman Hahn." (See Patrick McGreevy, "L.A. Weighs Costly Exit From Coal Terminal," *Los Angeles Times*, June 14, 2003, <http://articles.latimes.com/2003/jun/14/local/me-coal14>; Patrick McGreevy, "L.A. To Pay \$28 Million to Settle Port Suit," *Los Angeles Times*, December 14, 2006, <http://articles.latimes.com/2006/dec/14/local/me-settle14>; and Patrick McGreevy, "City Is Hit With \$4 Million in Claims Over Rejected Port Project," *Los Angeles Times*, June 11, 2004, <http://articles.latimes.com/2004/jun/11/local/me-laxt11>).

<sup>26</sup> Port of Tacoma, "Construction starts on new cold storage facility at the Port of Tacoma," January 12, 2010, <http://www.portoftacoma.com/Page.aspx?cid=4229>; and Port of Tacoma, "Port of Tacoma leases to marine contractor for new Northwest base," March 24, 2010, <http://www.portoftacoma.com/Page.aspx?cid=4365>.

<sup>27</sup> Martin Associates, "The 2007 Economic Impact Study of the Port of Seattle," February 10, 2009, [http://www.portseattle.org/downloads/business/EconomicImpact\\_20091.pdf](http://www.portseattle.org/downloads/business/EconomicImpact_20091.pdf).

<sup>28</sup> Martin Associates, "The Economic Impacts of the Port of Baltimore," January 28, 2009, [http://mpa.maryland.gov/\\_media/client/planning/EconomicImpactReport-revisedJan'08.pdf](http://mpa.maryland.gov/_media/client/planning/EconomicImpactReport-revisedJan'08.pdf).

<sup>29</sup> Erik Olson, "Westshore Provides Glimpse of Longview's Potential Future With Coal," *Longview Daily News*, February 12, 2011, [http://tdn.com/news/local/article\\_35ad9c0c-3634-11e0-8eea-001cc4c03286.html](http://tdn.com/news/local/article_35ad9c0c-3634-11e0-8eea-001cc4c03286.html).

<sup>30</sup> Andre Stepankowsky, "Millennium Buys Chinook Ventures Site, Pledges Cleanup of Contamination," *Longview Daily News*, January 12, 2011, [http://tdn.com/news/local/article\\_463012b6-1e7f-11e0-957c-001cc4c002e0.html](http://tdn.com/news/local/article_463012b6-1e7f-11e0-957c-001cc4c002e0.html).

<sup>31</sup> Gateway Pacific Terminal, <http://www.gatewaypacificterminal.com/economic/localstate.shtml>.

<sup>32</sup> All employment and labor force figures come from US Bureau of Labor Statistics, "Labor Force Data By County, 2010 Annual Averages," <ftp://ftp.bls.gov/pub/special.requests/la/laucnty10.txt>.

<sup>33</sup> James Long and Leslie L. Zaitz, "A terminal case: Demise of coal port more than just bad luck," *The Oregonian*, March 14, 1984.

<sup>34</sup> Washington State Department of Ecology, Agreed Order No. DE 4263, In the Matter of Remedial Action by Northwest Alloys Inc. and Chinook Ventures Inc. (2007).

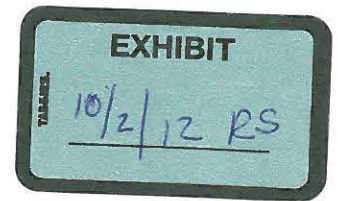
<sup>35</sup> Oregon Department of Environmental Quality, "Environmental Cleanup Site Information (ECSI) Database Site Summary Report – Details for Site ID 154, Reynolds Metals Co," <http://www.deq.state.or.us/lq/ECSI/ecsidual.asp?seqnbr=154>; Washington Department of Ecology, Port of Vancouver (Former Alcoa/Evergreen Smelter), [http://www.ecy.wa.gov/programs/swfa/industrial/alum\\_alcoavan.htm](http://www.ecy.wa.gov/programs/swfa/industrial/alum_alcoavan.htm).

<sup>36</sup> Alcoa, "Alcoa Receives National Excellence in Brownfield Redevelopment Award," April 6, 2011, [http://www.alcoa.com/global/en/news/news\\_detail.asp?pageID=20110406006385en&newsYear=2011](http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20110406006385en&newsYear=2011).

<sup>37</sup> Alcoa, "Alcoa Receives National Excellence in Brownfield Redevelopment Award," April 6, 2011, [http://www.alcoa.com/global/en/news/news\\_detail.asp?pageID=20110406006385en&newsYear=2011](http://www.alcoa.com/global/en/news/news_detail.asp?pageID=20110406006385en&newsYear=2011).

<sup>38</sup> Port of Vancouver, "Terminal 5 Brings New Jobs, Business and Rail to the Port of Vancouver," <http://www.portvanusa.com/marine-terminals/new-marine-terminal>.

<sup>39</sup> Port of Vancouver, "Cleanups," <http://www.portvanusa.com/environmental-programs/cleanups>.



RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION TO OPPOSE THE TRANSPORT OF COAL FOR EXPORT THROUGH MILWAUKIE.**

**The City Council of the City of Milwaukie finds:**

A. Whereas, the Oregon International Port of Coos Bay (the "Port") is in talks with a partnership of corporations proposing to ship domestic coal from the Port to Asian markets. The proposal, called Project Mainstay, would build a new terminal and ship 6-10 million tons of coal per year. The coal would travel over 1,000 miles by rail before reaching the Port.

B. Whereas, this coal would originate in the Powder River Basin of Wyoming and Montana and would be shipped to Asia. The Port of Coos Bay states that as many as four 120-135 car trains, 1.25-1.5 miles long each, two full and two empty, could pass through Milwaukie every day. Each train would require four diesel engines. The City of Milwaukie has three at-grade crossings on the Union Pacific rail line within the city limits. Three additional at-grade crossings lie just outside the City limits. Mile and half long coal trains traveling at a maximum 25mph could block intersections in Milwaukie for over 5 minutes. This would increase traffic congestion issues and delay emergency response vehicles at rail crossings.

C. Whereas, federal statute limits the amount rail companies contribute to the cost of rail infrastructure and improvements, and local municipalities often bear the vast majority of these costs.

D. Whereas, according to findings from the Environmental Protection Agency and research in other communities, Milwaukie would likely experience significant negative impacts to public health, existing businesses, property values, and air and water quality.

E. Whereas, these mile and half long trains which typically carry over 100 tons of coal can lose up to 3% of their load in transit as fugitive coal dust. The train cars are not likely to be covered due to cost and the danger of fires because Powder River Basin coal is highly combustible. No regulation currently exists requiring the trains be sprayed with a chemical surfactant to mitigate the coal dust lost en route. Moreover, no research or evidence exists to demonstrate that surfactant is effective after the first 100 miles traveled.

F. Whereas, fugitive coal dust will negatively impact local businesses, farms, schools, homes and crops. Property values along coal transport routes have been shown to decline. As well, local food production is likely to sustain adverse impacts.

G. Whereas, coal dust contains toxic heavy metals, including mercury, arsenic, and lead. All are known to have serious adverse health impacts on people of all ages, particularly children and the elderly. These heavy metals, as well as emissions from the diesel-powered engines, are linked to increases in cancer, asthma, bronchitis, emphysema, stroke, autism, and birth defects. The train tracks through Milwaukie go directly through neighborhoods with populations that

already face adverse health impacts. The tracks also pass near schools and assisted living facilities.

H. Whereas, mercury and other toxic air pollutants produced from burning coal in Asian nations have been shown to adversely impact the Northwest's air, water, fish, and wildlife. Pacific Northwesterners have fish consumption levels much higher than the national average, and are thus disproportionately impacted by mercury contamination in fish. Mercury bioaccumulates in the food chain, particularly impacting pregnant women and children in utero.

I. Whereas, exporting to, and burning coal in Asia will hasten the adverse effects of climate change and extreme weather events. Exporting coal to Asia will extend the period of time that Asian nations are reliant on coal, resulting in greater worldwide toxic air pollution.

J. Whereas, the net cumulative energy consumption to mine, transport, and ship coal from the Powder River Basin to Asia far exceeds the energy output. In a climate challenged world, this proposal increases the threats associated with climate change for hundreds of small and vulnerable communities. This proposal also contradicts the stated goals of our region and state with regards to promoting renewable energy production and implementing measures to increase the conservation of existing energy resources.

K. Whereas, impacts associated with proposed coal train exports contradict important elements of the *City of Milwaukie Vision Statement*.

**NOW, THEREFORE, BE IT RESOLVED by the City of Milwaukie as follows:**

**Section 1.** While we support the use of rail on the Coos Bay Rail Link for freight, and the resulting jobs at the Port of Coos Bay, we find that coal trains through our City will have adverse health, safety, transportation, social, economic, and environmental consequences for Milwaukie without any benefit to our community. Allowing coal trains to pass through our City is not compatible with the City's efforts to improve air quality, enhance public health and safety, and to create and maintain a liveable community.

**Section 2.** Exporting coal to Asia is inconsistent with Oregon's efforts to reduce toxic emissions, to move toward a lower carbon future, and to create clean energy jobs.

**Section 3.** The City of Milwaukie shall diligently enforce local, state and federal laws protecting public health, safety, and air and water quality to prevent the transport of coal through the City of Milwaukie.

**Section 4.** We fully support Governor Kitzhaber's request that the U.S. Army Corps of Engineers prepare an area-wide comprehensive environmental impact statement (EIS) to examine the cumulative health and environmental impacts of the five coal export proposals in the Pacific Northwest, as well as the potential effects in this country of the use of coal in Asia. Until and unless an area-wide EIS is completed, Milwaukie calls on the State of Oregon to refrain from issuing permits for coal export proposals.

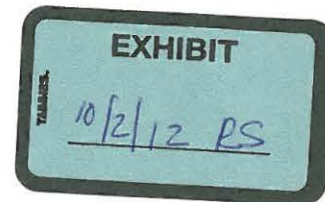
**Section 5.** The City of Milwaukie calls on the federal government to conduct a thorough Environmental Impact Statement for each individual coal export proposal, and for the State of Oregon to refrain from issuing any permit for a coal export proposal until the EIS is complete and citizens have had an opportunity to comment.

Section 6. The City of Milwaukie joins the call for review of a comprehensive independent Health Impact Assessment before any permits are approved for any proposed coal export project.

Section 7. This resolution shall be sent to Governor Kitzhaber, Senators Wyden and Merkley, Congressman Schrader, Secretary of the Interior Salazar, Secretary of the Army McHugh, General Temple of the US Army Corp of Engineers, Director Abbey of the Bureau of Land Management, and our state legislators. The City shall lobby on its behalf where appropriate.

**Section 6.** This Resolution is effective immediately upon its passage by the City Council.

**The foregoing Resolution adopted on the \_\_\_ day of \_\_\_\_\_, 2012.**



## Anti-coal action from Portland City Council would widen rural-urban divide

Published: Tuesday, September 18, 2012, 5:00 AM



By **Guest Columnist**

By **John Whitty**

This week, the Portland City Council is scheduled to consider a **resolution against coal exports in Oregon**. The resolution may have a more narrow focus, like addressing concerns over the safe transportation of coal in and around the Portland area, but it looks as if the intent is to register political opposition to coal exports and to stop coal exports in Oregon.

Those of us who live in rural Oregon respect the right of elected officials from Portland to express themselves on behalf of the constituents they represent. That is what representative democracy is all about. But what members of the City Council need to remember, along with Portlanders in general, is that this is precisely the kind of political action that infuriates many people who live outside Portland, particularly those of us who live in parts of Oregon that have never escaped from the recession that began in 1980 and continues through today.

We all know Oregon has been hit hard by the great recession. Economic hardship is not limited to rural or urban, Democrat or Republican, but it is a fact that while the Portland area has begun to see economic recovery on the horizon, the recession has never left many rural parts of the state. The debate over coal exports exposes this problem and makes it even worse.

Rural areas and smaller towns, such as Coos Bay, Boardman and St. Helens, have far fewer economic tools than cities such as Portland and Eugene. Just as Portland seeks to maximize its strength as a lifestyle destination to attract businesses, rural communities must also maximize their strengths. In the case of shipping terminals and coal exports, that means our port facilities and proximity to rail and shipping.

Regrettably, the ideological agenda of those who don't like fossil fuels and coal ignores the opportunity for Oregon to create jobs and build a stronger statewide tax foundation to fund critical services, such as public schools. Rural Oregon would like to contribute its fair share to the state's tax coffers, but that is hard to do when a large percentage of our people have no jobs or have jobs that pay only minimum wage. Further, actions that weaken the economy of rural Oregon add more people below the poverty line, leading to a greater tax burden for the metropolitan areas.

Oregon needs to come together to solve its economic challenges, not be driven apart by narrow political

agendas, however well-intended. If the city of Portland takes action that blocks economic opportunities for its sister communities in other parts of Oregon, it sends a clear and powerful message that it doesn't understand or care about the state as a whole.

Being against coal exports is easy, safe politics in Portland; no courage required. Cast the vote, get the applause and move on. But what Oregon needs more than ever from its largest city is an understanding of rural communities battling poverty and in some cases fiscal insolvency. We need statesmanlike actions that heal the rural-urban divide, not empty resolutions that make it worse.

*John Whitty lives in Coos Bay. The Portland City Council **hearing on a resolution opposing coal trains** coming through the city is scheduled for Wednesday.*

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# Union Pacific Coal Trains in the Pacific Northwest

**How many coal trains per day does Union Pacific currently move in Oregon and Washington? What route do these trains take?**

- We do not currently move any coal trains through the Columbia River Gorge for our customers. We do not move any coal trains from Portland to Seattle or from Portland to Eugene for our customers. The only coal train we currently move through Washington and Oregon for one of our customers originates with Union Pacific in Spokane, Washington, travels through eastern Washington crossing the Columbia River near Hermiston, Oregon, and is delivered to Boardman, Oregon, once a week.

**Through how many communities does Union Pacific transport coal?**

- We currently haul coal on behalf of our customers through thousands of communities around our 23-state network. We have not had any complaints regarding our coal trains coming from communities in the Pacific Northwest.

**How many additional trains will Union Pacific add to facilitate the coal traffic coming to Oregon and Washington?**

- There are three proposed facilities that could create an opportunity for our current customers to increase coal shipments with Union Pacific: the port of Coos Bay, the port of Morrow, and the Longview, Washington area.
- Analysis by third parties including the Western Organization of Resource Councils and the Washington Department of Transportation have estimated that Union Pacific customers could have an additional six to nine coal trains per day moving through the Columbia River Gorge. Our current estimates are much lower than that. The same third parties have predicted that Union Pacific would deliver up to two trains a day to the port of Morrow through Spokane, Hermiston and then to Boardman. We currently deliver one train a week to Boardman from Spokane.
- In both the Columbia River Gorge route and the route along the I-5 corridor the additional coal trains that eventually may be added would still be a small percentage of our train traffic. Assuming the additional train count at full build out were added to our 2012 business, these routes would still see fewer trains than were on these tracks as recently as 2007.

### **What does Union Pacific currently do to mitigate problems with coal dust?**

- In the Wyoming Powder River Basin, Union Pacific addresses the issue of coal dust at the mine source in cooperation with customers and BNSF Railway (BNSF). Along with producers, shippers, suppliers and BNSF, we are continuing to look at new technologies that ameliorate dust issues on and around our infrastructure.
- Any coal trains originating in the Powder River Basin for the proposed export facilities in the Pacific Northwest would be treated with surfactant to minimize dust problems.
- In other areas where we transport coal for our customers such as Utah and Colorado, coal dust has not been an issue in communities where our trains operate or for our customers at the mine source. The coal we move from Colorado and Utah is not covered or treated to minimize dust. Powder River Basin coal has different characteristics and is known to produce more dust than coal coming from other mines around the country.

### **Has coal dust ever created problems on Union Pacific track?**

- Our experience has shown that the problems caused by coal dust on our infrastructure are concentrated on lines closer to the mine source with much higher volumes than would move to Pacific Northwest terminals. With 60 to 70 trainloads of coal per day operating on the joint rail line in the Powder River Basin that both BNSF and Union Pacific own, the combination of unequalled volume and proximity to the loading sites has impacted railroad track. On Union Pacific-owned track where we operate 30 to 35 trainloads of coal per day further away from where the trains are loaded, the coal dust has less impact on our track.
- Our primary focus at Union Pacific is safety and efficiency. We inspect our track regularly and invest heavily to enhance our infrastructure. This year we are investing \$3.6 billion to maintain and enhance our network.

### **Will the coal business you add to your track in Oregon and Washington displace Amtrak or other existing trains on your lines?**

- No. Our top priority is to provide our existing customers excellent service. We are constantly looking for ways to provide current and potentially new customers with high value logistics solutions. New customers do not come online at the expense of existing business.
- The "Coast Starlight" which operates between Los Angeles, and Portland, operates two trains per day for a total of 14 per week. The "Cascade" commuter service operates between Eugene and Seattle with four trains per day for a total of 28 per week. None of these train slots will change due to freight traffic. Any additional passenger train requests would be reviewed by Union Pacific using our established procedures and principles for passenger service discussions.

If you have any further questions, please contact Brock Nelson, Director of Public Affairs, by phone at 503-249-3079, or by email at [banelson@up.com](mailto:banelson@up.com).

###



**REVISED**

**AGENDA**

**MILWAUKIE CITY COUNCIL  
OCTOBER 2, 2012**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2135<sup>th</sup> MEETING**

**REGULAR SESSION – 7:00 p.m.**

- |   | <b>Page<br/>No.</b> |
|---|---------------------|
| <b>1. CALL TO ORDER</b><br>Pledge of Allegiance   |                     |
| <b>2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS</b>   |                     |
| <b>A. Presentation by Power Past Coal and the Milwaukie Coal Task Force<br/>Bethany Cotton and Chris Ortolano</b>   |                     |
| <b>3. CONSENT AGENDA</b> <i>(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.)</i>   |                     |
| <b>A. City Council Minutes</b>  | <b>2</b>            |
| 1. August 21, 2012 Regular Session  |                     |
| 2. August 28, 2012 Study Session  |                     |
| 3. September 4, 2012 Work Session   |                     |
| 4. September 4, 2012 Regular Session  |                     |
| 5. September 18, 2012 Work Session  |                     |
| <b>B. Initiation of Code Amendments for Downtown Zoning – Resolution</b><br>Staff: Ryan Marquardt, Senior Planner   | <b>25</b>           |
| <b>4. AUDIENCE PARTICIPATION</b> <i>(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.)</i> |                     |
| <b>5. PUBLIC HEARING</b> <i>(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.)</i>   |                     |
| <b>A. None scheduled</b>  |                     |

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. **Residential Development Standards Code Amendments, File #ZA-11-03, CPA-11-04 – Ordinance, 2<sup>nd</sup> reading** **28**  
**Staff: Ryan Marquardt, Senior Planner**
- B. **Council Reports**

7. **INFORMATION**

8. **ADJOURNMENT**

**Public Information**

- **Executive Session:** The Milwaukie City Council will meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.
- 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.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3.

# CONSENT AGENDA

**CITY OF MILWAUKIE  
CITY COUNCIL REGULAR SESSION  
AUGUST 21, 2012**

**CALL TO ORDER**

**Mayor Ferguson** called the 2132<sup>nd</sup> meeting of the Milwaukie City Council to order at 7:10 p.m. in the City Hall Council Chambers.

Present: Council President Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Community Development/Public Works Director Kenny Asher, Associate Planner Ryan Marquardt, Associate Planner Li Alligood, and Community Services Director JoAnn Herrigel

Media: Victoria Edwards, *The Oregonian*

**PLEDGE OF ALLEGIANCE****PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****A. Acknowledge Joan Young's Retirement from the Milwaukie Center**

**Ms. Herrigel** provided highlights of Joan Young's 20-year career at the City of Milwaukie. The City Council expressed its appreciation for the wonderful job Ms. Young had done during her years of service to the community.

**B. Introduction of Clackamas Fire District #1 Chief Fred Charlton**

**Chief Charlton** introduced himself and provided a brief report on District activities and organizational focus including succession planning, capital project planning, and establishing financial efficiencies. He commented on the District's pride of being a significant participant in the community.

The Mayor and Councilors commended the District on its performance in the community and looked forward to working together in the future.

**C. Government Finance Officers Association Award for the Popular Annual Financial Report**

**Ms. Camors** reported this was the third award the City received and presented the plaque to the Mayor and City Council.

**CONSENT AGENDA**

It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the consent agenda as presented.

**A. City Council Minutes of:**

1. June 26, 2012 Study Session;
2. July 3, 2012 Regular Session; and
3. August 7, 2012 Work Session

Motion passed with the following vote: Councilors Miller, Chaimov, Hedges and Loomis and Mayor Ferguson voting "aye." [5:0]

## AUDIENCE PARTICIPATION

**Greg Hemer**, Milwaukie, thanked the City of Milwaukie and its residents for paving Monroe Street making it safer for all. He looked forward to completion of the Harrison Street project.

**Nancy McCarty**, Milwaukie, expressed concern with the 30% increase on wastewater and the sewer rates. Her monthly bill would be as much as the previous two bi-monthly bills. Did Clackamas County increase its rate by 30%?

**Mayor Ferguson** understood the rate increases had been substantial and suggested that staff meet with Ms. McCarty to discuss her bill as well as explain winter averaging.

**Councilor Hedges** added the County increase was approximately 44%, so the money was not there to subsidize the increase without a rate increase.

**Richard Cayo**, Milwaukie, was so appalled by the baseball proposal that he decided to run for a Council seat. The City Council had directed Mr. Monahan to pursue this who in turn directed Mr. Asher. He noted the salary and benefits of each of those City employees. A lot of money was spent to come to a standstill. There went the money for other projects. He thought the baseball feasibility studies could have been carried out for about \$10,000. He felt heads should roll.

## PUBLIC HEARING

### **A. Residential Development Standards Code Amendments, File #ZA-11-03, CPA-11-04 – Ordinance**

**Mayor Ferguson** called the public hearing on the legislative Comprehensive Plan amendment, File# CPA-11-04 and amendments to Milwaukie Municipal Code Titles, 14, 17, and 19, File ZA-11-03 initiated by the City of Milwaukie to order at 7:42 p.m.

The purpose of the hearing was to consider an ordinance to adopt proposed amendments to the Comprehensive Plan Chapter 4 and Milwaukie Municipal Code Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance.

This was a legislative decision by the City Council based on statewide planning goals, applicable federal or state laws and rules, applicable plans and rules adopted by Metro, applicable City Comprehensive Plan policies, and applicable provisions implementing ordinances.

**Mayor Ferguson** reviewed the order of business. The City Council decision was the final decision of the City. All testimony and evidence had to be directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail would preclude an appeal based on that criterion or issue. Any party with standing could appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. Persons with standing were those who submitted written comments or testified and signed the City Council Attendance sign-up sheet.

Conflicts of interest: No members of Council declared a potential or actual conflict of interest.

Challenges: No member of the audience made any challenge to any Council member's ability to participate in the decision.

### Staff Report

**Mr. Marquardt** and **Ms. Alligood** provided the staff report. The project started in 2009 with the Smart Growth Code Audit that identified gaps in regulations and out of date policies. The purpose of the project was to address gaps and barriers in development

standards, accommodate the changing needs of Milwaukie residents, and ensure that future development fit in the existing neighborhoods. At the outset of the project a core set of issues related to single- and multifamily residential development were identified. The project assumptions and values were no zoning map changes, zoning density changes, design standards would be style neutral and support good building and site development without being cost prohibitive, support compatibility with the existing neighborhoods, and support sustainable solutions. Public involvement included a 10-person Project Steering Committee, 20 one-on-one interviews, four focus group meetings, a survey, and written comments. The Planning Commission held six hearings and five work sessions between October 2011 and January 2012.

**Mr. Marquardt** provided a summary of the amendments: multifamily design standards, cottage clusters and rowhouses, accessory dwelling units, single family design standards, development standards, and accessory structures. Cottage clusters were typically small houses oriented around a central open space with shared parking. Rowhouses were typically located on narrow lots with parking in the rear. These types of development would be allowed in medium and high density areas. Accessory dwelling units were typically 800 square feet or less.

Proposed multifamily design standards addressed open space and amenities, parking, landscaping, building design and materials, privacy, sustainability, and safety. Mr. Marquardt showed a number of slides of cottage clusters and rowhouses and the locations of medium and high density zones in Milwaukie. Accessory dwelling units (ADU) would be allowed on single-family dwelling lots and would have to meet design and privacy standards. Larger ADU's would require neighbor notice and a comment period.

**Mr. Marquardt** addressed single family design standards including articulation, eyes on the street, a main entrance, design details, and garages and carports. Development standards regulated form and size of the building overall including lot coverage, building height, and front yard vegetation. The final issue was accessory structure standards. For example, garages or sheds of structures between 200 – 600 square feet were changed little, and for structures larger than 600 square feet more flexibility was proposed. Design standards would prohibit metal siding on structures of more than 10-feet in height or a footprint greater than 200 square feet. Structures located in a front, side, or street side yard and were visible from the street would require exterior siding and roofing materials commonly used on residential structures.

The key issues were ADUs and privacy, single-family design standards, and accessory structure standards. Overall there was a lot of support for detached ADUs; however, privacy was a major concern. The initial draft of the proposal was based on common elements from other jurisdictions, and the Planning Commission modified the draft to incorporate more privacy. He discussed the Type I review process which was done by the Planning Director based on clear and objective standards. The Type II review process would include notification with review criteria related to maximized privacy, minimized impacts, compatible materials and design, and appropriate screening and privacy design.

The single family design standards focused on basic components of good house design, compatibility with requirements in other jurisdictions, and costs. The key changes for accessory structure standards were that larger structures were allowed if they were set back from the lot line. Smaller structures could be closer to the lot lines, and front yard placement would not be allowed. In terms of design standards metal siding would be prohibited if a structure were 10-feet tall or 200 square feet. Commonly used residential siding and roofing materials could not be used unless the structure was located in the back yard or not visible from the street.

**Mr. Marquardt** reviewed the decision options and noted there was no legal deadline for adoption and noted there was no legal deadline for adoption.

#### Correspondence

**Ms. Allgood** said the City had received an email from Forest Zachary sent on August 21, 2012 supporting the proposed amendments.

#### Testimony in support

**Lisa Batey**, Milwaukie, spoke as Planning Commission Chair. She gave an overview of the meetings, and what was before the City Council was a consensus project. What motivated the project had been contentious issues, and this gave staff and the applicant the tools to address mass size issues and parking lot issues. Design standards would make it easier to integrate manufactured homes into the neighborhood. She encouraged the City Council to adopt the package to address what she believed would be an upcoming boom in multifamily housing making these standards particularly important. There were other matters and issues that came up in public comment that did not really fit with this package such as the Made in America proposal and tarps and temporary structures that were property maintenance issues that she hoped would be on a future work plan.

**Forest Zachary**, Milwaukie, spoke in support of the ADU which in his situation would help him care for a family member.

**Dion Shepard**, Milwaukie, supported the residential design standards because the City was in dire need of them. She was on the Steering Committee and had concerns about the Historic Milwaukie Neighborhood being mostly zoned multifamily. Many questions and concerns expressed at the Planning Commission were in the proposed document, and she understood some issues could not be addressed in this document but hoped those would be considered in the future. She suggested a planner look at the site when an ADU was going to be placed and how it would affect adjacent properties in a Type I application. Most glaring to her was land use and the number of units committed to Metro in Historic Milwaukie. She was told that would be infill and redevelopment, but 1700 units would take out most of the neighborhood. She asked that the City Council consider updating the Comprehensive Plan and historic resources inventory.

**Ray Bryan**, Milwaukie, extended his appreciation to the planning staff and Planning Commission for their efforts. He was pleased the standards would be in place before light rail began. He would like stability in housing choices. Although he understood the demand for ADUs, he hoped that neighboring property owners would have a chance to comment. He asked that the City Council consider fully funding the Walk Safely Milwaukie Program (WSMP) in the future and direct staff to pursue properties with maintenance and management uses. He urged review of the Comprehensive Plan and that staff and the Park and Recreation Board (PARB) acquire more park space perhaps starting with the Hager property. He asked that permit application be posted online and that all schools be zoned as open spaces.

**Greg Hemer**, Milwaukie, supported Mr. Bryan's comments and expressed his appreciation for the planning staff's work and the Planning Commission's review. He hoped steps would be taken to address property maintenance issues. He addressed the Made in America Home and said he felt it should be included in this document as it was a matter of choice and addressed quality and good and sound practices. The Made in America Home was a positive environmental improvement and if documented would indicate the City of Milwaukie's commitment.

**Mark Gamba**, Milwaukie, had been working on this project for two years beginning on the Steering Committee and then the Planning Commission. Everything had been

carefully reviewed, and the amendments were desperately needed as Milwaukie was on the cusp of residential building. It gave options to the Historic Milwaukie Neighborhood with which he felt the residents would be more comfortable. All in all of it would make building in Milwaukie substantially better. ADUs would be a huge help to Milwaukie citizens, and he strongly supported the adoption of the package as it was presented.

**Clare Fuchs**, Milwaukie, supported Mr. Gamba's and Ms. Batey's comments. In her case, the ADU was important to help her disabled brother by offering the important opportunity for some independence with care. She was concerned about the City's having lower residential development standards than neighboring jurisdictions. Cluster cottages and rowhousing were good ways to bridge the gap for young homebuyers.

#### Neutral Testimony

**Jean Baker**, Milwaukie, was on the Steering Committee and Co-chair of the Historic Milwaukie Neighborhood. She appreciated all the work done by the Planning Commission and planning staff, and she hoped the Made in America Program would be considered. She discussed the importance of a livable community and family-friendly development. She felt the standards for multifamily had been low and was a disservice to the community. Do not give density bonuses for amenities that were not defined and ask for things that truly improved the quality of life. She noted how well appointed Waverly Greens Apartments was with swimming pools and tree houses. She would love to see Milwaukie as place where people wanted to live with building quality that gave residents a sense of home. She encouraged working to define quality building.

#### Testimony in Opposition

**Don Sparks**, Milwaukie, appreciated the Planning Commission and planning staff work, most of which was good. ADUs and multifamily design standards had been a long standing issue. He did have an issue with single family residential design standards and did not believe the City had good reason for these restrictions. Language regarding garages and carports should be eliminated or reduced. Residential design standards, such as articulation, resulted in added costs.

#### Questions from the City Council:

**Councilor Hedges** said in one paragraph it was stated that a garage would not be allowed in the front of a house. What was the front of the house?

**Mr. Marquardt** replied it was typically the front wall of the house or the longest street facing wall of a living area.

**Councilor Hedges** thought leaving it as "front" might lead to an argument or an attempt to twist the language around. What was the issue with metal siding?

**Mr. Marquardt** responded the prohibition applied to accessory structures and was in response to concerns about pole buildings and not necessarily ADUs.

**Ms. Alligood** added the concern was about corrugated metal.

**Mr. Marquardt** suggested more specific language about what types of metal siding might be allowed and being able to match what was on the main structure.

**Council President Chaimov** asked if there could be allowances for the shape of a lot.

**Mr. Marquardt** said there was always an opportunity for a variance which was not an inexpensive effort. He discussed development of a pie-shaped cul-de-sac lot.

**Council President Chaimov** understood the residents of Historic Neighborhood were concerned about zoning and development of single family residences.

**Ms. Alligood** stated much of the Historic Milwaukie Neighborhood was zoned multifamily and noted the Town Center area also encompassed the Murphy and McFarlane properties. If zoning were changed, density would have to be accommodated in other parts of the City.

**Councilor Miller** understood zoning density would not change with ADUs.

**Mr. Marquardt** responded currently accessory dwelling units were not included in density calculations. It was changing the form of how that dwelling unit was allowed.

**Councilor Miller** understood only one ADU was allowed for single family residences and asked what types of living standards were required.

**Mr. Marquardt** said ADUs could be in any zone but had footprint or size restrictions. They could be no closer than 5 feet from the property line.

**Ms. Alligood** added the building code looked at basic levels of safety.

**Councilor Miller** asked why neighbors were notified only on larger ADUs.

**Mr. Marquardt** replied smaller ADUs went through a review process based on clear and objective standards thereby not having as many impacts. A more blanket notification could be considered.

**Councilor Miller** asked if there were an appeal process for a Type I approval.

**Ms. Alligood** explained the Type I application went through the planning director, and the applicant could appeal. The Type II application included notification. There was a process question about how much neighbors could control what one did with his or her property.

**Councilor Loomis** referred to Mr. Hemer's comments about the Made in American Home and asked what drawbacks the Planning Commission had identified about adding that language.

**Mr. Marquardt** said it was not really a design standard. The matter was a little removed from the main point of these amendments and was atypical for what the Planning Department reviewed, although it might count toward design standards.

**Ms. Alligood** added the design standards did not really provide that kind of program incentive. One of the issues was verifying after the fact, and she suggested there might be an award or recognition program.

**Councilor Loomis** was concerned about adding costs to single family residences.

**Council President Chaimov** suggested that staff bring back some amended language based on these comments.

**Mayor Ferguson** recommended the Made in America proposal be considered separately from this package and suggested creating a fee structure to include a percentage refund of certain fees.

**Mr. Monahan** recommended looking at a fee structure other than building fees and to consider that in the next budget process or adjusting the current budget.

**Councilor Miller** was concerned about how one might verify that type of program and supported the idea of looking at it as a separate program.

**Councilor Hedges** would like to see maintenance addressed including half-finished buildings. His main concerns had to do with privacy and notifying abutting neighbors of ADUs of less than 600 square feet. If unable to resolve issues, he felt one should have the opportunity to ask for a Type II review with the right to appeal to the Planning Commission.

**Mr. Monahan** said in order to make that work in a practical sense, the applicant would have to bring a list of property owners and display signatures of those within the described zone as part of application.

**Mr. Ramis** thought that may be an impermissible delegation, but he would look at a way to craft.

**Councilor Miller** thought all ADUs should go through a Type II review.

**Ms. Alligood** described the cost differences between the types of review and the time required for approval.

**Councilor Loomis** was not really in favor of having to ask neighbors if a project met their standards.

**Council President Chaimov** requested language creating some sort of exception process that was less expensive and onerous than a variance application when a person had a lot that, because of its physical properties, would make the design standards impractical.

**It was moved by Council President Chaimov and seconded by Councilor Hedges to continue the hearing on ZA-11-03 and CPA-11-04 to September 18, 2012. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting “aye.” [5:0]**

## **OTHER BUSINESS**

### **A. Baseball Phase Four Findings**

**Mayor Ferguson** made a number of comments related to the timing of this matter and preparation of a ballot measure.

**Mr. Asher** discussed the downsizing of the project to address the needs of the West Coast League (WCL) compared to those of a Single A team. Although the stadium would be smaller, there would be less private money. It had always been a question of funding, and Hillsboro had changed the dynamic. All of the cost estimates and job and economic outputs had not been completed as yet. Generally speaking, the West Coast League was still interested, and the advisors believed it was still a good deal. He was not sure where the City was with the Oregon Department of Transportation (ODOT).

**Councilor Hedges** thanked Mr. Asher. The City Council gave it its best shot, but baseball had lost its support when the City did not get the North West League. He recommended putting funds toward the development of Riverfront Park.

**Council President Chaimov** thanked Mr. Asher and the great team of citizen and professional advisors. The process resulted in the most enthusiasm he had seen from residents and excitement about something positive. Others throughout the state recognized the project for its high quality work and public involvement. Although it did not succeed, it was not for lack of effort.

**Councilor Miller** said Mr. Asher gave the project his best effort based on City Council direction. He agreed with Councilor Hedges' comments related to Riverfront Park. The City gave its best effort to the baseball project, and now it was time to move on.

**Councilor Loomis** stated this had been a great process and was disappointed Milwaukie was not to be able to recover from the curveball Hillsboro threw. It was not money wasted, and he believed it would work someday. He thanked those who had been involved throughout the process.

**Mayor Ferguson** said this was a City Council lead project to make Milwaukee a destination community that incorporated light rail. He understood there was not the support to continue. The success was that a new segment of the community had become involved. A lot of people asked hard questions. He especially wanted to thank ODOT for its cooperation and felt the two entities would enjoy a stronger relationship in the future. Even though the City Council did not achieve its goal, it did learn how to put together a professional team. He now wanted to focus on Riverfront Park and South Downtown.

**Councilor Hedges** commented on the selection of a talented team of consultants.

**B. Council Reports**

**Mayor Ferguson** and Councilors reported on meetings they had attended on behalf of the City and announced upcoming events.

**ADJOURNMENT**

**It was moved by Mayor Ferguson and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting “aye.” [5:0]**

**Mayor Ferguson** adjourned the regular session at 10:18 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**MINUTES**  
**MILWAUKIE CITY COUNCIL STUDY SESSION**  
**August 28, 2012**

**Mayor Ferguson** called the study session to order at 5:45 p.m. in the City Hall Conference Room.

Council Present: Council President Greg Chaimov and Councilors Dave Hedges, Mike Miller, and Joe Loomis

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Community Services Director JoAnn Herrigel, Civil Engineer Brad Albert, Contract Planning Director Scot Siegel, Community Development / Public Works Director Kenny Asher

Media: Victoria Edwards, *The Oregonian*

**Public Area Requirements (PAR) Process Update**

**Mr. Asher** went through a chronology of the Public Area Requirements (PAR) and the history of the Main / Monroe Building.

**Mr. Siegel** provided an overview of how the City Council might want to approach fast tracking the PAR amendments and fine tuning of the zoning ordinance. The PARs were addressed in the zoning ordinance and what triggered public improvement requirements. The details were an ancillary document to the Comprehensive Plan. The second set of amendments had to do with permitted uses. He noted the downtown code looked at a very small area, and staff would form recommendations to make uses more flexible.

First, staff looked at other codes to get a baseline of how competitive the City of Milwaukie might be in terms of development requirements. Of the communities surveyed, Gresham, Troutdale, Fairview, Oregon City, and Wood Village, each had certain requirements that generally applied to new development or large additions. All communities had the authority to require safety improvements and transportation system enhancements identified in their planning and design codes. Most cities supported downtown development standards with regulations with some kind of assistance or public/private partnership. Mr. Siegel provided a schedule for the public review process that included a Planning Commission hearing on November 13 and City Council hearings on December 4 and 18. Key stakeholders were Dark Horse Comics, North Main Village, Ed Aaron, Ed Parecki, Lee Holzman, Oregon Worsted, Jay Horton, Jim Bernard, Metro, and the Department of Land Conservation and Development (DLCD).

**Council President Chaimov** asked if businesses outside of the downtown such as NatureBake were included in the list of stakeholders.

**Mr. Asher** replied the PARs only had to do with the downtown.

**Mr. Siegel** discussed waiver practices of other cities in the region and added that some had urban renewal districts and grant programs. He briefly reviewed permitted uses and the probable staff recommendation that certain restrictions be eliminated. Changes in usage may not be other than for requirements for safety and transportation

enhancements. There may be parking lot requirements such as adding a path to a building.

**Mr. Albert** discussed transportation and pedestrian safety elements.

**Councilor Miller** had concerns about requiring additional parking when there was no space available. He believed the PARs were for the public and should be paid for by the public. Milwaukie needed to enhance its downtown and be business friendly.

**Mayor Ferguson** asked if the requirements could be suspended until the code was amended.

**Mr. Ramis** responded the City Council could adopt an ordinance repealing the provisions and suspend the charge. It could also consider an extension of the grant program.

**Mr. Monahan** summarized the City Council could either increase the amount in the grant program or come up with a way to repeal the provisions pending adoption of new language. The City Council would have to weigh the risks. Currently there were two development upgrades in the works. The obligation would shift to the City under certain scenarios.

**Mr. Asher** observed the risk was more about equity and figuring out a way all property owners were getting the same deal. He thought the perception of preferential treatment was more of a risk.

**Councilor Hedges** did not support putting City money into improvements as he did not see why citizens should subsidize businesses.

**Mr. Albert** discussed trip generation and rough proportionality to which a dollar value was applied.

**Council President Chaimov** heard two discussions. Mr. Siegel had been charged with coming up with a new proposal for code amendments upon which all seemed to agree. He felt that part should move forward while the Council worked more on those elements upon which members did not agree. He suggested a future study session with a menu of options and which of those would work best until the code was fixed.

**Mr. Asher** anticipated Mr. Aaron would submit his application at the end of the week. Staff could work on interim options, but the range may be limited. He added the tenant may not have an occupancy permit.

The group discussed possible refund options if an applicant paid for something after August 31.

**Councilor Miller** understood the total charges were about \$33,000. He felt the requirements would drive businesses out.

**Mayor Ferguson** proposed applying \$6,000 in grant funds and having the business owner be responsible for the remainder of the fees.

**Council President Chaimov** urged the Council to make a decision on what to do retroactively so businesses could plan.

### **UGMA Strategy**

**Ms. Bankhead** provided a timeline of prior actions and discussions. Milwaukie staff relayed the City Council's position on keeping the UGMA at I-205 with a willingness to consider removing the east side of I-205 from the map and agreement. Happy Valley

relayed that its Council would, in fact, consider going to Linwood Avenue. She briefly discussed the Happy Valley option to take the area south of the Multnomah County and Clackamas County border. Since Happy Valley was further along in the process, Mr. Monahan asked for more time for the City of Milwaukie to focus on its proposal. Since that time the Clackamas County Community Development Director had worked to set up meetings with County Commissioners to determine the feasibility of an overlapping boundary which may or may not be consistent with Commissioners' desires. The Gladstone City Manager was also going to speak with his Council. Milwaukie staff was currently looking at its service agreements, and Jordan Ramis staff was working on strategic options.

**Mr. Monahan** said staff would continue discussions with Happy Valley and will keep the City Council informed of what alternatives it might consider. Discussions about an overlapping boundary were underway with Metro.

**Ms. Bankhead** said Milwaukie would put forth the argument of equity and balance with Clackamas County. She discussed the feasibility of a cherry stem annexation to the Clackamas Town Center and also annexing the residential area.

It was City Council consensus to hold the line at I-205 and potentially give up the UGMA east of the freeway. Members did not want to split at Sunnyside Rd. for service provision reasons. It was necessary to be perfectly upfront and above board in these discussions.

### **Electronic Communication Policy**

**Ms. Bankhead** discussed the policies adopted by other cities and what this City Council might wish to implement. She briefly reviewed the draft guidelines.

**Mr. Monahan** asked if the City Council wished to adopt guidelines and apply those to the appointed advisory boards and commissions.

**Council President Chaimov** thought the City Council should not make or receive communications in quasi-judicial situations, and if pertinent the communication should be disclosed to the rest of the group. The group discussed decorum and respect for those speaking. It was agreed the Mayor and Councilors would send their comments to Ms. Bankhead.

### **Discussion of Willamette Falls Media Center**

**Councilor Hedges** announced his resignation from the Board as he was concerned about the Willamette Falls Media Center (WFMC) being able to fulfill its commitments. He was concerned about its survival and noted it was unprofessionally organized, and professional staff was being eliminated. If Milwaukie pulled out, he doubted the organization would survive.

**Ms. Herrigel** said the current contract expired on September 30.

**Councilor Hedges** reviewed the options. Others suggested talking with Clackamas County, North Clackamas School District, and Mt. Hood Community College.

**David Aschenbrenner**, Milwaukie, said he would help verify some of the technical aspects.

**Council President Chaimov** would like to review the pros and cons of new future options and make a decision. He did not want government access to lapse but might find a lapse in public access acceptable for the time being.

**Ms. Herrigel** commented on the use of PEG fees.

**Mayor Ferguson** adjourned the study session at 7:29 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**MINUTES**  
**MILWAUKIE CITY COUNCIL WORK SESSION**  
**SEPTEMBER 4, 2012**

**Mayor Ferguson** called the work session to order at 5:00 p.m. in the City Hall Conference Room.

Council Present: Council President Chaimov and Councilors Dave Hedges and Mike Miller, and Joe Loomis

Staff Present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Public Affairs Coordinator Grady Wheeler, Assistant to the City Manager Teri Bankhead, Community Services Director JoAnn Herrigel, Public Affairs Coordinator Grady Wheeler, Assistant Finance Director Rina Byrne, Operations Director Gary Parkin, and Community Development and Public Works Director Kenny Asher.

Media: Victoria Edwards, *The Oregonian*

**City Manager's Report**

**Mr. Monahan** reviewed the evening's agenda. As the first Tuesday of January 2013 was a holiday, it was agreed the City Council would meet on Wednesday January 2, 2013, at which time the swearing in of the new Councilors would take place.

The group discussed the Finance Department's efforts to form an Audit Committee and Ms. Camors' preference for a 3-member Committee with one member experienced in municipal audits. The Mayor and Council agreed a certain area of expertise was needed, but there was some concern about identifying a Certified Public Accountant (CPA) with municipal experience. Ms. Camors would begin the recruitment process and keep the City Council informed.

**Mr. Monahan** discussed recent contacts with Dena Swanson, former owner of the Kronberg property. Would the City Council be willing to provide Ms. Swanson what TriMet provides the City in terms of compensation for the temporary easement? If that would satisfy Ms. Swanson, then would the City Council consider that to be appropriate? Mr. Monahan did not believe it was going to be a significant amount of money.

**Councilor Loomis** suggested the City might consider putting any funds into the development of Kronberg Park such as preparing a master plan.

**Councilor Miller** thought the commitments in the purchase agreement should be reviewed.

**Mr. Monahan** discussed the documentation that stated the property would be used for park purposes and named Robert Kronberg Park. He said this was not a land dedication where the language of the dedication stated that the property would revert to prior owners if used for other purposes.

**Councilor Hedges** had concerns about setting a precedent. TriMet was willing to compensate the owner of the property which was the City of Milwaukie.

**Council President Chaimov** agreed with Councilor Loomis and did not support making payments to the prior owner.

**Mr. Monahan** announced a Council candidate orientation later in the month, and City Council concurred with the proposal.

**Ms. Bankhead** noted she had sent the City Council draft language related to Boards, Commissions, and Committees and encouraged responses.

**Ms. Bankhead** updated the City Council on the recent Downtown Business Group meeting convened last week. She provided a handout prepared by Clackamas County. Among the items discussed by the Group were public area requirements (PAR), parking, and the feasibility of an elected official's attending. **Mayor Ferguson** was not in favor of appointing a Council designee. **Councilor Miller** offered to attend.

### **Community Development and Planning Active Projects**

**Mr. Asher** reviewed the Dark Horse Relocation and gave a status report on the South Downtown Implementation / Adams Street Connector Project. The connector would be for pedestrians and closed to traffic other than emergency vehicles. He was working with Ms. Herrigel to coordinate outreach of both the South Downtown Project and Riverfront Park. He was working on a prospectus for the Light Rail Station Building with the hope approaching developers this fall for design/build proposals. Staff was updating the Kellogg for Coho materials, and the Bertman House lease agreement was under legal review.

### **Kellogg for Coho Initiative**

**Mr. Asher** introduced Paul Sherman and Julie Mentzer from Wildlands Inc. He gave an overview of the proposed Kellogg for Coho Initiative that include removing and demolishing the box culvert under McLoughlin Boulevard, draining Kellogg Lake, restoring the creek and banks, and perhaps developing Kronberg Park. He discussed the Portland Harbor Superfund Process in which this project was a strong contender for funding and future restoration.

**Ms. Mentzer** provided an introduction of Wildlands and its background in conservation projects and land management. The company was established in 1991 with offices and projects in Oregon, Washington, and California. There were over 41,000 acres under permanent protection and over 80 restoration projects with nine in Oregon and Washington. She described the commercial wetland mitigation and conservation banks and showed slides of a number of projects undertaken by Wildlands. Ms. Mentzer discussed the Natural Resource Damage Assessment (NRDA) Process and the Portland Harbor Superfund Site which was a national priority. She reviewed the role of the Trustee Council and the phased NRDA approach.

The City of Milwaukie and Wildlands were looking at entering into a partnership with the goal of restoring Kellogg Creek for the benefit of native salmonids and lamprey. Wildlands offered project development and expertise, financing, technical studies, and coordination with the Trustee Council and regulatory agencies. The process would begin with a feasibility study to review data, development of a preliminary design, and provision of additional technical studies. That would be followed by permitting and entitlement, construction, and monitoring and maintenance using an endowment fund. She discussed the credit methodology that was based on the lift and value of a project. The credits would be sold to parties responsible for the Portland Harbor conditions. Wildlands has a reputation for meeting its goals within the established timeframe. The Portland Harbor Trustees were discussing a 10-year timeframe.

**Ms. Mentzer** reported Wildlands was working on the feasibility phase to identify a preliminary design, review data, and discuss credit amounts with the Trustees. There would be a market analysis to determine if the project can be financed by the sale of credits.

There was City Council consensus to support Mr. Monahan's and Mr. Asher's moving forward with the Kellogg for Coho Initiative and Wildlands.

### **Response to Metro on Construction Excise Tax (CET) Grant**

**Mr. Asher** reported on the City's \$224,000 Metro Construction Excise Tax (CET) grant award related to the Commercial Core Enhancement Program (CCEP) that would help identify problems related to impediments to redevelopment and possible implementation tool in urban renewal. The Oregon Court of Appeals supported Metro's program, so it was free to release grant funds and was seeking a formal response from the City of Milwaukie. He discussed the urban renewal planning elements as well as the opportunity sites that included the Murphy and McFarland properties, the Texaco block, the Triangle site, and the Kellogg Treatment Plant site. The Downtown Plan and code refresh would include technical reports on the policy effectiveness and financial and market feasibility of the downtown code and a recommendation to correct deficiencies.

**Council President Chaimov** asked that Mr. Asher bring back the original proposal in a comprehensive way to help with the City Council discussion.

**Councilor Miller** thought it would be good to know these things, but he would not support an urban renewal project and tax increment financing.

**Councilor Hedges** was concerned about the general fund match and the amount of staff time involved which he inferred was not feasible. He was not happy about the urban renewal part in the current financial climate as he felt that boat had sailed.

**Councilor Loomis** would like to know from Mr. Monahan if there were adequate staff time. He was not an urban renewal fan but would like to have more information for the next City Council meeting.

**Council President Chaimov** summarized the City Council would like to know how to staff and fund the project and to have a sense of what the tradeoffs would be.

**Mr. Asher** thought the work load impacts analysis would be done in a week. It would also require a cash match. Metro did not feel good about not tying the funds to urban renewal.

**Mr. Monahan** said it would be on the September 18 City Council agenda for action.

### **City Council Position on Coal Train**

**Mr. Wheeler** provided an update on the coal train proposal. At its August 7 work session the City Council directed staff to develop information the Mayor could share with the Oregon Passenger Rail Leadership Council, speak with Port of Coos Bay representatives to learn more about Project Mainstay, gather information about coal train impacts from other communities, and contact other jurisdictions who have adopted resolutions to get more information on their findings. He discussed safety and noise issues.

**Mayor Ferguson** provided a timeline of proposed actions on this matter and hoped to deliver a Milwaukie City Council resolution to Coos Bay in November expressing the City's position and providing an executive summary. He was willing to take charge of the process with Mr. Wheeler's help in preparing the information for the other groups.

It was the consensus of Council that Mayor Ferguson should move forward.

**Councilor Hedges** would like substantive, unbiased information on the number of trains going through Milwaukie per day.

**Mayor Ferguson** added there was also great concern about the unit trains coming through the community. He liked the Eugene City Council resolution and would work with Mayor Piercy and the Leadership Council.

**Councilor Miller** wanted information on the speed and length of the trains and how long the crossing might be blocked.

**Councilor Loomis** was not in favor of something that caused health concerns, and there was the bigger discussion of shipping coal to other countries. He would like information on how the impacts could be mitigated.

**Mayor Ferguson** adjourned the work session at 6:49 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL REGULAR SESSION  
SEPTEMBER 4, 2012**

**CALL TO ORDER**

**Mayor Ferguson** called the 2133<sup>rd</sup> meeting of the Milwaukie City Council to order at 7:02 p.m. in the City Hall Council Chambers.

Present: Council President Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Community Development & Public Works Director Kenny Asher, Associate Engineer Matt Palmer, and Public Affairs Coordinator Grady Wheeler

Media: Victoria Edwards, *The Oregonian*

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**CONSENT AGENDA**

**No items scheduled**

**AUDIENCE PARTICIPATION**

**Mary King**, Milwaukie, Ardenwald resident, spoke in opposition to coal trains coming through Milwaukie. The City Council must consider it was making a decision on the climate for the rest of the years on Earth. This was a global decision. The coal would be burned in China and come back to us in the form of air pollution. Why should we care about Coos Bay? There was no payback for the other communities.

**Jean Baker**, Milwaukie, spoke in opposition to coal trains. They were out of place. It would be a dirty, heavy industrial use going through some of our most precious land. It was important to stand up for the community and protect what we have. She discussed how dangerous it could be for emergency vehicles and observed long trains could be deathtraps for our community.

**Ed Aaron**, Main/Monroe Investors, talked about his ongoing frustration with Public Area Requirements (PAR) and a letter he had recently received from Brad Albert in the Engineering Department that stated he owed \$26,500 because of impacts caused by a change of use. He had restored a 50-foot façade through the grant program and now had a tenant in the building. He read a memo into the record. According to the letter from Mr. Albert, the certificate of occupancy would not be issued until the PARs were paid. Mr. Aaron looked forward to a speedy resolution of the PAR issue.

**Chris Ortolano**, Milwaukie, Hector Campbell Neighborhood, spoke in opposition to the coal train proposal on behalf of the Milwaukie Coal Train Task Force. He pointed out the risks to public health and safety. He hoped that David Petrie would have a seat at the September 25 City Council study session.

**Vincent Alvarez**, Milwaukie, Lake Road Neighborhood, spoke in opposition to the transportation of coal via rail through Milwaukie. He stated he did not see any upside for Milwaukie or any other communities along the rail lines as the profits of this enterprise would probably not be shared. He addressed health impacts and congestion.

**Clodine Mallinckrodt**, Milwaukie, talked about her first-hand experiences with the health impacts of heavy metals. She hoped the Milwaukie City Council would consider health implications when making its decisions.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Kellogg Bike/Pedestrian Bridge Betterments Intergovernmental Agreement**

**Mayor Ferguson** recused himself and Council President Chaimov presided over the discussion.

**Mr. Asher** and **Mr. Palmer** reviewed the elements of the intergovernmental agreement (IGA) for City infrastructure improvement projects to be considered as future additions to the light rail project construction contract including the Kellogg Multiuse Bridge and Trail. Certain City projects in close proximity to the alignment could be considered with TriMet working with the contractors and the City hopefully getting a better price. These might be stormwater or sewer pipe upgrades or transportation improvements. Mr. Asher said one betterment under the IGA was the Kellogg Multiuse Bridge using \$200,000 in grant funds which the City would commit to TriMet. He added the trail portion of the project would go through the Planning Commission. He discussed the connection to the Lake Road Station with crosswalks and a “go slow” street design.

**Councilor Miller** asked who would pick up the difference if the project exceeded the \$1.4 million.

**Mr. Asher** said the IGA acknowledged that permitting and cost overrun responsibilities were the City’s. Staff would inform the City Council if the Bridge costs were much higher than estimated.

**It was moved by Councilor Hedges and seconded by Councilor Loomis to adopt the resolution authorizing the City Manager to sign an intergovernmental agreement with TriMet for City infrastructure improvements to be considered as future additions to the light rail project contract including the Kellogg Multi-Use Bridge and Trail. Motion passed with the following vote: Councilors Hedges, Loomis, and Miller and Council President Chaimov voting “aye.” [4:0]**

#### **RESOLUTION 51-2012:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH TRIMET FOR CITY INFRASTRUCTURE IMPROVEMENTS TO BE CONSIDERED AS FUTURE ADDITIOINS TO THE LIGHT RAIL PROJECT CONTRACT, INCLUDING THE KELLOGG MULTI-USE BRIDGE AND TRAIL.**

**Mayor Ferguson** returned to the meeting.

### **B. Council Reports**

**Mayor Ferguson** and Councilors reported on meetings they had attended on behalf of the City and announced upcoming events.

## **ADJOURNMENT**

**It was moved by Mayor Ferguson and seconded by Councilor Chaimov to adjourn the meeting. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting “aye.” [5:0]**

CITY COUNCIL REGULAR SESSION – SEPTEMBER 4, 2012

DRAFT MINUTES

Page 2 of 3

**Mayor Ferguson** adjourned the regular session at 7:44 p.m.  
Respectfully submitted,

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Pat DuVal, Recorder

**MINUTES**  
**MILWAUKIE CITY COUNCIL WORK SESSION**  
**SEPTEMBER 18, 2012**

**Mayor Ferguson** called the work session to order at 5:01 p.m. in the City Hall Conference Room.

Council Present: Council President Chaimov and Councilors Dave Hedges, Mike Miller, and Joe Loomis

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Attorney Tim Ramis, City Recorder Pat DuVal, Police Chief Bob Jordan, Community Services Director JoAnn Herrigel, Public Affairs Coordinator Grady Wheeler, Community Development and Public Works Director Kenny Asher, Planning Director Steve Butler, Civil Engineer Jason Rice, and Assistant Finance Director Rina Byrne.

Media: Victoria Edwards, *The Oregonian*

**City Manager's Report**

**Mr. Monahan** reviewed the evening's agendas. He provided an update on Dena Swanson's request and reported she found the solution regarding the TriMet payment was not sufficient. The group discussed upcoming study session dates and scheduling a meeting with the North Clackamas School District Board. Mr. Monahan announced the candidate orientation on September 19 and Budget Committee meeting on September 20.

**Community Development and Planning Active Projects**

**Mr. Asher** introduced Planning Director Steve Butler. He reported on the proposed Downtown Reimbursement Code Amendments and the process for Planning Commission and Design and Landmarks Committee consideration.

**Council President Chaimov** asked if there were an appeal process for the Community Development Director's determination.

**Mr. Asher** said there was no appeal process if all the information was submitted with the property owner's request.

**Councilor Miller** asked if the fees could be waived until the code was amended. People were still being hung up with payments, and he felt that was negative to businesses.

**Mr. Asher** agreed that was a problem, and staff was looking at how to fix the problem. Until there was a new policy in place, staff had to enforce the code.

**Councilor Miller** said at one time Mr. Monahan had drafted a resolution that suspended the requirements for 18 months.

**Mr. Monahan** said the solution at the time had been the grant program. He discussed the time limit on reimbursement of 365 days after the effective date.

**Councilor Miller** was concerned about the upfront money and out of pocket expense. It seemed vague as to when the money would be paid back.

**Councilor Hedges** felt it was important to apply some common sense and commented on enforcement. The City could say it would waive fees until the code amendments were adopted; however, that would leave a debt hanging over the owners' heads.

**Mr. Monahan** thought it would be best to have this discussion with the City Attorney to get a full understanding of the options.

**Mr. Asher** discussed the Commercial Core Enhancement Project (CCEP) using Metro Construction Excise Tax (CET) funds. He believed the Project could be done, but other projects would be slowed down or put off until 2014. He provided a list of projects with timelines.

**Council President Chaimov** thought the cost of slowing down certain projects would outweigh the benefits of the CCEP.

**Councilor Miller** could not accept the delay of some of the projects.

**Councilor Hedges** felt too much would be given up if the CCEP took priority.

**Councilor Loomis** liked the program.

**Mayor Ferguson** would like to do the program, but the money was not identified in the budget.

### **Public Safety Advisory Committee Update**

**Chief Jordan** was joined by Public Safety Advisory Committee (PSAC) **Chair Don Wiley** and member **Linda Hedges**.

PSAC had worked on a number of projects over the past year including the prescription drug turn in, document shred day, Officer of the year dinner, 9K for K9 fundraiser, development of community safety awareness, and the Walk Safely Milwaukie Program (WSMP).

**Mr. Wiley** added PSAC was planning a safety fair to coincide with the next Shred Day event. The Committee was still working with Milwaukie High School on the photo radar tutorial.

**Chief Jordan** commented on the presumptive fine schedule that went into effect January 1, 2012. The assessment fee, used to fund community education and speed reader signs, was no longer available. Those funds would have to be taken out of existing revenue.

**Mayor Ferguson** asked for information on the revenue impact and added he would like to be able to keep that funding in place.

**Chief Jordan** would work with the Finance Department on this matter and report back.

**Mr. Monahan** commented there would be a photo radar program review next summer.

The group discussed signage when the van was deployed. **Chief Jordan** would provide some photographs of the signage. He noted the camera flashed only for those vehicles that were speeding.

**Council President Chaimov** appreciated the Police Department's participating in Cycle Oregon.

**Councilor Hedges** hoped support would continue for the Walk Safely Milwaukie Program (WSMP).

**Ms. Hedges** applauded the engineering staff that had worked very hard on the WSMP and saved the City money on the projects. PSAC made some changes to the more objective components of the criteria, but no new projects had been submitted for funding.

**Councilor Loomis** appreciated the Committee's involvement with the Officer of the Year dinner and its work on the light rail project.

### **Options for Public and Government Access**

**Ms. Herrigel** discussed options for providing public and government access. She had contacted a number of organizations including Mt.r. Hood Community College, Clackamas County, Sabin-Schellenberg, and MetroEast Community Media. The most optimistic response was from Portland Community Media. She suggested authorizing the City Manager to extend the Willamette Falls Media Center (WFMC) contract to November 30 while the contract was being reviewed. She further recommended sending out a request for qualifications (RFQ) to have someone on call to address any lapses in services.

**Councilor Hedges** noted the WFMC staff was very professional, but the Board was neither professional nor organized. He was concerned the City would be without coverage for its meetings.

The Mayor and Councilors concurred that the agreement with Willamette Falls Media Center should be extended while the City went out for a request for proposals (RFP).

### **Riverfront Park Status Report**

**Ms. Herrigel** updated the City Council on the Klein Point Project that was scheduled for completion by the end of October. She provided a status report on the rest of the project and looked forward to regular reporting. There was a fall capital campaign planned to speak with potential donors, and grant opportunities were coming up. She briefly discussed the access issues south of Kellogg to allow Kellogg Treatment Plant and Riverfront Park access. Water Environment Services (WES) and City staff had been meeting to come to terms on the matter, but unfortunately WES continued to express concerns. She described several alternatives and related costs that might include Park redesign. She discussed truck size and load capabilities of the bridge over Kellogg Creek.

**Mayor Ferguson** noted a meeting was being planned with Commissioner Paul Savas, County Counsel, City Attorney Harlan Jones, and he.

**Councilor Hedges** thought the Oregon Department of Transportation (ODOT) and WES might come up with some acceptable alternatives.

**Mr. Asher** said ODOT had not yet permitted this design, but it probably met its standards. WES was concerned about safety and additional operating costs.

**Ms. Herrigel** added that ODOT indicated that a signal was not warranted because of the relatively low number of vehicles accessing the Plant per day. She commented on the McLoughlin Boulevard Improvement design.

**Mr. Asher** noted if the Park were smaller some of the uses would shrink. He thought compromise might require some WES property.

The group discussed the feasibility of WES trucks controlling the lights, and **Ms. Herrigel** said she would check into that.

### **Harrison Street Bike Lanes**

**Mr. Wheeler** and **Mr. Rice** reported on the recent Harrison Street improvements and the Transportation System Plan (TSP) recommendation for bike lanes between 32<sup>nd</sup> and 42<sup>nd</sup> Avenues. As part of the Street Surface Maintenance Program (SSMP) that section of Harrison Street was reconstructed. Adding bike lanes would eliminate on-street parking. They discussed a proposed outreach strategy to get input on the TSP recommendation.

**Mr. Monahan** added the bike lanes were in the TSP, but staff would also be looking at alternatives.

**Mr. Rice** thought about 80 residences and 4 businesses would be impacted.

**Mayor Ferguson** announced the City Council would meet in executive session pursuant to ORS 192.660(2)(h) for consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

**Mayor Ferguson** adjourned the work session at 6:33 p.m.

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Pat DuVal, Recorder



## Memorandum

**To:** Mayor and City Council

**Through:** Bill Monahan, City Manager

**From:** Kenny Asher, Community Development and Public Works Director  
Stephen Butler, Planning Director  
Ryan Marquardt, Senior Planner

**Date:** September 26, 2012 for October 2, 2012, Regular Session

**Re:** Resolution to Initiate Code Amendments for Downtown Zoning

---

City Council has discussed Public Area Requirements (PARs) and downtown zoning at multiple meetings during the past 2 years. Staff had a study session with Council in April 2011 about PARs, a worksession in June 2012 regarding fixes for the downtown code and PARs, and a study session on August 28, 2012 about PARs.

Staff has begun drafts of code amendments pursuant to the discussion at these meetings. The enclosed resolution would formally direct staff to initiate a land use application to amend the Zoning Ordinance to address downtown zoning and PARs. Once initiated, staff would begin processing code amendments for initial hearings by the Planning Commission in November 2012 and for adoption hearings by City Council in December 2012.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING CITY STAFF TO INITIATE AMENDMENTS TO TITLE 19, ZONING ORDINANCE TO ADDRESS ISSUES RELATED TO ALLOWED USES IN DOWNTOWN ZONES AND PUBLIC AREA REQUIREMENTS.**

**WHEREAS**, multiple redevelopment projects in downtown Milwaukie have encountered difficulty with requirements for street frontage improvements, also known as Public Area Requirements; and

**WHEREAS**, the use limitations for areas within the downtown zones are overly prescriptive and in some cases prohibit uses that would be appropriate in downtown; and

**WHEREAS**, City Council desires to remedy these issues to encourage economic development in downtown Milwaukie ; and

**WHEREAS**, amendments to Milwaukie Municipal Code Title 19, Zoning Ordinance are necessary to enact such remedies;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council directs city staff to initiate a land use application to amend Milwaukie Municipal Code Title 19, Zoning Ordinance to resolve obstacles related to allowed uses in and Public Area Requirements in downtown Milwaukie.

Introduced and adopted by the City Council on October 2, 2012.

This resolution is effective on October 2, 2012.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

6.  
OTHER BUSINESS



Agenda Item: 6.A  
Meeting Date: 10/2/12

## COUNCIL AGENDA ITEM SUMMARY

**Issue/Agenda Title:** Residential Development Standards (File #ZA-12-03, CPA-11-04)

**Prepared By:** Ryan Marquardt, Senior Planner  
**Dept. Head Approval:** Stephen Butler, Planning Director  
**City Manager Approval:** Bill Monahan, City Manager  
**Reviewed by City Manager:** 9/21/12

### ISSUES BEFORE THE COUNCIL

Adoption of Residential Development Standards code amendments

### STAFF RECOMMENDATION

Approve the proposed code amendments for File #ZA-12-03, CPA-11-04

### KEY FACTS & INFORMATION SUMMARY

Council voted 3-2 at the September 18, 2012 Regular Session to approve the Residential Development Standards, with revisions for notification of detached accessory dwelling units, crediting vinyl lap siding as a design feature, setting the eyes on the street requirement at 12%, and incorporating amendments proposed in Attachments 2 and 3 of the staff report for the Residential Development Standards from the September 18, 2012 Regular Session. The ordinance in this packet incorporates those changes, and is being brought to City Council for a second reading of the ordinance.

### OTHER ALTERNATIVES CONSIDERED

N/A

### CITY COUNCIL GOALS

N/A

### ATTACHMENT LIST

- 1) Ordinance
  - Exhibit A: Findings in Support of Approval
  - Exhibit B: Code Amendments, underline/strikeout version
  - Exhibit C: Code Amendments, clean version

### FISCAL NOTES

Resources required for reprinting code, updating city forms and informational materials

# ATTACHMENT 1

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN CHAPTER 4, AND THE MILWAUKIE MUNICIPAL CODE TITLE 14 SIGN ORDINANCE, TITLE 17 LAND DIVISION ORDINANCE, AND TITLE 19 ZONING ORDINANCE, TO UPDATE THE CITY'S RESIDENTIAL DEVELOPMENT AND DESIGN STANDARDS. (FILE #ZA-11-03, CPA-11-04.)**

**WHEREAS**, the City of Milwaukie desires to promote smart growth and redevelopment, and ensure that new residential development in the City reflects the desires of the community; and

**WHEREAS**, the City conducted a Smart Growth Code Assessment in 2009, which identified areas in the Municipal Code that present obstacles to smart development and realizing the community's vision for future growth; and

**WHEREAS**, the City Council approved Resolution #27-2010 to execute an intergovernmental agreement with the State of Oregon's Transportation Growth Management Program providing resources to the City to address problems identified by the Smart Growth Code Assessment; and

**WHEREAS**, the City has prepared amendments to the Comprehensive Plan and Municipal Code that address problems identified by the Smart Growth Code Assessment; and

**WHEREAS**, all residential property owners were notified of the amendments and opportunity for public input has been provided at multiple public meetings and through the City website; and

**WHEREAS**, the Planning Commission and City Council have held duly advertised public hearings on the amendments, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes; and

**WHEREAS**, the City Council finds that the amendments will result in updated residential development and design standards that reflect the community's vision for future development; and

**WHEREAS**, the City Council finds that the amendments are extensive in scope and require 60 days from the date of adoption to put into effect.

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

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

Section 2. Amendments. The Comprehensive Plan Chapter 4, and Milwaukie Municipal Code Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance are amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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 Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

Document6 (Last revised 09/18/07)

# ATTACHMENT 1 - Exhibit A

## Findings in Support of Approval

1. The City of Milwaukie (“applicant”) proposes to amend various residential regulations that are contained in Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC), and Chapter 4 of the Milwaukie Comprehensive Plan (MCP). The land use applications for these amendments are ZA-11-03 and CPA-11-04.
2. The purpose of the proposed code amendments is to improve the user-friendliness and clarity of the residential use zones; update Milwaukie’s site development and building design standards for single-family and multifamily housing outside of downtown; and establish policies that reflect the community’s changing housing needs and preferences. While the proposed amendments are located in several titles of the municipal code, the most substantive amendments are proposed to the following chapters of Title 19:
  - Chapter 19.300 Base Zones
  - Chapter 19.500 Supplementary Development Regulations
  - Chapter 19.900 Land Use Applications

Additionally, amendments are proposed to Title 14, Title 17, and Chapter 4 of the MCP to coordinate with the proposed amendments to Title 19.

3. The proposed amendments are subject to the following provisions of the MMC:
  - MMC Section 19.902 Amendments to Maps and Ordinances
  - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
  - A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments are proposed by the City of Milwaukie and were initiated by the Planning Director on December 13, 2011.

- B. MMC Section 19.1008 establishes requirements for Type V review.
  - i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff held a public open house on October 20, 2011, for review of the draft amendments. The Planning Commission and City Council have had numerous worksessions and study sessions about the proposed amendments. The draft amendments were sent to members of the project steering committee, the Planning Commission, and “interested persons” for review on December 13, 2011. Public comments received, including any City responses, are summarized in a separate attachment.
  - ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission’s February 28, 2012, hearing was posted as required on January 27, 2012, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council’s

August 21, 2012, hearing was posted as required on July 20, 2012, at the same locations.

- iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The proposed amendments will apply to all residential properties in the City, and specific property owner notice is not required. All residential property owners were notified of the hearing date via a Measure 56 notice (see Finding 5.B.v).
  - iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. The first evidentiary hearing was held on February 28, 2012, and notice of the proposed amendments was sent to Metro and to DLCD on December 30, 2011.
  - v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. The proposed amendments would affect residential development on residential properties or properties in residential use. The City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all residential property owners in the city on January 26, 2012.
  - vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on February 28, March 13, April 10, April 24, and June 20, 2012, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on August 21, 2012, September 18, 2012, and October 2, 2012, and approved the amendments.
6. MMC Chapter 19.902 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. The City Council finds that these requirements have been met as follows.
- A. MMC Subsection 19.902.3.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008. The Planning Commission held duly advertised public hearings on February 28, March 13, April 10, April 24, and June 20, 2012. The City Council held public hearings on the proposed amendments on August 21, 2012, September 18, 2012, and October 2, 2012. Public notice was provided in accordance with MMC Subsection 19.1008.3.
  - B. MMC Subsection 19.902.3.B contains approval criteria for text amendments to the Milwaukie Comprehensive Plan.
    - i) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

*The proposed amendments are consistent with the relevant goals and policies of the MCP, which are contained in Chapter 4: Residential Land Use and Housing Element.*

*There are several relevant policies contained in this element. Amendments are proposed to sections of the following:*

      - Objective #2, Policy 5

*The proposed amendments retain the policy of protecting lower-density areas from the impacts of higher-density development, while removing unenforceable policies regarding traffic movement.*

- *Objective #3, Policies 1, 2, 5, and 6*

*The proposed amendments retain existing policies regarding compatibility between new multifamily development and existing lower-density development; delete development standards that are more appropriately located in the MMC; and remove references to nonexistent regulations.*

- *Objective #4, Policies 6 and 7*

*The proposed amendments delete references to Design Review for residential development for compliance with federal regulations and to reflect the development review process contained in the MMC.*

- *Objective #5, Policy 2*

*The proposed amendments retain the overarching policy of encouraging the provision of affordable housing through additional density allowances, and relocate specific standards to the MMC.*

- ii) MMC Subsection 19.902.3.B.2 requires that the proposed amendment is in the public interest with regard to neighborhood or community conditions.

*The proposed amendments reflect the community's desire for policies that encourage maintenance of existing housing and sensitivity to existing neighborhoods, while recognizing the importance of housing options for all community residents.*

- iii) MMC Subsection 19.902.3.B.3 requires the public need be best satisfied by this particular proposed amendment.

*The proposed amendments clarify existing policies while retaining their intent; remove unenforceable or confusing language; and update the MCP to relate more closely to the standards contained in the MMC.*

- iv) MMC Subsection 19.902.3.B.4 requires that the proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

*The proposed amendments were sent to Metro for comment. Metro did not submit any comments.*

- v) MMC Subsection 19.902.3.B.5 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

*The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD's comments on the amendments were incorporated into the proposal presented to the Planning Commission at the first public hearing. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.*

- C. MMC Subsection 19.902.5.A requires that changes to the text of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held duly advertised public hearings on February 28, March 13, April 10, April 24, and June 20, 2012. The City Council held public hearings on the proposed amendments on August 21, 2012, September 18, 2012, and October 2, 2012. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.
- i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

*The amendments to Titles 14 and 17 are proposed to be consistent with the amendments to Title 19. 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.*

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

*The relevant section of the Comprehensive Plan is Chapter 4 – Land Use: Residential Land Use and Housing Element. Current Comprehensive Plan goals and policies strongly support City-wide design standards for single-family and multifamily residential development; ensuring development compatible with existing single-family neighborhoods; and provision of a variety of housing types to meet the needs of residents. The proposed amendments:*

- *Strengthen existing single-family design standards.*
- *Establish design standards for multifamily development.*
- *Ensure that new development is compatible with existing development through compatibility standards such as increased setbacks for taller structures.*
- *Allow detached accessory dwelling units (ADUs) in addition to attached ADUs, and reduces the level of review required.*
- *Add rowhouse and cottage cluster development to the housing types allowed in multifamily zones.*

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

*The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments, and was supportive of the addition of cottage cluster housing to the zoning ordinance.*

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

*The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD's comments on the amendments were incorporated into the proposal presented to the Planning Commission at the first public hearing. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.*

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

*The Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments retain the current clear and objective review of single-family housing and duplexes, and provide a choice between clear and objective review and discretionary review of new*

- 7. In publishing the adopted amendments, City Council authorizes city staff to make any adjustments to the graphics in Attachment 1, Exhibits B and C that are necessary to accurately depict the text of the amendments in those exhibits.

**Underline/Strikeout Amendments**

**Comprehensive Plan**

**CHAPTER 4 LAND USE**

**RESIDENTIAL LAND USE AND HOUSING ELEMENT**

**OBJECTIVE #2 — RESIDENTIAL LAND USE: DENSITY AND LOCATION**

To locate higher density residential uses so that the concentration of people will help to support public transportation services and major commercial centers and foster implementation of the Town Center Master Plan.

Planning Concept

The most basic concept underlying residential land use policy in Milwaukie is that the City is and will continue to be composed primarily of single family neighborhoods. Housing types resulting in higher densities are to be concentrated in order to support public transportation services and major commercial centers, have close proximity to major streets, and to lessen the impact of through traffic on single family areas. A range of housing types is encouraged in all areas of the City, as long as the character of existing neighborhoods is not dramatically altered by new development. The Land Use Plan for the City, Map 7, shows how residential areas of differing density will be distributed throughout the City.

Table 2 summarizes the amount of vacant buildable land within each residential land use category and the total number of new dwelling units which would result from full development of these vacant buildable lands. These figures do not include density bonuses which may be available in development of high quality, nor the total variety of housing types which may result from Planned Unit Developments or application of the residential density policies. Residential design policies have little or no effect on the number of new units calculated in Table 2. At the time of full development, some 2,827 potential new dwelling units, added to the approximately 8,377 existing dwelling units, will result in 11,204 total dwelling units. The Town Center is anticipated to accommodate 1,773 new units (approximately 63 percent of the new units) primarily through infill and redevelopment, while vacant land outside the Town Center is anticipated to accommodate 1,054 new units. Because nearly all of the remaining buildable vacant land in Milwaukie is designated as low and moderate density land, distribution of future housing types within Milwaukie will be primarily single family outside the Town Center, with high density housing occurring on redevelopable land in the Town Center. In addition to these estimates, Milwaukie has the capacity for an estimated 198 secondary dwelling units to be developed on existing and future single family lots.

<b>Zone Abbr.</b>	<b>Gross Unconstrained Vacant Land (Gross Vacant Buildable Land—Outside Town Center)</b>	<b>Gross Unconstrained Vacant Land Minus Needed Schools, Park, Church, and Street (Net Vacant Buildable Land—Outside)</b>	<b>Min. Lot Area Per Unit</b>	<b>Max. Res. DU Per Net Acre</b>	<b>With Underbuild (DU Per Net Acre x .97)</b>	<b>DU Estimate (Outside Town Center)</b>	<b>Addnl. DU from Possible Infill (Outside Town Center)</b>	<b>DU Estimate from Vacant Redevelopable Land in the Town Center</b>
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## Proposed Code and Comp. Plan Amendments

		Town Centers)						
R-10	8.31	7.41	10,000	4.36	4.23	36	83	
R-7	19.53	17.95	7,000	6.22	6.04	113	550	
R-5	6.37	5.55	5,000	8.71	8.45	50	221	
R-3	0.12	0.12	3,750	11.62	11.27	1	0	
R-2.5	0.00	0.00	2,000	21.78	21.13	0	0	
R-2	0.00	0.00	2,000	21.78	21.13	0	0	
R-1	0.00	0.00	2,000	21.78	21.13	0	0	
R-1-B	0.00	0.00	2,000	21.78	21.13	0	0	
<b>Totals</b>	<b>34.33</b>	<b>31.03</b>				<b>200</b>	<b>854</b>	<b>1,773</b>

Table 2 methodology summary (detailed methodology in Technical Appendix C, City of Milwaukie Metro Functional Plan Compliance Report:

- Dwelling unit capacity was estimated on a parcel-by-parcel basis.
- *The City of Milwaukie 1998 Housing Inventory* was used to identify vacant residential land in the city.
- Environmentally constrained land, as defined by Metro, was subtracted from gross vacant land to arrive at gross vacant buildable land.
- Gross vacant buildable land was reduced by 5% to account for future needed schools, local and regional parks, and churches.
- A second gross-to-net reduction of 10% or 20% was made for right-of-way, depending on the size of the lot.
- The minimum lot size of each zone was used to determine the maximum dwelling units per acre.
- To account for underbuild, the capacity was reduced by 3% based on a study of actual built densities for housing in Milwaukie (see *Technical Appendix B, City of Milwaukie Metro Functional Plan Compliance Report*).
- To calculate dwelling unit estimate per vacant lot, the acreage of net vacant buildable land was multiplied by the maximum dwelling units per acre and the underbuild factor.
- Additional units were added to Milwaukie's housing capacity for dwelling units likely to be constructed through infill development. The rate of infill used in the above estimates is based on a local study of partitioning trends in the city.
- Estimates for new dwelling units on vacant and redevelopable land in the Town Center were added separately. See the *City of Milwaukie Town Center Master Plan* for the methodology used to estimate new dwelling units in the Town Center.

### Policies

1. Residential densities will be based on the following net\* density ranges:

Low Density (Zones R-10, R-7) - up to 6.2 units per net acre

Moderate Density (Zone R-5) - 6.3 to 8.7 units per net acre

Medium Density (Zones R-3, R-2.5, R-2) - 8.8 to 21.1 units per net acre

High Density (Zones R-1, R-1-B) - 21.2 to 24.0 units per net acre

Town Center: Downtown Residential Transition Area (Zone DR) - 10 to 40 units per net acre

Town Center: Downtown Residential Outside of Transition Area (Zone DR) - 40+ units per net acre

Town Center: Outside of Downtown (Zone R-O-C) -25 to 50 units per net acre

\*In calculating buildable lands, density standards will be applied to net parcel areas to determine the maximum number of dwelling units allowed. Gross site area will be reduced to net site area according to the following schedule:

- Areas one acre or larger will be reduced by twenty percent (20%) for the purposes of right-of-way dedication.
- Areas greater than 3/8 of an acre and less than one acre will be reduced by ten percent (10%) for the purposes of right-of-way dedication. Areas less than or equal to 3/8 of an acre (16,335 s.f.) are assumed to be platted and receive zero reduction for right-of-way.

A general definition of housing types are:

Single family detached - a house normally occupied by one family with no structural connection to adjacent units. The unit may be situated at a specified distance from lot lines, or with one wall on a side property line. Typical density is 4 to 6.2 units per acre.

Cottage cluster – a grouping of individual, detached single-family dwelling units. The units are smaller than a typical single-family dwelling, and are located on their own lot with a limited amount of private yard surrounding the structure. The dwellings are arranged around a central, common open space.

Duplex Single family attached - two units within one dwelling structure, each normally occupied by one family, sharing common structural walls. For purposes of buildable land inventories and needed housing types related to state statutes and statewide planning goals, duplexes are considered as a form of single-family attached housing.

Rowhouse Townhouse - 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. Rowhouses 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.

Multifamily (Condominium) - a single structure containing 3 or more individually owned dwelling units on a lot, with all other common elements, including lot, jointly owned on a specified basis.

Multifamily (Apartment) – a single structure containing 3 or more dwelling units, usually for rent. Each structure and lot are usually under single ownership.

2. Areas may be designated Low Density residential if any of the following criteria are met:
  - a. The predominant housing type will be single family detached.
  - b. Low Density areas are residential areas which are developed at Low Density and little need for redevelopment exists.
  - c. Within Low Density areas, transportation routes are limited primarily to collectors and local streets.
  - d. Low Density areas may include sites where sensitivity to the natural environment or natural hazards necessitate a reduced density.
3. Areas may be designated Moderate Density Residential based on the following policies:
  - a. The predominant housing types will be single family detached on moderate to small lots, and duplex single-family attached units.
  - b. Moderate Density areas are residential areas which are currently developed at Moderate Density and little need for redevelopment exists.
  - c. Within Moderate Density areas, convenient walking distance to a transit stop or close proximity to major trip generators shall be considered.
4. Areas may be designated Medium Density residential based on the following policies:
  - a. The predominant housing types will be duplexes, single family attached units.

- b. Medium Density areas are residential areas with access primarily to major or minor arterials. Siting should not result in increased traffic through Low Density Residential areas.
  - c. Medium Density areas are to be located near or adjacent to commercial areas, employment concentrations or transit stops.
  - d. Medium Density areas may include areas of deteriorating dwellings or structures in neighborhoods in order to stimulate private investment, infilling and redevelopment, provided one or more of the preceding policies apply.
5. Areas may be designated High Density Residential based on the following policies:
- a. The predominant housing types will be multifamily units.
  - b. High Density Residential areas shall be located either adjacent to or within close proximity to the downtown or district shopping centers, employment concentrations and/or major transit centers or transfer areas.
  - c. Access to High Density areas should be primarily by major or minor arterials. ~~Siting of High Density projects shall not cause traffic to move through adjacent lower density designated areas.~~
6. High Density in Mixed Use Areas will be based on the following policies:
- a. Within the Mixed Use Area designated on Map 7, a range of different uses including residential, commercial and office are allowed and encouraged. It is expected that redevelopment will be required to implement these policies, and that single structures containing different uses will be the predominant building type.
  - b. Commercial uses will be allowed at the ground floor level, and will be located relative to the downtown area so that pedestrian access between areas is convenient and continuous.
  - c. Office uses will be allowed at the ground and first floor levels.
  - d. High Density residential uses will be allowed on all levels. At least fifty (50) percent of the floor area within a project must be used for residential purposes.
  - e. Within the Mixed Use Area, a residential density bonus of fifteen (15) percent over the allowable density may be granted in exchange for exceptional design quality or special project amenities.
  - f. All parking must be contained within a project.
7. Town Center Areas will be designated based on the following policies:
- a. Regional Plan Areas are those sites identified within the subareas depicted on the Subareas Map in the Town Center Master Plan as suitable for redevelopment. Within the Town Center areas designated on Map 7, mixed use development combining residential high density housing with retail, service commercial, and/or offices is encouraged. This is intended to foster a Town Center environment in accordance with the Town Center Master Plan.
  - b. A mixed use zone will be applied to designated Town Center Areas as an interim tool to implement the Town Center Master Plan.
  - c. The Downtown and Riverfront Land Use Framework Plan and specific implementing zones shall replace the Mixed Use Zone for Subarea 1 of the Town Center Master

Plan. Specific ratios of retail and office to residential shall be specified by the interim Mixed Use Zone.

- d. Outside of the Downtown and Riverfront Land Use Framework Plan area, the Residential-Office-Commercial (R-O-C) Zone is the most appropriate zone for the Town Center Area.
- e. The Town Center Area shall be served by multimodal transportation options; therefore, on-street parking, shared parking, and enclosed parking are the most appropriate parking options in the Town Center Area. Off-street surface parking is to be discouraged.
- f. A variety of higher density housing is desired in a designated Town Center Area, and the City shall work cooperatively with the private sector to provide a diverse range of affordable housing.
- g. Residential densities in the Downtown Residential Transition Area are in the range of 10 to 40 units per net acre, and 40+ units per acre outside of the Transition Area. Residential densities in the portion of the Town Center outside of Downtown are in the range of 25 to 50 units per net acre.

### **OBJECTIVE #3 — RESIDENTIAL LAND USE: DESIGN**

To encourage a desirable living environment by allowing flexibility in design, minimizing the impact of new construction on existing development, and assuring that natural open spaces and developed recreational areas are provided whenever feasible.

#### Planning Concepts

Residential design policies are intended to ensure a high quality of environmental design, a flexible design approach, and a smooth integration of new development into existing neighborhoods. Density bonuses and transfers will be encouraged so that full development potential on individual parcels may be realized. Transition policies will be applied to reduce any negative impacts of development on adjacent uses. The transition policies will have little or no effect on the number of new units calculated in Table 2.

#### Policies

- ~~1. Access driveways to less than four residential units will not be allowed onto arterials unless it can be shown that no other alternative is possible.~~
- ~~2. Development in new multifamily housing projects in Medium and High Density areas within 400 feet of adjacent Low and Moderate Density areas where those housing types are not allowed, will provide one or more of the following transitions to reduce the impact on lower density areas. Transition measures, subject to approval, include:
  - ~~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 setback of adjacent parcels will be designated as open area. Natural vegetation, landscaping or fencing will be provided sufficient 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 percent 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.~~~~

- d. ~~Planned Unit Development design concept is encouraged whenever possible. When feasible, density transfer will be encouraged so that full development potential may be realized. Encourage units which would be permitted by zoning on hazardous or environmentally sensitive lands to be transferred to areas which are less hazardous or less expensive to develop. Resulting density on the developed portion of a site shall not exceed the density allowed in the next highest residential plan category.~~
1. New multifamily development projects will take measures to reduce potentially negative impacts on existing, adjacent single-family development and adjacent lower-density zones. Such measures may include reduced maximum heights, increased setbacks for large facades, building size limitations, and other design features to maintain privacy of nearby properties.
23. In all Planned Unit Developments, a density bonus up to 20% over the allowable density may be granted in exchange for exceptional design quality or special project amenities.
34. All Planned Unit Developments will have at least one third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.
45. All projects in Medium Density and High Density areas will have ~~at least one third of the gross area~~ devoted to open space and/or outdoor recreational areas. At least half of the ~~required~~ open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets and parking areas, but may include private yards.
56. In all cases, existing tree coverage will be preserved whenever possible, and areas of trees and shrubs will remain connected particularly along natural drainage courses.
67. Specified trees will be protected during construction, in accordance with conditions attached to building permits.
78. Sites within open space, natural hazard or natural resource areas will be protected according to specifications in the Natural Hazard and Natural Resources Elements.

### **OBJECTIVE #4 — NEIGHBORHOOD CONSERVATION**

To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

#### Planning Concept

Milwaukie is predominantly a built-up city. It contains several districts, however, where neighborhood character, available buildable areas, and existing lotting patterns suggest different approaches to new residential development are appropriate. Within High Density areas reconstruction of older neighborhoods is encouraged; within Moderate and Medium Density areas infilling consistent with local scale is emphasized, and in Low Density areas conservation of single family character will be maintained.

#### Policies

1. Within High Density areas, clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as

outlined in the Historic Resources Chapter. The predominant housing type will be multifamily.

2. Within Moderate and Medium Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. When projects involve destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations.
3. Within Moderate and Medium Density areas, residential infill which maintains existing building heights, setbacks, yard areas and building mass will be encouraged. Of particular importance is the maintenance of existing residential scale when viewed from the street. The predominant type of new housing in Moderate Density areas will be single family detached on moderate to small lots and duplexes ~~single family attached units~~. The predominant type of new housing in Medium Density areas will be duplex ~~single family attached~~ units. Multifamily housing may be allowed in Medium Density areas.
4. Within Low Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. ~~When projects involve the destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations.~~ The predominant type of new housing in Low Density areas will be single family detached. Duplex ~~Single family attached~~ units will be allowed based on location criteria in the Zoning Ordinance. ~~A public hearing is required.~~
5. Within Low Density areas, new projects will maintain a single family building bulk, scale and height when abutting existing single family areas, or when abutting a street where existing single family houses face the project.
6. ~~When feasible, a Design Review function will be incorporated into the City's development review process to interpret and enforce Residential Land Use, Design, and Neighborhood Conservation policies.~~
7. ~~When a Design Review function is implemented, a Neighborhood Design Guide will be developed for each neighborhood area. The Design Guide will identify any consistent and desirable architectural styles, elements, materials or landscape features existing in the neighborhood together with appropriate building standards to serve as guidelines for new housing construction as well as rehabilitation projects. The Design Guide will be enforced as part of a Design Review function.~~

#### **OBJECTIVE #5 — HOUSING CHOICE**

To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

##### Planning Concept

While the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplexes ~~single family attached~~, rowhouses, cottage clusters, accessory dwelling units, and ~~detached~~ multifamily, manufactured housing, and mobile home parks.

The City of Milwaukie will not immediately zone all high density or Town Center land for maximum development. Some areas involved are already predominantly developed at a lower density, leaving only pockets of vacant land currently suitable for immediate density increases. The rezoning will occur over time, and will be consistent with the Town Center Master Plan based on applications which can demonstrate consistency with plan policies, as set forth in the

City's Comprehensive Plan and, with public facility plans and standards, adequate to support maximum development. This process will ensure that development will occur with a timely, orderly, and efficient provision of public facilities and services as required by State Goal 11.

Policies

1. The City will encourage the development of infill housing that uses innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques may include the reduction of lot size standards in established neighborhoods; allowing duplex ~~single-family attached~~ housing units in appropriate areas; and encouraging the construction of small housing units. A design review process shall be used within the Mixed Use Overlay Zone to assure that infill development is suitable in a given location.
2. The City will encourage the development of larger subdivisions and PUDs that use innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques to reduce costs may include providing a variety of housing size, type, and amenities. The City may provide density bonuses, additional building height allowances, or other such incentives for the provision of affordable housing in residential development projects. ~~An additional housing unit will be allowed for each unit priced for sale at twenty-five (25) percent below the average new single family housing cost established in the most recent edition of "Real Estate Trends," published semi-annually by the Metropolitan Portland Real Estate Research Committee, Inc.~~ Overall project density may not exceed the allowable density plus ten (10) percent, which may be added to the Planned Unit Development bonus.
3. Manufactured housing is encouraged and allowed wherever single-family housing is permitted in the City as long as density standards and other applicable policies are met. The City will encourage the provision of housing at types and densities indicated in the City's housing needs assessments summarized on Table 2.
4. Mobile home parks will be allowed in Low, Moderate, and Medium Density areas in zones allowing development at 6-12 units per acre, and will be subject to park design and appearance standards and review in a public hearing.
5. Although not all higher density and Town Center lands will immediately be zoned for maximum permissible densities, the rezoning of these lands will be approved when it can be demonstrated that adequate public facilities exist or can be provided in accordance with City plans and standards to support increased development.

## Municipal Code Title 14 Signs

### CHAPTER 14.16 SIGN DISTRICTS

#### 14.16.010 RESIDENTIAL ZONE

No sign shall be installed or maintained in an R Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.010.

Table 14.16.010 Standards for Signs in Residential Zones				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions or manufactured home parks	Max. 2 SF per dwelling unit to max. 32 SF per sign; max. 16 SF per display surface; total sign area for all display surfaces of no more than 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External illumination only
Freestanding signs on multifamily apartment and condominium properties	Limited to 2 SF per dwelling unit to a max. area of 32 SF, 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage. <sup>2</sup>	External illumination only
Wall signs on multifamily apartment and condominium properties	Limited to 2 SF per dwelling unit to a max. of 32 SF.	No wall sign shall extend above the roofline at the wall, or the top of a parapet wall, whichever is higher.	1 per street frontage permitted. <sup>2</sup>	External illumination only
Awning signs on multifamily apartment and condominium properties	Max. display surface is 25% of awning area, up to max. of 32 SF.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per street frontage. <sup>3</sup>	
Hanging sign suspended beneath awning	Max. area limited to 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground to the lowest portion of awning or sign.	1 per street frontage. <sup>3</sup>	External illumination only

<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> Either 1 freestanding or 1 wall sign per street frontage is permitted.

<sup>3</sup> Either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

#### 14.16.020 RESIDENTIAL-OFFICE-COMMERCIAL ZONE

No sign shall be installed or maintained in an R-O-C or R-1-B Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020 Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily apartment and condominium properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily apartment and condominium properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily apartment and condominium properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. <sup>2</sup>	External only
Wall signs on commercial property	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. <sup>3</sup>	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. <sup>4</sup>	External only

Daily display sign <sup>5</sup>	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only
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<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> 1 freestanding sign is permitted in addition to 1 wall sign.

<sup>3</sup> 1 wall sign is permitted in addition to 1 freestanding sign or 2 wall signs permitted.

<sup>4</sup> For awnings related to residential use, either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

<sup>5</sup> Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

## Municipal Code Title 17 Land Division

### CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES

#### **17.16.080 COTTAGE CLUSTER DEVELOPMENT**

An application for subdivision preliminary plat or replat to create a cottage cluster housing development shall include narrative and plans with sufficient detail to demonstrate compliance with the standards of Subsection 19.505.4.

### CHAPTER 17.28 DESIGN STANDARDS

#### **17.28.040 GENERAL LOT DESIGN**

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

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.~~

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#### **17.28.060 FLAG LOT DESIGN STANDARDS**

A. Consistency with the Zoning Ordinance

Flag lot design shall be consistent with Subsection 19.504.~~89~~.

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#### **17.28.070 FLAG LOT LIMITATIONS**

Flag lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907.

## Municipal Code Title 19 Zoning

### CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

#### 19.201 DEFINITIONS

~~“Dormitory” means a room which is rented for sleeping purposes for more than 4 persons.~~

~~“Dwelling” means a structure containing 1 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 chapter.~~

~~“Dwelling unit” means 1 or more rooms designed for occupancy by 1 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 1 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 sq ft net floor area and not more than 600 sq ft net floor area and meeting the requirements of Subsection 19.910.1. For the purpose of this chapter, net 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 19.910.2.~~

~~“Eave” means a projecting overhang at the lower border of a roof, extending from the primary wall or support. Eaves are architectural features that aide in protecting buildings from precipitation and solar radiation; they are distinct from overhangs that provide shelter for persons or property.~~

~~“Footprint” means the area covered by the outer structural walls of a building, measured in sq ft. Included in the calculation of footprint are: roofed structures that are not fully enclosed; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade. Footprint does not include eaves.~~

“Fowl” means chickens, ducks, geese, turkeys, and other birds of a similar size.

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record plot, parcel, or area of land owned by, or under the lawful control, and in the lawful possession, of one distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Corner lot” means a lot abutting on 2 or more streets, other than an alley, at their intersection.

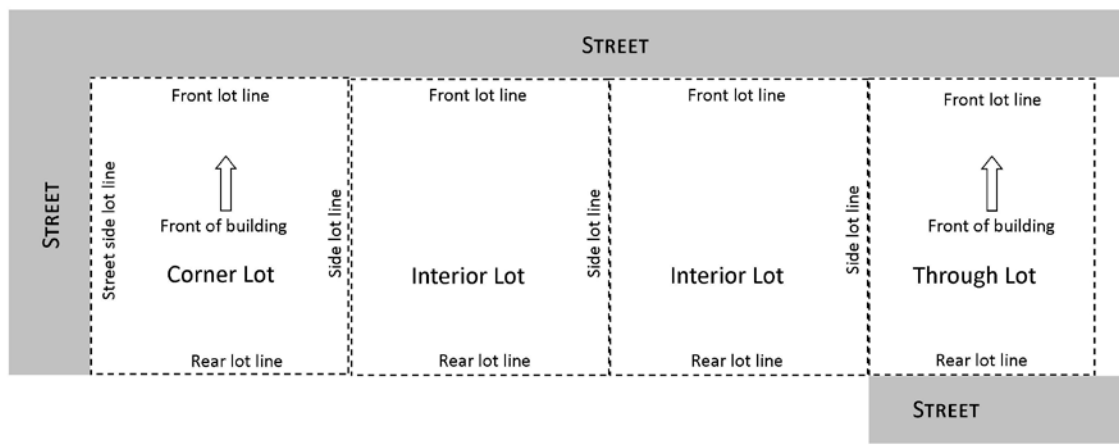
“Interior lot” means a lot other than a corner lot.

“Legal lot” means a unit of land other than a tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Through lot” means an interior lot having frontage on 2 streets.

**Figure 19.201-1  
Lots and Lot Lines**



“Lot coverage” means the amount of area covered by footprint of a building(s) on a lot, measured from the outermost projection of the building(s), expressed as a percentage of the total lot area. Lot coverage includes open structures, such as pole barns; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade. Lot coverage does not include eaves.

“Lot line” means the property line bounding a lot. The lot lines defined below are depicted in Figures 19.201-1 and 19.201-2.

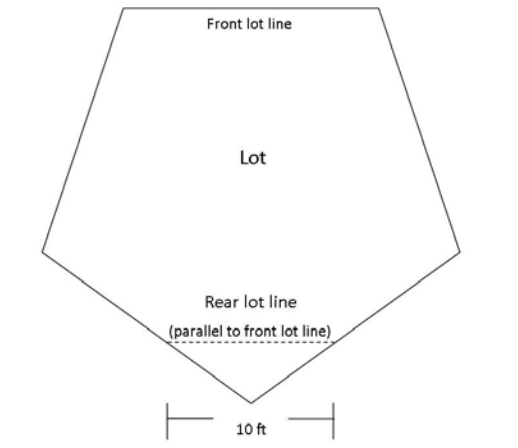
“Front lot line” means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the existing or contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will

face. In the case of a flag lot, the front lot line is the lot line closest to the street from which the property takes access, excluding lot lines that are part of the pole portion of the flag lot.

“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 ft long within the lot parallel to and at the maximum distance from the front lot line.

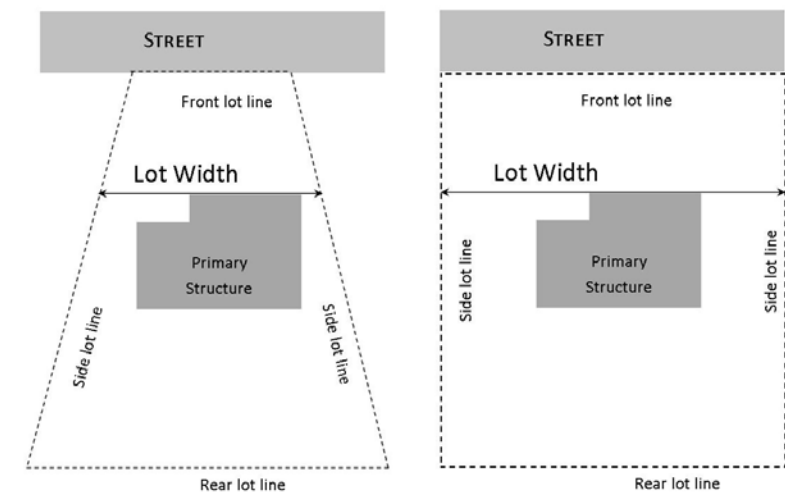
“Side lot line” means any lot line not a front or rear lot line.

**Figure 19.201-2**  
**Rear Lot Line**



“Lot width” means the horizontal distance between side lot lines measured at the building line.

**Figure 19.201-3**  
**Lot Width**



“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 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.~~

~~“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.~~

Residential Uses and Structures:

“Accessory dwelling unit” means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to, and smaller than, the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people, independent of the primary dwelling unit.

“Duplex” means a structure on 1 lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.

“Dwelling” means a structure containing 1 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 unit” means a building, or portion of a building, that includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people. Buildings with more than 1 set of cooking facilities are considered to contain multiple dwelling units, unless the additional cooking facility is clearly accessory and the property owner has recorded a covenant with the Clackamas County Records Division, stipulating that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this title.

“Cooking facility” means an oven, stove, range, or other device used or intended for the preparation or heating of food.

“Cottage” means a structure containing 1 dwelling unit on 1 lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.

“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 that is constructed for movement on the public highways; that has sleeping, cooking, and plumbing facilities; and that is being used for residential purposes.

“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.

“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.

“Multifamily development” means 3 or more dwelling units on 1 lot. Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in 1 or more structures on the lot. The dwelling units may be arranged with 1 dwelling unit per structure or with multiple dwelling units within a structure that are separated vertically and/or horizontally. Multifamily developments include the forms of housing that are typically called apartments and condominiums. Multifamily developments may include structures that are similar in form to rowhouses, cottage clusters, duplexes, or single-family dwellings.

“Rowhouse” means a residential structure on its own lot that shares 1 or more common or abutting walls with at least 1 or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25% of the length of the side of the building. The shared or abutting wall may be the wall of an attached garage. A rowhouse does not share common floors/ceilings with other dwelling units.

“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence—which includes food, shelter, personal services, and care—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.

“Single-family detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.

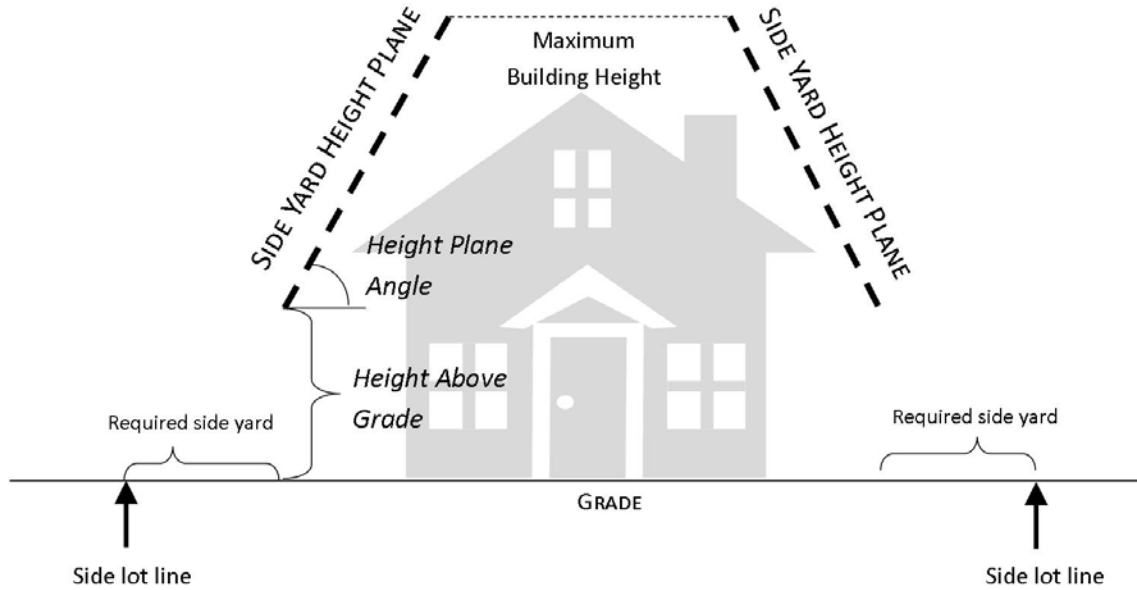
“Yurt” means a 1-story building with a circular footprint and a roof that is domed or conical, with the highest point at the center of the circle. The walls and roof of a yurt are typically canvas or other flexible fabric material.

~~“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.~~

“Side Yard Height Plane” means a plane that limits the building height along side lot lines. Structures on the site must remain underneath the height plane. The height plane applies along side lot lines and is not applicable to front, rear, or street side lot lines. The starting point of the side yard height plane is horizontally offset from the side lot line by the required side yard depth, and set at specified vertical distance above the grade at the depth of required side yard. From the starting point, the side yard height plane slopes up at a specified angle until it reaches the maximum allowed building height or intersects with the side yard height plane from an opposite side of the lot.

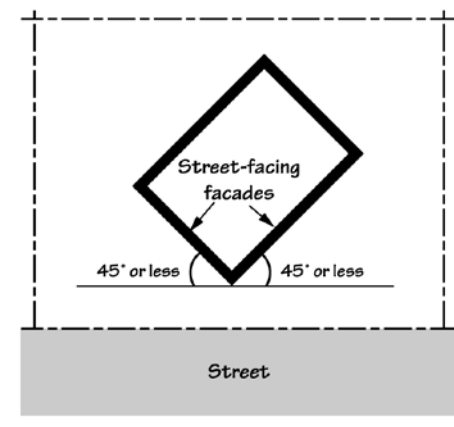
**Figure 19.201-4**  
**Side Yard Height Plane**



“Solar energy system” means equipment used to capture solar radiation for purposes of heating water or generating electricity. A solar energy system is an accessory use, and the energy generated by the system is used predominantly on-site.

“Street-Facing Façade” means the wall planes of a structure that are visible from, and at an angle of 45 degrees or less to, a front lot line or street side lot line. Angle measurements for curved front or street side lot lines shall be based on a straight line connecting the opposing lot corners of the front or street side lot line.

**Figure 19.201-5  
Street-Facing Façade**



“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.

“Wind energy system” means equipment used to generate electricity from wind. A wind energy system is an accessory use, and the energy generated by the system is used predominantly on-site.

“Yard” means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title. A yard may include areas with grass, mulch, barkdust, shrubs, trees, garden plantings, gravel, pavement, or asphalt. The yards defined below are depicted in Figure 19.201-6.

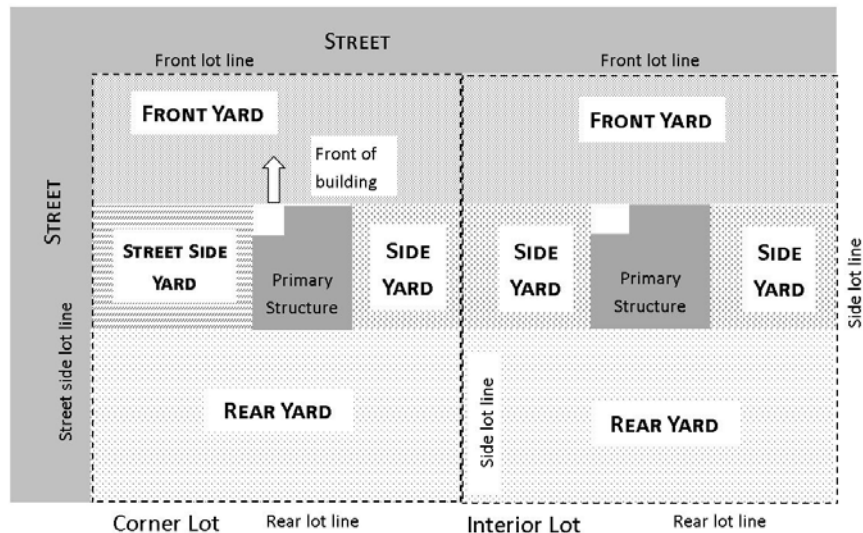
“Front yard” means a yard between side lot lines, measured horizontally and at right angles to the front lot line from the front lot line to the nearest point of the building.

“Rear yard” means a yard between side lot lines or between a street side yard and opposite side lot line, measured horizontally and at right angles to the rear lot line from the rear lot line to the nearest point of the building.

“Side yard” means a yard between the front and rear yards, 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 and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

**Figure 19.201-6**  
**Yards**



## 19.202 MEASUREMENTS

### 19.202.2 Vertical Measurements

#### A. Interior Height

Floor-to-ceiling height shall be measured from the top of the floor finish to the bottom of the ceiling joists or, where there is no ceiling, to the bottom of the roof rafters.

#### B. Exterior Height of Primary Structures

Except where otherwise specified in Title 19, building height shall be 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, or to the mean height between the eaves and the ridge for a gable, hip, or gambrel roof. Where the building is set back from the street, building height may be measured from the average elevation of the finished grade at the front of the building.

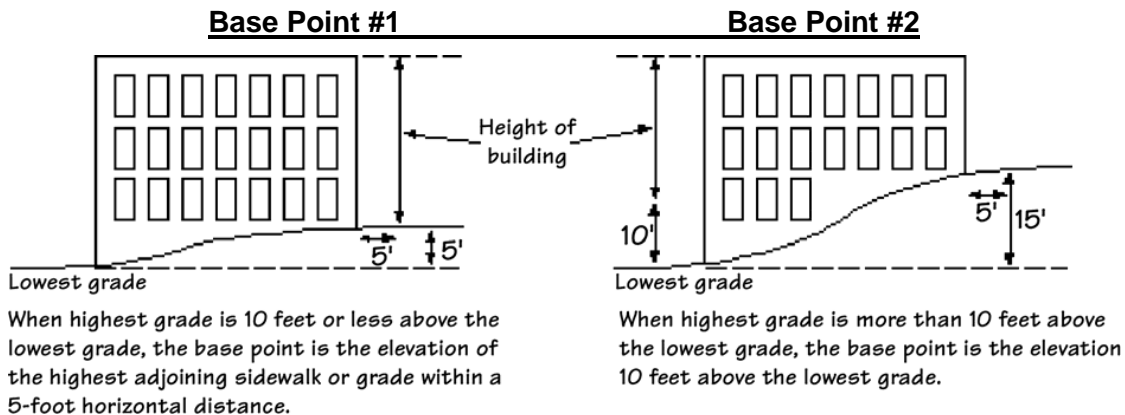
The height of a primary structure building is the vertical distance from the base point described in Subsection 19.202.2.B.1, below, to the top of a building described in Subsection 19.202.2.B.2, below.

**1. Base Point**

The base point used for building height measurement shall be the base point that yields the greater building height. See Figure 19.202.2.B.1.

- a. Base point 1 is the elevation of the highest adjoining sidewalk or ground surface within a 5-ft horizontal distance from the exterior wall of the building, when such sidewalk or ground surface is not more than 10 ft above lowest grade.
- b. Base point 2 is 10 ft above lowest grade, when the sidewalk or ground surface described for base point 1 is more than 10 ft above lowest grade.

**Figure 19.202.2.B.1  
Base Point Measurement**



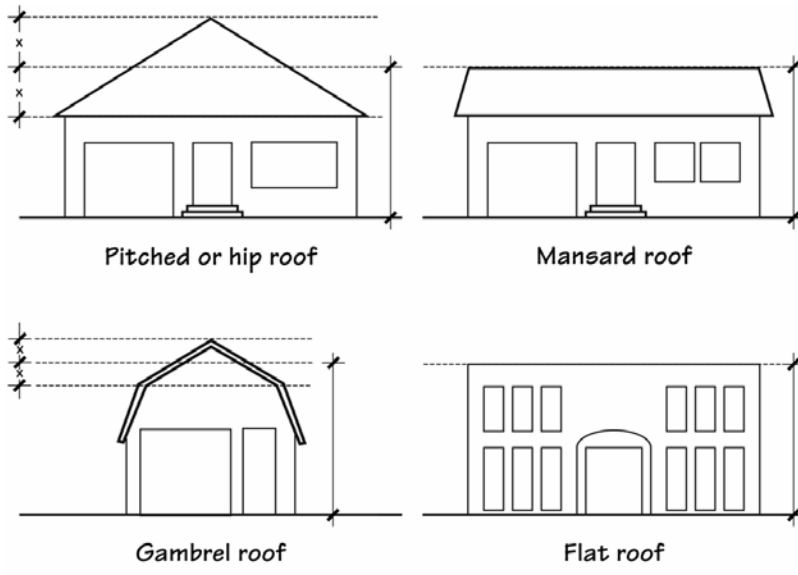
**2. Top of Building**

The top of building shall be determined based on the specific roof types listed below. See Figure 19.202.2.B.2.

- a. Flat roof: Measure to the top of the parapet or, if there is no parapet, to the highest point of the roof. If a roof includes multiple flat roofs at different elevations, measure to the top of the highest parapet or highest point of the highest roof.
- b. Mansard roof: Measure to the deck line.
- c. Pitched, hipped, or gambrel roof where roof pitch is 12/12 or less: Measure to the average height of the highest gable.
- d. Pitched or hipped roof with a pitch steeper than 12/12: Measure to the highest point.

- e. Gambrel roof where both pitches are steeper than 12/12: Measure to the highest point.
- f. Other roof shape, such as domed, vaulted, or pyramidal: Measure to the highest point.
- g. Stepped or terraced building: Measure to the highest point of any segment of the building.

**Figure 19.202.2.B.2  
Top of Building Measurement**



**C. Exterior Height of Accessory Structures**

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection 19.902.2.B.2.

**19.202.4 Density Calculations**

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

**A. Gross Area**

The gross area of a lot is measured in sq ft and is determined by a registered professional land surveyor or with data from the Clackamas County Assessor's Office.

**B. Rounding**

The results for minimum required and maximum allowed dwelling unit density are rounded based on a fraction that is truncated to 2 numbers past the decimal point. For example,

3.4289 is truncated to 3.42. Where a minimum density calculation results in a fraction that is .50 or above, the fraction is rounded up to the next whole number. Where a minimum density calculation results in a fraction that is less than .50, the fraction is rounded down to the preceding whole number. Where a maximum density calculation results in a fraction that is less than .75, the fraction is rounded down to the preceding whole number.

**C. Discrepancy between Minimum Required and Maximum Allowed Density**

In situations where the calculation of maximum allowed density results in a number smaller than the calculation of minimum required density, the result from the minimum allowed density is both the minimum required and maximum allowed density.

**D. Minimum Density**

**1. Deductions to Calculate Net Area**

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

- a. Floodways, as determined by Federal Emergency Management Agency flood maps.
- b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.
- c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.

**2. Density Calculation**

The minimum number of dwelling units required is calculated by dividing the net area by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

**3. Constrained Lands**

Regardless of the density calculation described above, any legal lot that meets the standards of Subsection 19.501.1 is allowed at least 1 dwelling unit.

**E. Maximum Density**

**1. Deductions to Calculate Net Area**

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

- a. 1% Annual Chance Flood areas (also called the 100-Year Floodplain), as determined by Federal Emergency Management Agency flood maps.
- b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.
- c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.
- d. Slopes in excess of 25%.

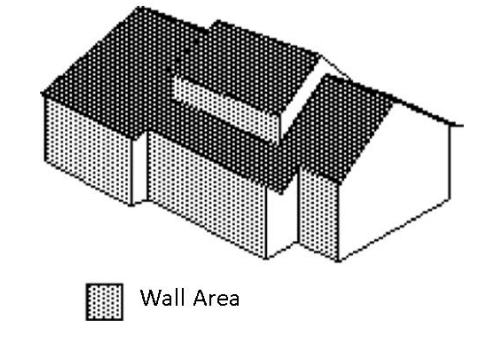
**2. Density Calculation**

The maximum number of dwelling units allowed is calculated by dividing the net area by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

**19.202.5 Façade Area**

The area of a building façade is the sum of all wall areas above grade that are visible on 1 side of a building. The following areas are excluded: roof areas; the wall area of a horizontal or vertical offset that is perpendicular to the primary orientation of the façade; and gable ends below the ridge of the roof and above the eave line. The wall area of a dormer is not exempt.

**Figure 19.202.5**  
**Façade Area**



## CHAPTER 19.300 BASE ZONES

Proposed text amendments for Chapter 19.300 are shown below within the context of the restructured/renumbered Chapter 19.300.

Underline/strikeout formatting is used only for proposed changes to text, not for proposed renumbering. (Where noted, new or rewritten complete sections are not underlined, for better readability.)

(The complete, amended and reorganized Chapter 19.300, as proposed, is shown in its entirety in Exhibit C.)

[Current Sections 19.301-19.303 repealed and replaced as Section 19.301. Complete section below—no underlining.]

### 19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

#### 19.301.1 Purpose

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some nonhousehold living uses but maintain the overall character of a single-family neighborhood.

#### 19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
<b>Residential Uses</b>				
Single-family detached dwelling	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes <b>Subsection 19.910.2</b> Duplexes
Residential home	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	N	III	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing

<b>Accessory and Other Uses</b>				
Accessory use	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	<b>Subsection 19.301.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

**19.301.3 Use Limitations and Restrictions**

Agricultural or horticultural uses are permitted, provided that the following conditions are met.

- A. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
- B. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- C. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

**19.301.4 Development Standards**

In the low density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

<b>Table 19.301.4 Low Density Residential Development Standards</b>				
<b>Standard</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Standards/ Additional Provisions</b>
<b>A. Lot Standards</b>				
1. Minimum lot size (sq ft)				<b>Subsection 19.501.1</b> Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100		80	

**Proposed Code and Comp. Plan Amendments**

4. Minimum street frontage requirements (ft)				
a. Standard lot				35
b. Flag lot				25
c. Double flag lot				35
<b>B. Development Standards</b>				
1. Minimum yard requirements for primary structures (ft)				<b>Subsection 19.301.5.A</b> Side Yards
a. Front yard	20	20		20
b. Side yard	10	5/10		5
c. Street side yard	20	20		15
d. Rear yard	20	20		20
				<b>Subsection 19.501.2</b> Yard Exceptions
				<b>Subsection 19.504.8</b> Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less			<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)	20			
b. Slope of plane (degrees)	45			
4. Maximum lot coverage (percent of total lot area)	30%		35%	<b>Section 19.201 "Lot coverage"</b> definition <b>Subsection 19.301.5.B</b> Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	<b>Subsection 19.301.5.C</b> Front Yard Minimum Vegetation <b>Subsection 19.504.7</b> Minimum Vegetation
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre)				<b>Subsection 19.301.5.D</b> Residential Densities
a. Minimum	3.5	5.0		7.0
b. Maximum	4.4	6.2		8.7
				<b>Subsection 19.501.4</b> Density Exceptions

**19.301.5 Additional Development Standards**

**A. Side Yards**

In the R-7 Zone, 1 side yard shall be at least 5 ft and 1 side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

**B. Lot Coverage**

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on

a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than 1 story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.301.5.B.2  
Increased Lot Coverage for Single-Family Detached Dwellings**

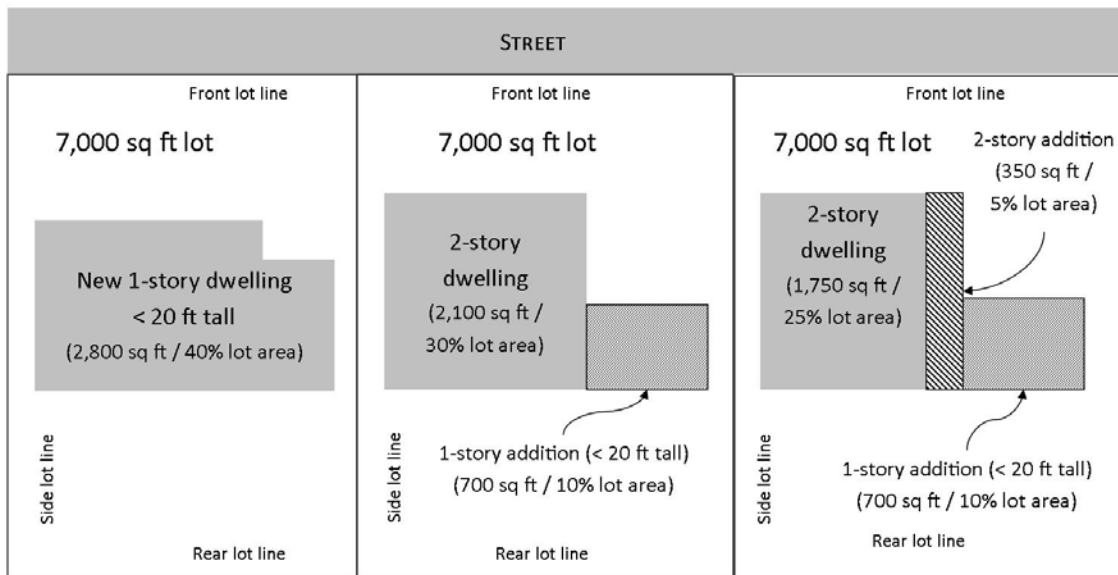


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000-sq-ft lot area.

3. Increased Lot Coverage for Duplexes

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

4. Increased Lot Coverage for Detached Accessory Dwelling Units

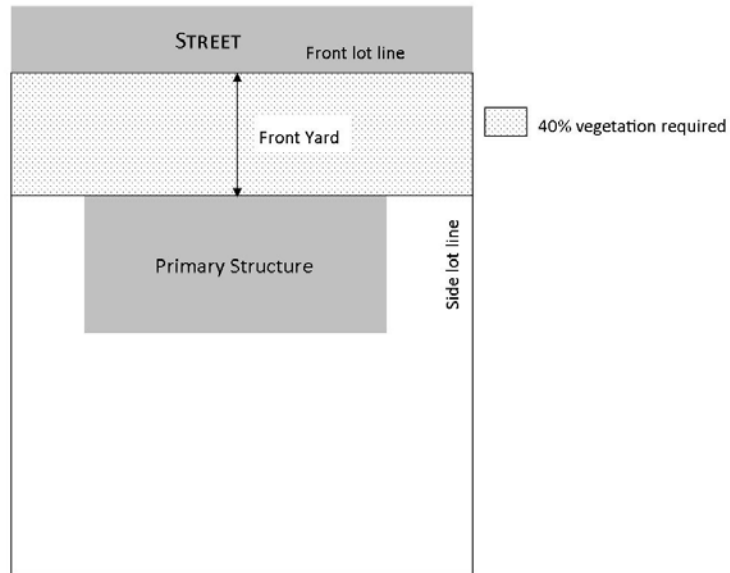
The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to

provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.301.5.C  
Front Yard Minimum Vegetation**



D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

G. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

H. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
4. Subsection 19.505.2 Garage and Carport Standards
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

*[Current Sections 19.304-19.308 repealed and replaced as Section 19.302. Complete section below—no underlining.]*

**19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES**

The medium and high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the Medium Density and High Density residential land use designations in the Milwaukie Comprehensive Plan.

**19.302.1 Purpose**

The medium and high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

**19.302.2 Allowed Uses in Medium and high density Residential Zones**

Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.302.2 Medium and High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>						
Single-family detached dwelling	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Residential home	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes

**Proposed Code and Comp. Plan Amendments**

Accessory dwelling unit	P/II	P/II	P/II	P/II	P/II	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Rowhouse	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes <b>Subsection 19.505.5</b> Standards for Rowhouses
Cottage Cluster Housing	P	P	P	P	P	<b>Subsection 19.505.4</b> Design Standards for Cottage Cluster Housing Cottage cluster land division requires Type III review
Multifamily	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Design Standards for Multifamily Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Congregate housing facility	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Design Standards for Multifamily Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	
<b>Commercial Uses</b>						
Office	CU	CU	CU	CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Hotel or motel	N	N	CU	CU	CU	
Bed and breakfast	CU	CU	CU	CU	CU	
<b>Accessory and Other Uses</b>						
Accessory use	P	P	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

- CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.
- II = Type II review required.
- III = Type III review required.

### 19.302.3 Use Limitations and Restrictions

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
  2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
  3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Office uses allowed in the medium and high density residential zones are offices, studios, clinics, and others similar professional offices.

### 19.302.4 Development Standards

In the medium and high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

<b>Table 19.302.4 Medium and High Density Residential Development Standards</b>						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>A. Lot Standards</b>						
1. Minimum lot size (sq ft) a. Rowhouse b. Duplex c. All other lots	3,000 6,000 5,000	2,500 5,000 5,000	2,500 7,000 5,000		1,400 6,400 5,000	<b>Subsection 19.501.1</b> Lot Size Exceptions <b>Subsection 19.505.4</b> Design Standards for Cottage Cluster Housing <b>Subsection 19.505.5</b> Standards for Rowhouses
2. Minimum lot width (ft) a. Rowhouse b. All other lots	30 50		25 50		20 50	
3. Minimum lot depth (ft) a. Rowhouse b. All other lots	80 80	75 75	80 80		70 80	
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	30 35 25 35		25 35 25 35		20 35 25 35	
<b>B. Development Standards</b>						
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard				See Subsection 19.302.5.A	15 15 15	<b>Subsection 19.302.5.A</b> Side Yards <b>Subsection 19.501.2</b> Yard Exceptions <b>Subsection 19.504.8</b> Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less				3 stories or 45 ft, whichever is less	<b>Subsection 19.302.5.E</b> Height Exceptions <b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions <b>Subsection 19.302.5.I</b> Transition Measures

3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45		25 45	<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%		45% 50%	<b>Section 19.201 "Lot coverage"</b> definition
5. Minimum vegetation (percent of total lot area)	35%		15%	<b>Subsection 19.504.7</b> Minimum Vegetation <b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation <b>Subsection 19.302.5.C</b> Minimum Vegetation
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum	11.6 14.5	11.6 17.4	25.0 32.0	<b>Subsection 19.202.4</b> Density Calculations <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.501.4</b> Density Exceptions

**19.302.5 Additional Development Standards**

**A. Side Yards**

In the medium and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a rowhouse shall be at least 5 ft.
2. There is no required side yard for rowhouses that share 2 common walls. The required side yard for an exterior rowhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior rowhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

**B. Lot Coverage**

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

**1. Increased Lot Coverage for Single-Family Detached Dwellings**

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.302.5.B.1  
Increased Lot Coverage for Single-Family Detached Dwellings**

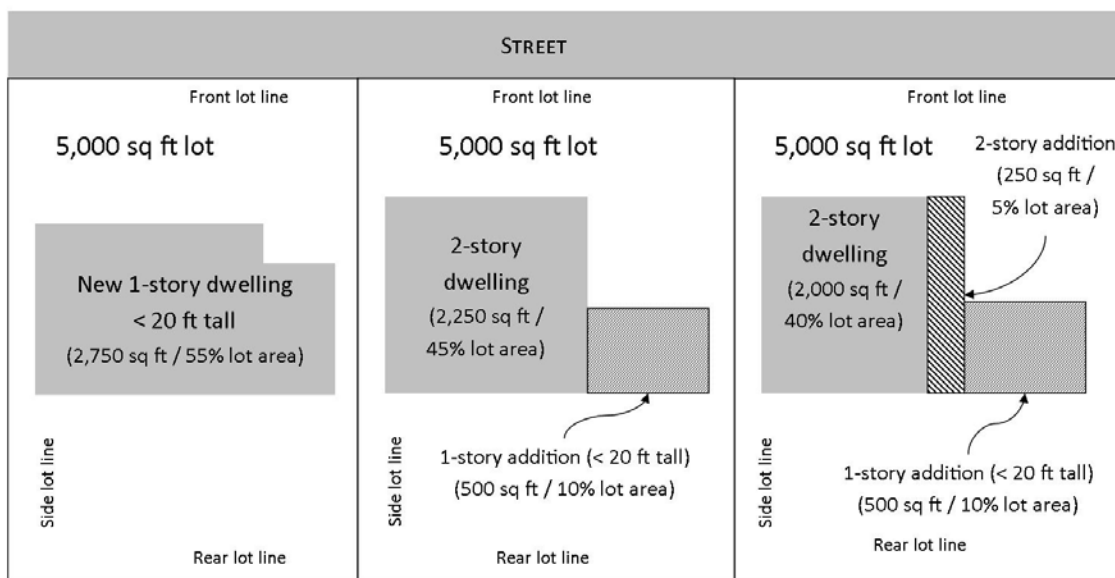


Figure 19.302.5.B.1 illustrates increased lot coverage for lots in Residential Zone R-2 based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for Duplexes and Rowhouses

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 20 percentage points for a duplex or rowhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

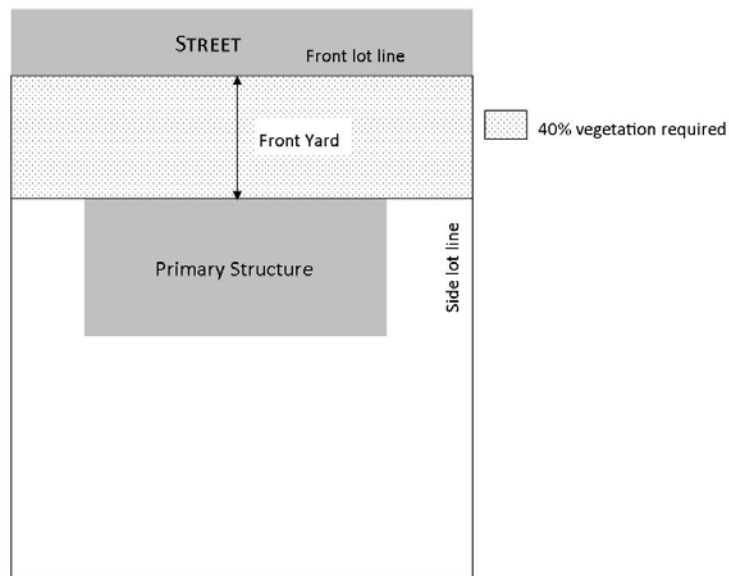
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.302.5.D  
Front Yard Minimum Vegetation**



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of a single-family detached dwelling or an accessory dwelling is exempt from the minimum and maximum density requirements.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

<b>Table 19.302.5.F.2</b>		
<b>Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones</b>		
<b>Units</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	2,500 sq ft per unit	1,400 sq ft per unit

**G. Accessory Structure Standards**

Standards specific to accessory structures are contained in Section 19.502.

**H. Building Limitations**

1. In the R-3 Zone, 1 single-family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.
2. Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

**I. Transition Measures**

The following transition measures apply to multifamily development that abuts an R-10-, R-7-, or R-5-zoned property.

1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.
2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.

**J. Off-Street Parking and Loading**

Off-street parking and loading is required as specified in Chapter 19.600.

**K. Public Facility Improvements**

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

L. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
6. Subsection 19.505.2 Garage and Carport Standards
7. Subsection 19.505.3 Design Standards for Multifamily Housing
8. Subsection 19.505.4 Design Standards for Cottage Cluster Housing
9. Subsection 19.505.6 Building Orientation to Transit
10. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

*[Current Sections 19.309-19.317 are renumbered as 19.303-19.311. Underline/strikeout formatting is used below only for proposed changes to text, not for proposed renumbering.]*

**19.303 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C**

In an R-O-C Zone the following regulations shall apply:

**19.303.1 Uses Permitted Outright**

In an R-O-C Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Duplex ~~Single family attached dwelling~~;
- C. Residential home;
- D. Multifamily development ~~condominium dwelling~~;
- ~~E. Multifamily apartment dwelling;~~
- EF. Congregate housing facility;
- FG. Senior and retirement housing;
- GH. Offices;
- HJ. Retail trade establishment such as a food store, drugstore, gift shop, hardware store selling primarily from a shelf-goods inventory;
- IJ. Personal service business such as a barber shop, tailor shop, or laundry and dry cleaning pickup station;

## Proposed Code and Comp. Plan Amendments

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- JK. Funeral home;
- KL. Commercial recreation and motion picture theater;
- LM. Eating establishment;
- MN. Hotel or motel;
- NO. Parking facility;
- OP. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- PQ. Financial institution;
- QR. Trade or commercial school;
- RS. Department or furniture store;
- ST. Any other use similar to the above and not listed elsewhere.

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### 19.303.3 Standards

In an R-O-C Zone the following standards shall apply:

- A. Lot size. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,400 sq ft. Lot width shall be at least 50 ft. ~~Lot width for interior single family attached and condominium units shall be at least 30 ft.~~ Lot depth shall be at least 80 ft.
- C. Side yard. A side yard shall be at least 5 ft, and there shall be additional 1 ft of side yard for each 3 ft of height over 2 stories or 25 ft, whichever is less, except on corner lots a side yard shall be at least 15 ft on the side abutting the street. ~~For interior single family attached and condominium units, side yards are not required.~~
- F. Height restriction. Maximum height of a structure shall be 3 stories or 45 ft, whichever is less. 1 additional story may be permitted in excess of the required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.
- JK. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft, except as provided in the Land Division Ordinance. ~~Lots for interior single family attached and condominium units shall abut a public street for at least 20 ft.~~

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## 19.304 DOWNTOWN ZONES

### 19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

**19.304.2 Characteristics of the Downtown Zones**

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

**A. Downtown Storefront (DS)**

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail uses are required on the ground floors of buildings fronting on Main Street. Office and/or residential uses are allowed on upper floors. Industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses. These uses include rowhouses townhouses and multifamily apartment/condominium buildings.

**19.304.3 Uses**

**A. Permitted Uses**

Uses allowed in the downtown zones are listed in Table 19.304.3 with a “P.” These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

<b>Table 19.304.3 Downtown Zones—Uses</b>					
<b>Use Categories</b>	<b>Downtown Storefront</b>	<b>Downtown Commercial</b>	<b>Downtown Office</b>	<b>Downtown Residential</b>	<b>Downtown Open Space</b>
<b>Residential</b>					
Single-family detached	N	N	N	N	N
<del>Townhouse</del> <u>Rowhouse</u>	L[1]	N	N	L[1]	N
<del>Multifamily apartment/condominium</del>	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
<b>Commercial/Office<sup>1</sup></b>					
Automobile service station	N	N	N	N	N
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N

## Proposed Code and Comp. Plan Amendments

Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Industrial	N	N	N	N	N
<b>Other</b>					
Adult entertainment	N	N	N	N	N
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N

<sup>1</sup> Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

### G. Limited Uses

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

10. Multifamily ~~apartment/condominium~~ building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.

## 19.304.4 Development Standards

### B. Explanation of Development Standards

#### 4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for ~~stand-alone~~ stand-alone multifamily ~~apartment/condominium~~ dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the

Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

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8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

a. For block faces identified on Figure 19.304-5 (Ground-floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. (1) 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
  - b. (2) Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
  - c. (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazing are not permitted.
  - d. (4) Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.
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**19.306 LIMITED COMMERCIAL ZONE C-L**

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

**19.306.2 Conditional Uses Permitted**

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- I. Duplex or multifamily development ~~Single-family attached dwelling, multifamily apartment, and condominium dwelling;~~
- 

**19.306.3 Standards**

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

- A. Lot size. None, except as follows for dwelling. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,000 sq ft. Lot width shall be at least 50 ft. ~~Lot width for~~

## Proposed Code and Comp. Plan Amendments

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~~interior single-family attached and condominium units shall be at least 30 ft. Lot depth shall be at least 80 ft.~~

- F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft except as permitted under the Land Division Ordinance. ~~Lots for interior single-family attached and condominium units shall abut a public street for at least 20 ft.~~

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### 19.310 BUSINESS INDUSTRIAL ZONE BI

#### 19.310.3 Accessory Uses

~~A.~~ Uses accessory to and in conjunction with uses permitted outright may include the following:

- ~~A~~1. Employee lounges and dining rooms, employee day-care facilities, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and product information and display areas;
- ~~B~~2. Executive, administrative, design, or product showroom offices provided in conjunction with uses listed under Subsection 19.310.2 of this section;
- ~~C~~3. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with uses listed in Subsection 19.310.2 of this section;
- ~~D~~4. Rental and development information offices, handyman and maintenance services, and other business offices and services in association with allowed uses in the development;
- ~~E~~5. Recycling center, provided that any storage of materials shall be adequately screened;
- ~~F~~6. Accessory uses and structures not otherwise prohibited which are customarily accessory and incidental to any use permitted outright or limited use;
- ~~G~~7. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- ~~H~~8. Retail outlets associated with manufacturing uses as outlined in Subsection 19.310.2.A.2 of this section. Products sold at the accessory retail outlet shall be primarily those assembled or manufactured onsite. The accessory retail outlet shall be located within the associated manufacturing building and occupy up to a maximum of 25% of the floor area of the associated manufacturing building or 4,000 sq ft, whichever is less.

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### 19.311 PLANNED DEVELOPMENT ZONE PD

#### 19.311.5 Preliminary Development Plan and Program.

A. Applicant

For the purpose of this section, "owner" or "owner-applicant" means and includes any individual(s), partnership(s), corporation(s), public body(ies), legal entity(ies), or holder(s) of a written option to purchase said property. An owner of land located outside, but contiguous to, the City may submit a preliminary development plan for consideration by the City providing that an application for annexation to the City has been filed.

B. Preliminary Development Plan

A preliminary development plan and program shall be submitted by the applicant with information as required by resolution of the Planning Commission.

## CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

### 19.401 WILLAMETTE GREENWAY ZONE WG

#### 19.401.5 Procedures

The following procedures shall govern the application of WG Zones:

- A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.D.
  - D. A greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this section. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change in use or intensification. Approval shall be granted only if the criteria in Subsection 19.401.6 are met.
- 

### 19.404 MIXED USE OVERLAY ZONE MU

#### 19.404.3 Primary Uses

Provisions of Section 19.404 are intended to allow mixed use development, subject to the processes identified in Subsection 19.404.6 below, including retail, commercial, office, and residential development, as listed below.

- A. Retail commercial uses such as food store, drugstore, gift shop, and hardware store selling shelf goods primarily (drive-up convenience stores are not permitted);
- B. Multifamily ~~attached-condominium~~ dwellings;
- C. ~~Multifamily attached-apartment~~ dwellings;
- CD. Rowhouses ~~Single-family attached-small lot townhouses~~;
- DE. Professional offices;
- EF. Personal service businesses such as haircutting shop, tailor shop, laundry, and dry cleaning pickup station, shoe repair, computer, and bicycle repair, office equipment and services, and electronics repair;
- EG. Motion picture theater (adult theaters are not permitted);
- GH. Restaurant and cafe, outdoor seating where provided for in the site design and located off of the public sidewalk area (drive-in and drive-through food establishments are not permitted);
- HJ. Brew pub which serves food;
- IJ. Hotel;
- JK. Parking facility;
- KL. Financial institution (without drive-up tellers);
- LM. Trade or commercial school;

MN. Department or furniture store;

NO. Bed and breakfast;

OP. Service station without associated minimart—minor repair service allowed if approved through a mixed use overlay review application;

PQ. Farmers' market;

QR. Public park or community meeting area;

RS. Youth center;

ST. Day-care facilities;

TU. Any other use similar to the above and not listed elsewhere.

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#### **19.404.8 Development Standards**

Except as provided in Subsection 19.404.9.A.1, the following development standards apply to all proposals which have been determined to be subject to the Mixed Use Overlay Zone. Development in this overlay zone shall follow the standards and guidelines for development and for specific sites, as indicated below. All development proposals shall comply and not conflict with the Milwaukie Comprehensive Plan and the Town Center Master Plan.

A. Commercial and Commercial/Residential Mixed Use (office uses are Included in the Commercial designation)

13. Owners of existing single-family homes within the Mixed Use Overlay Zone may apply for a conditional use permit to allow a detached secondary living unit, an accessory dwelling attached secondary living unit, or conversion to a duplex or multifamily dwelling with 3 units triplex, provided that 1 of the units shall remain owner-occupied. Sound insulating and energy-efficient materials shall be provided in any of the above conversions of existing space. Setbacks and development standards of the underlying zone must be met.

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#### **19.404.9 Specific Sites in Subareas 2 and 4**

The following additional requirements apply to proposed development in specific subareas and on specific sites:

A. Subarea 2

1. Sites 2-1 and 2-2 (Murphy Plywood Site)
  - b. Business Industrial (BI) uses as set forth in Section 19.310 ~~346~~ shall also be allowed. The development of BI uses on Sites 2-1 and 2-2 shall comply with the development requirements of Section 19.310 ~~346~~, except that outdoor storage shall be permitted. In this case, the 32nd Avenue and Meek Street property lines shall be considered front yards and a 20-ft setback shall be applied. These setbacks shall be landscaped in accordance with Subsection 19.606.2.C.2, and provided with a sight-obscuring wooden fence adjacent to the public right-of-way and residential property lines. The Planning Commission may allow these setbacks to be reduced to 10 ft, where the proposed design of the buffer is of a high quality and includes: (1) the use of masonry walls, or other acceptable material, of up to 8 ft high; (2) enhanced landscaping; and (3) one of the elements

listed in Subsection 19.404.8.A.18. Development of BI uses on the site is not required to comply with the standards set forth in Subsections 19.404.8 and 19.303309.3.

B. Subarea 4

1. This site shall be developed with high-density (16 to 24 dwelling units per acre) diverse housing types. Retail, office, or lodging uses are also allowed at a 2:1 ratio (for every 2 sq ft of residential, 1 sq ft of commercial will be permitted). Commercial uses on the site shall be limited to those listed in Subsections 19.404.3.D, E, G, K, Q, R, and S ~~E, F, H, L, R, S, and T~~. Commercial use may be increased to a 1:1 ratio (1 sq ft of commercial for every 1 sq ft of residential), if amenities b, c, d, e, g, h, i, and k ~~2, 3, 4, 5, 7, 8, 9 and 11~~ of Subsection 19.404.8.A.18 are provided. A report on the status of contamination on this site shall be submitted with any proposed development.
2. Minimum vegetation for the site shall be 30%. Particular attention shall be paid to landscaping, which shall be designed to provide buffers to the residential neighborhoods to the north and east. Building heights shall also be designed to provide a transition for the neighboring residential properties. The height limit within 50 ft of the Monroe Street or 37th Avenue right-of-way shall be 2 stories or 35 ft, whichever is less. The building height for the remainder of the development on this site is 3 stories or 45 ft, whichever is less. Building setbacks from property lines shall be 15 ft for the front and rear yards and 5 ft for side yards. Minimum lot standards shall conform to the R-O-C standards, except that the minimum lot width for rowhouses ~~single family attached and condominium units~~ may be reduced to 20 ft wide if amenities b, d, e, g, h and i ~~2, 4, 5, 7, 8 and 9~~ of Subsection 19.404.8.A.18 are provided. The distance between buildings on the same lot shall be 6 ft for 1 story and a minimum of 5 ft per every story over 1.

## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

### 19.501 GENERAL EXCEPTIONS

The exceptions listed in Subsections 19.501.1–4 below are “by right” exceptions. “By right” exceptions ~~are either automatically required or allowed outright~~ and require no special review or approval by the City to implement.

#### 19.501.1 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 3,000 sq ft, or with no frontage on a public street. This section shall not apply in the downtown zones.~~

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, with the following limitations:

**Proposed Code and Comp. Plan Amendments**

- A. The development must conform to all other applicable standards of Title 19, unless a variance is granted per Section 19.911.
- B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.

**19.501.2 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 19.501.2.A 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 19.501.2.A plus the yard requirement of the underlying zone.

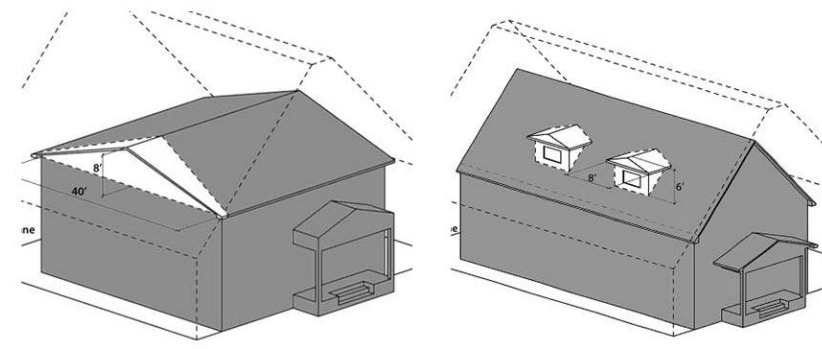
<b>Table 19.501.2.A Additional Yard Requirements</b>	
<b>Major Street</b>	<b>Distance from Centerline (plus yard requirements in zone)</b>
Firwood Street (55th Ave. to Stanley Ave.)	25'
Harmony Road	40'
Harrison Street (Milwaukie Expressway to 44th Ave.)	40'
Harrison Street (Milwaukie Expressway to McLoughlin Blvd.)	30'
Harvey Street (32nd Ave. to 42nd Ave.)	25'
Howe Street (42nd Ave. to 43rd Ave.)	30'
Johnson Creek Boulevard	30'
King Road	40'
Linwood Avenue	40'
Lake Road	30'
Logus Road	25'
Monroe Street (52nd Ave. to Linwood Ave.)	30'
Oak Street	30'
Oatfield Road	30'
Ochoco Street	30'
Olsen Street	25'
Railroad Avenue	30'
River Road (south of Lark St.)	30'
Roswell Street (32nd Ave. to 42nd Ave.)	25'
Washington Street (west of Railroad Ave.)	30'
Willow Street (Windsor Dr. to Stanley Ave.)	25'
17th Avenue (Ochoco St. to McLoughlin Blvd.)	40'
32nd Avenue (north of Harrison St.)	30'
37th Avenue (Lake Rd. to Grogan Ave.)	25'
40th Avenue (Harvey St. to Railroad Ave.)	30 40'
42nd Avenue (Johnson Creek Blvd. to Howe St.)	30'
42nd Avenue (Harrison St. to King Rd.)	30'
43rd Avenue (Howe St. to King Rd.)	30'
55th Avenue (Firwood St. to Johnson Creek Blvd.)	25'

- ~~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 ft of the proposed structure.~~
  - ~~2. The required front yard need not exceed the average depth of the abutting front yard within 100 ft of the proposed structure and the required front yard depth.~~
- B. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 in into a required side yard or 36 in into a required front or rear yard. Such features extending from an accessory structure shall not be closer than 3 ft from a property line.
- C. A covered porch on a single-family detached dwelling may extend 6 ft into a required front yard if the following standards are met.
1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
  2. The surface of the porch does not exceed 18 in high above the average grade.
  3. The porch is at least 5 ft from the front lot line.

**19.501.3 Building Height and Side Yard Height Plane 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 and side yard height plane limitations of the Zoning Ordinance this chapter, except as provided in an L-F Zone.
- B. The following encroachments into a side yard height plane are allowed:
1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
  2. The gable end of a roof, provided that the encroachment is not more the 8 ft high above the side yard height plane or more than 40 ft wide.
  3. Dormers, with the following limitations:
    - a. The highest point of any dormer is at or below the height of the primary roof ridge.
    - b. The encroachment is not more the 6 ft high above the side yard height plane or more than 8 ft wide.
    - c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.

**Figure 19.501.3.B**  
**Allowed Height Plane Encroachments**



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.

#### 19.501.4 Density Exceptions

- A. In exchange for the dedication of parkland, 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 19.317 and this density increase are additive.~~

#### 19.502 ACCESSORY STRUCTURES

##### 19.502.1 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, flagpoles, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.
- E. Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft, except as described below. An accessory structure must maintain a minimum side and rear yard setback of 5 ft, except where other requirements of this title are more restrictive.
  - 1. Accessory structures are subject to the minimum street side yard requirements of the base zones in Chapter 19.300.

2. Regulations for overlay zones or special areas in Chapter 19.400 may require an accessory structure to be set back beyond the minimum side or rear yard requirements.
  3. If the rear or side yard requirement in the base zone in Chapter 19.300 is less than 5 ft, then the yard requirements of the base zone shall apply.
  4. The rear or side yard requirement for residential accessory structures per Subsection 19.502.2.A or 19.910.1.E.4 may specify a different yard requirement.
- F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Development.
- G. Fences, flagpoles, Pergolas, arbors, and trellises are permitted in yards in all residential zones.

### **19.502.2 Single-Family Residential Specific Provisions for Accessory Structures**

- ~~A. Residential accessory structures excluding pools, uncovered decks, and patios are subject to the following:~~
- ~~1. For lots 10,000 sq ft or less, the footprint of an accessory structure may not exceed 500 sq ft. For lots greater than 10,000 sq ft the footprint of an accessory building may not exceed 850 sq ft.~~
  - ~~2. An accessory structure may not exceed 15 ft in height as measured from the average finished grade within a 10 ft 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 ft.~~
  - ~~4. The minimum roof pitch for accessory structures with other than a flat or shed roof is 4 in rise for every 12 in 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 sq ft. For accessory structures greater than 120 sq ft, exterior siding and roofing materials that are commonly used on residential structures shall be used.~~

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

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

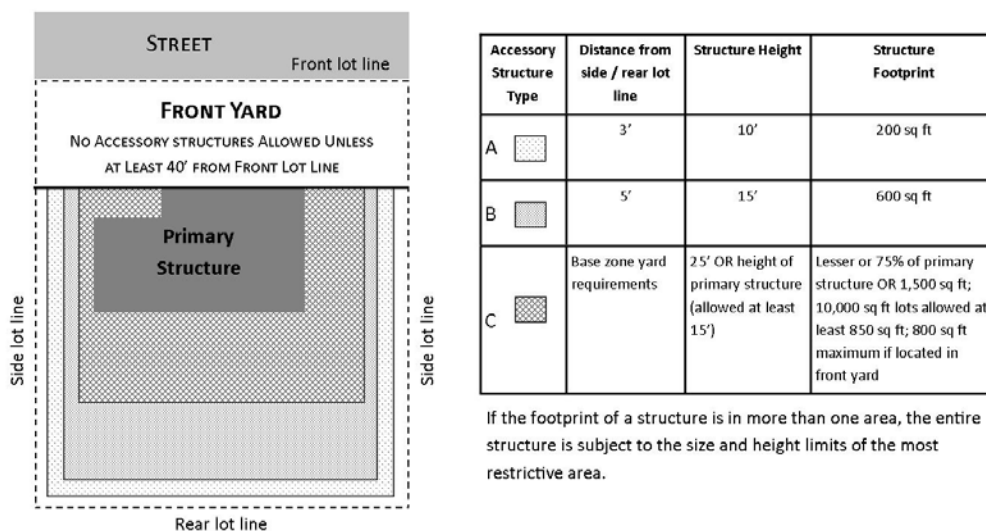
#### 1. Development Standards

##### a. Height and Footprint

The maximum height and footprint allowed for an accessory structure is determined by the yard depths between the structure and the lot lines. Accessory structures with a larger height and footprint must meet the increased yard requirements. An accessory structure is allowed the maximum building height and footprint listed in Table 19.502.2.A.1.a only if the entire structure meets or exceeds all the yard requirements in the same column. See Figure 19.502.2.A.1.a.

<b>Table 19.502.2.A.1.a Residential Accessory Structure Height and Footprint Standards</b>			
<u>Standard</u>	<u>Type A</u>	<u>Type B</u>	<u>Type C</u>
<u>Maximum building height</u>	<u>10'</u>	<u>15'</u>	<u>Lesser of 25' OR not taller than highest point of the primary structure (allowed at least 15' height regardless of primary structure height)</u>
<u>Maximum building footprint</u>	<u>200 sq ft</u>	<u>600 sq ft</u>	<u>Lesser of 75% of primary structure OR 1,500 sq ft (allowed at least 850 sq ft if lot area &gt; 10,000 sq ft)</u>  <u>On lots less than 1 acre in area, maximum is 800 sq ft if any portion of the structure is in the front yard.</u>
<u>Required rear yard</u>	<u>3 ft</u>	<u>5 ft</u>	<u>Base zone required rear yard</u>
<u>Required side yard</u>	<u>3 ft</u>	<u>5 ft</u>	<u>Base zone required side yard</u>
<u>Required front yard</u>	<u>Not allowed in front yard unless the structure is at least 40 ft away from the front lot line.</u>		

**Figure 19.502.2.A.1.a  
Accessory Structure Height, Footprint, and Yard Requirements**



**b. Other Development Standards**

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
- (2) The yard exceptions in 19.501.2 are applicable for accessory structures.

(3) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site, excluding a fence or similar structure.

(4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space.

## 2. Design Standards

a. Metal siding is prohibited on structures more than 10 ft high or with a footprint greater than 200 sq ft, unless the siding replicates the siding on the primary dwelling or has the appearance of siding that is commonly used for residential structures.

b. Structures located in a front, side, or street side yard that are visible from the right-of-way at a pedestrian level shall use exterior siding and roofing materials that are commonly used on residential structures.

## 3. Roof Pitch

There are no roof pitch requirements for an accessory structure with a height equal to or less than 10 ft. A minimum 4/12 roof pitch is required for an accessory structure with a height over 10 ft.

## 4. Exceptions for Large Lots

Lots larger than 1 acre in size are allowed an exception to the Type C accessory structure height limitation and footprint size limitation of 75% of the primary structure.

a. The allowed exceptions are:

(1) The structure is allowed the base zone height limit or 25 ft, whichever is greater.

(2) The structure is allowed a maximum footprint of 1,500 sq ft, regardless of the footprint of the primary structure.

b. The exceptions are allowed with the following limitations:

(1) The sum of accessory structure footprints that exceed 75% of the footprint of the primary structure is limited to 2,500 sq ft.

(2) The side yard requirement shall be 20 ft, regardless of the base zone.

(3) The structure must conform to all other base zone and accessory structure regulations.

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 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.

b. Commercial Zones

Maximum height 6 ft. 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 review per Section 19.1005 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-ft-high sight-obscuring fence.

c. Industrial Zones

Maximum height 8 ft. 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 review per Section 19.1005 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 ft.

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 1-ft 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 ft for an uncovered patio, deck, or swimming pool not exceeding 18-in. in height in high above the average grade of the adjoining ground (finished elevation). An uncovered ramp with handrails is allowed to exceed 18 in high if it provides access from grade to the elevation of the main entrance of a residential structure.

D. A stand-alone flagpole in a residential zone is limited to 25 ft high and must be at least 5 ft from any lot line. A stand-alone flagpole in commercial or industrial zones is subject to the height limits of the base zone in which it is located, and it must be at least 5 ft from any lot line.

**19.502.3 Sustainability-Related Accessory Structures**

A. Purpose

The purpose of these regulations is to allow apparatus for the generation of renewable energy and collection of stormwater, subject to standards to ensure that these structures are appropriate for their surroundings in both design and scale.

B. Maintenance Requirement

All of the sustainability-related structures in this subsection shall be maintained to be functional and safe. The Planning Director may require the repair or removal of a structure listed in this subsection if the structure is deteriorated, malfunctioning, or is otherwise unsafe.

C. Solar Energy Systems

1. Allowance

The installation of a solar energy system is an outright permitted use in zones where commercial, industrial, and residential structures are allowed outright. Installation of solar equipment that does not meet the definition of a solar energy system shall be reviewed as a Community Service Use, per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Solar Energy Systems

a. A stand-alone solar energy system that is not wholly supported by another structure is subject to the reviews required by applicable base zones and overlay zones or special areas.

b. A solar energy system that is wholly supported by another structure shall be subject to review, or not, as described below.

(1) The installation of a solar energy system on an historic resource that is designated either "contributing" or "significant," per Section 19.403, shall follow the review procedures of that section for alteration of the resource.

(2) The installation of a solar energy system in a downtown zone shall be exempt from downtown design review, per Section 19.907.

(3) The installation of a solar energy system on a structure within the Willamette Greenway Zone, or within a designated Natural Resource, is exempt from the review requirements of that zone or special area.

(4) The installation of a solar energy system on a structure that has been designated as a Conditional Use or a Community Service Use is exempt from the reviews of Subsections 19.904.3 and 19.905.3.

(5) The installation of a solar energy system under circumstances other than those described in 19.502.3.C.2.b(1)-(4) above is exempt from any land use review.

c. A Type I development review permit may be required for installation of a solar energy system depending upon the applicability criteria in Subsection 19.906.2.A. In no case shall a Type II development review application be required for installation of a solar energy system.

3. Standards

a. A stand-alone solar energy system is subject to the development standards that apply to the site. The design standards of Subsection 19.502.2.A.2 shall not be construed so as to prevent installation of a stand-alone solar energy system.

b. A solar energy system that is attached to a structure is subject to the following standards.

(1) The solar energy system will not increase the lot coverage or footprint of the structure on which the system is installed.

(2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof, except that the plane of the system is allowed a minimum slope of 35 degrees from horizontal regardless of the slope of the roof.

D. Wind Energy Systems

1. Allowance

A wind energy system is allowed outright as an accessory use in all zones. Installation of wind turbines, and related equipment that does not meet the definition of a wind energy system, shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Wind Energy Systems

The review of a freestanding or roof-mounted wind energy system is subject to the reviews required by applicable base zones and overlay zones or special areas.

3. General Standards

- a. The minimum distance between the ground and any part of a rotor blade must be at least 20 ft.
- b. Wind energy systems may not be illuminated, nor may they bear any signs or advertising.
- c. Wind energy systems must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.
- d. All wiring serving small wind energy systems must be underground.
- e. Noise produced by wind energy systems may not exceed 45 dBA measured at the property line.
- f. Wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, any public safety agency or organization's radio transmissions, or any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference, should any occur, or must immediately shut down the system or parts of the system causing the interference.
- g. A finish (paint/surface) must be provided for the wind energy system that reduces the visibility of the facility, including the rotors. The Planning Director may specify that the support structure and rotors be brown, blue, light gray haze, or other suitable color to minimize the structure's visibility. If the support structure is unpainted, it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.
- h. The rotor sweep area, as defined by the American Wind Energy Association, is 50 sq ft in residential zones and 150 sq ft in all other zones.

4. Standards for Freestanding Systems

Wind energy systems may be mounted on a tower that is detached from other structures on the lot.

a. Setback

A freestanding wind energy system is not allowed in a required front yard or street side yard, and it must be at least 10 ft away from any side or rear lot line. All portions of the support pole, blades, guy wires, and associated structures or equipment must meet these standards.

b. Height

The pole and turbine are subject to the base zone height limit for primary structures, except that an increase of 1 additional ft high is allowed for every 1 ft that the wind energy system is set back beyond what is required in Subsection 19.502.3.D.4.a, up to a maximum of 50% above the base zone height limit.

c. Number

A maximum of 1 freestanding small wind generator system may be allowed on a lot of 15,000 sq ft or less. 1 additional freestanding system is allowed for each 7,500 sq ft of lot area above 15,000 sq ft.

5. Standards for Roof-Mounted Systems

Wind energy systems may be mounted on the roof of a structure.

a. Setback

The roof-mounted wind energy system is subject to the minimum yard requirements of the building on which it is mounted.

b. Height

Roof-mounted systems are subject to the height limit for freestanding systems in Subsection 19.502.3.D.4.b.

c. Number

There is no maximum number of roof-mounted systems permitted.

E. Rainwater Cisterns

1. A rainwater cistern installed below ground, at grade, or above ground is a permitted accessory use for all properties.
2. A rainwater cistern that meets the standards listed below may encroach up to 3 ft into a required yard, but not be closer than 3 ft from any lot line. Rainwater cisterns that meet the standards below are not subject to any design or materials standards.
  - a. The rainwater cistern is not mounted more than 2 ft above grade.
  - b. The rainwater cistern's storage capacity is 80 gallons or less.
3. A rainwater cistern that exceeds the standards listed in Subsection 19.502.3.E.2 is allowed subject to all other applicable regulations for an accessory structure.
4. A below-ground rainwater cistern shall be located at least 3 ft away from any lot line.

**19.503 ACCESSORY USES**

**19.503.1 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, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.
- 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 50 in number and shall require the written consent of all owners of real property (or a part thereof) within 100 ft of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept. Subsections 19.301.3 and 19.302.3.A contain additional regulations on keeping chickens or other domesticated fowl in the residential zones.~~
- D. Keeping of bees shall be a permitted accessory use for residentially zoned properties. 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 ft 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 are not permitted within any required front yard or street side yard, and shall be located at least 5 ft away from any side or rear property line. Amateur and CB radio structures and towers may exceed the height limits for the base zone, but shall not exceed a height of 70 ft. 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.

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## **19.504 SITE DESIGN STANDARDS**

### **19.504.4 Buildings on the Same Lot**

~~A minimum distance of 6 ft 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 1 building designed for dwelling purposes shall be permitted per lot.~~

- A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.
- B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

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### **19.504.6 Transition Area Measures**

Where ~~multifamily~~, commercial, or industrial development is proposed adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses. The downtown zones are exempt from this subsection.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.

- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

#### 19.504.7 Minimum Vegetation

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. 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.

#### ~~19.504.8 Multifamily Recycling Requirements~~

##### ~~A. Purpose~~

~~This subsection 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 subsection, 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 cu ft 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 Section 19.1006 Type III 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 Section 19.1004 Type I Review.~~

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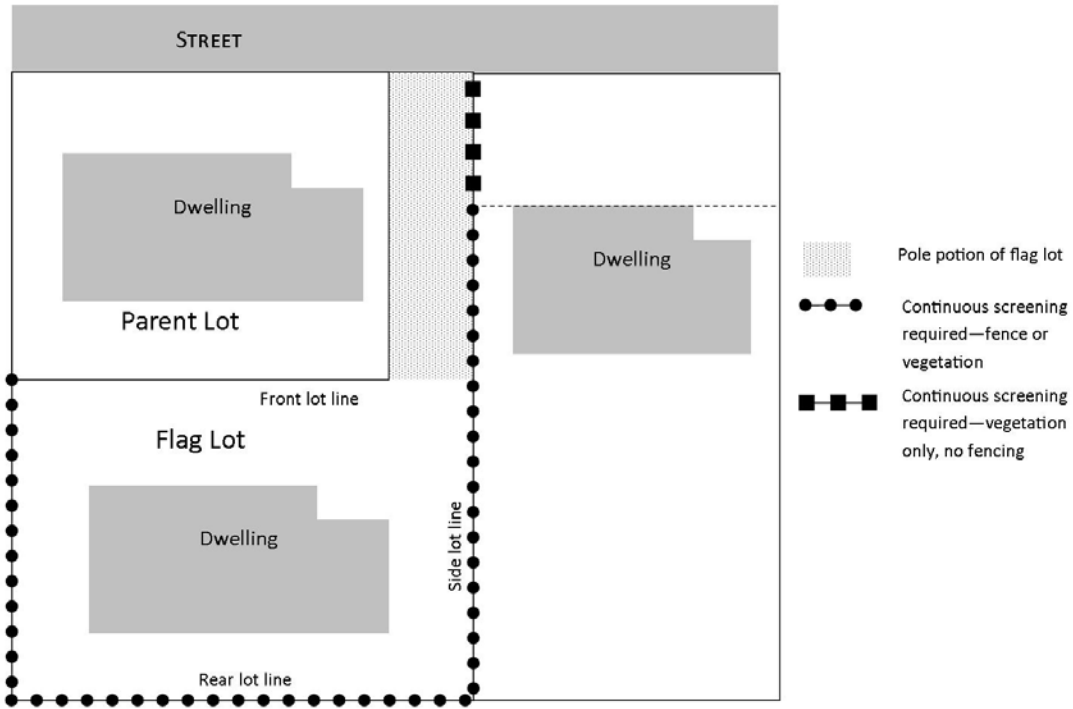
**19.504.98 Flag Lot Design and Development Standards**

**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 Subsection 19.502.2.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 lot lines of 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 described below. ~~follows:~~  
See Figure 19.504.8.E.
  - 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 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.

**Figure 19.504.8.E**  
**Flag Lot Screening**



**19.504.409 On-Site Walkways and Circulation**

**A. Requirement**

All development subject to Chapter 19.700 (excluding single-family and multifamily 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 ft 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, shall be permeable for stormwater, and shall be no less than 5 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-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 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

**19.504.4410 Setbacks Adjacent to Transit**

The following requirement applies to all new ~~multifamily~~, commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

When adjacent to a street served by transit, new commercial, office, or institutional development, including uses authorized under Section 19.904 Community Service Uses, shall be set back no more than 30 ft from the right-of-way that is providing transit service.

- A. An individual building may be set back more than 30 ft, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30-ft setback standard.
- B. 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 ft.
- C. 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.
- D. If the site abuts more than 1 street served by transit, then the maximum setback requirement need only apply to 1 street.

**19.505 BUILDING DESIGN STANDARDS**

**19.505.1 Design Standards for Single-Family Dwellings and Duplexes**

~~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 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 5 ft deep.~~
- ~~2. Entry area recessed at least 2 ft from the exterior wall to the door.~~
- ~~3. Bay or bow window that projects at least 1 ft from exterior wall.~~
- ~~4. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.~~
- ~~5. Dormer.~~
- ~~6. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.~~
- ~~7. Roof line offsets of at least 16 in 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.~~

A. Purpose

The design standards for single-family dwellings and duplexes require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.
2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
  - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
  - b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
  - c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:

- (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
- (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
- (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
- d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
- e. Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
- 3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
  - a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
  - b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Standards

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

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

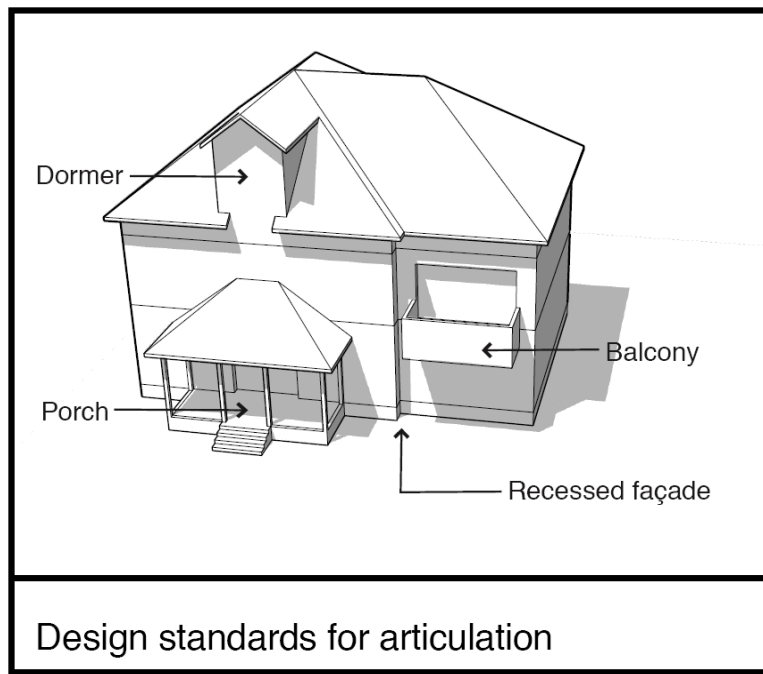
1. Articulation

All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements shall be provided along the street-facing façades.
  - (1) A porch at least 5 ft deep.
  - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.

- (3) A bay window that extends at least 2 ft wide.
- (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
- (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least one element in Subsection 19.505.1.C.1.a(1)-(4) above shall be provided for every 30 ft of street frontage. Elements shall be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.
- c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1**  
**Building Articulation**



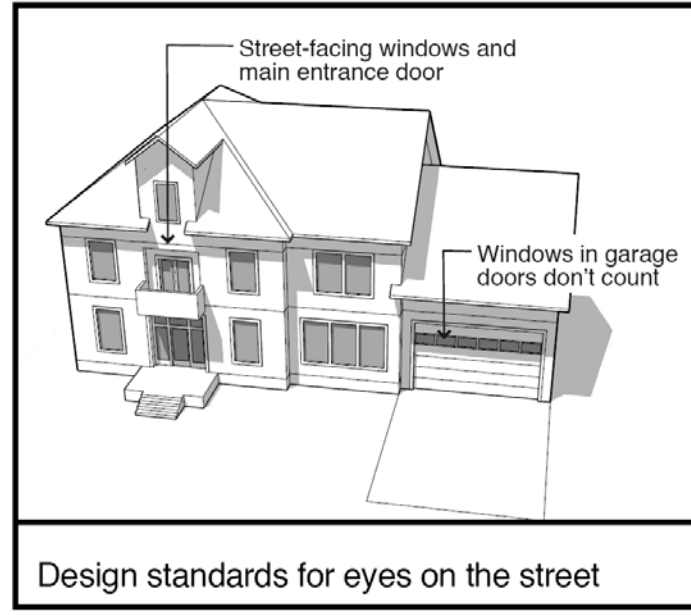
## 2. Eyes on the Street

At least 12% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.
- d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

**Figure 19.505.1.C.2**  
**Eyes on the Street**

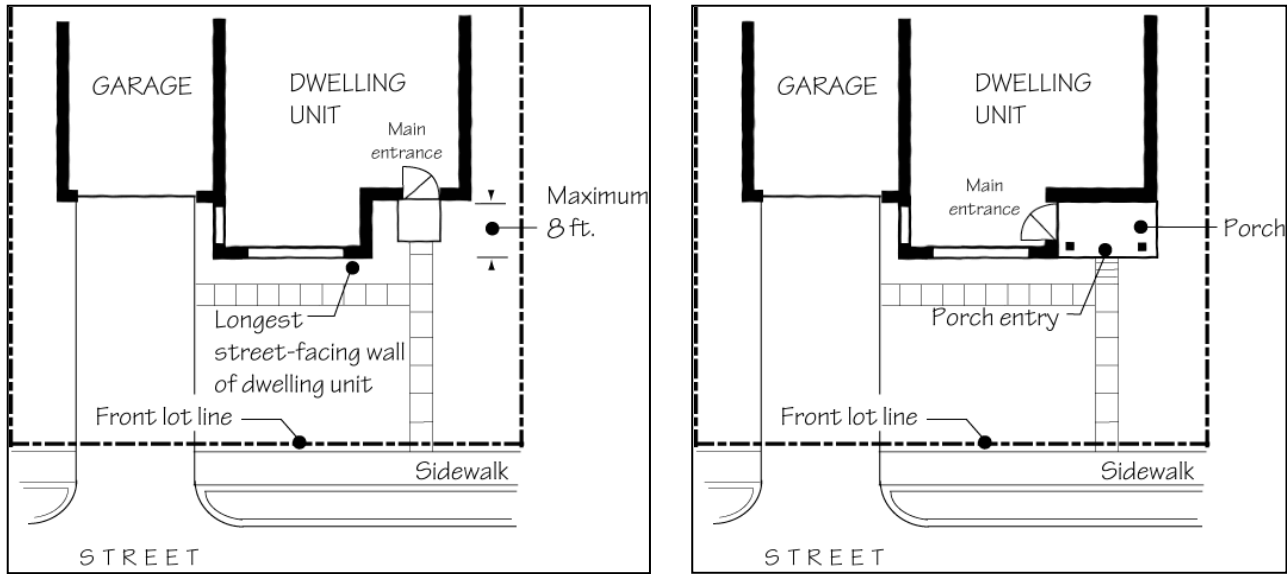


**3. Main Entrance**

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
- (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
  - (2) Have at least 1 porch entry facing the street.
  - (3) Have a roof that is no more than 12 ft above the floor of the porch.
  - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3**  
**Main Entrances**



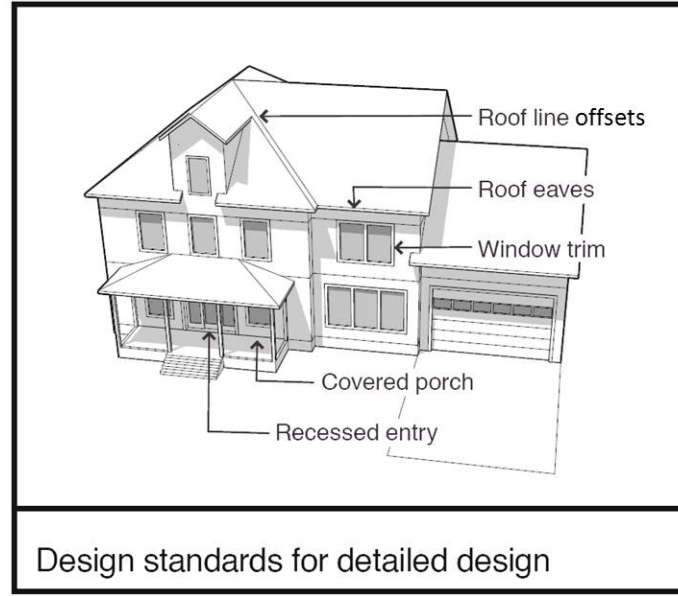
#### 4. Detailed Design

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

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.
- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long.

- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade.

**Figure 19.505.1.C.4  
Detailed Design Elements**



**5. Standards for Duplexes**

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

- a. The exterior finish of the structure must be the same for both units.
- b. The eaves must be uniform for the entire structure.
- c. The window and door trim must be the same in type, size, and location for the entire structure.
- d. Windows must match in proportion and orientation for the entire structure.
- e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.
- f. For duplexes facing 1 frontage, the following standards apply.
  - (1) Only 1 entrance is required to face the frontage.
  - (2) Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.c.3.
  - (3) A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.

*[Previous 19.505.2 Building Orientation to Transit renumbered as 19.505.6—see that further on in this document.]*

**19.505.2 Garage and Carport Standards**

**A. Purpose**

These standards are intended to prevent garages from obscuring or dominating the street-facing facade of a dwelling and provide for a pleasant pedestrian environment in residential areas.

**B. Applicability**

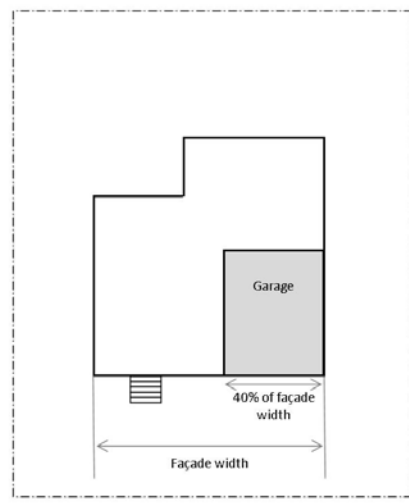
The standards in this subsection apply to all new attached garages and carports on properties with a single-family detached dwelling, residential home, or duplex when the street-facing facade of the garage, or columns of the carport, are located within 50 ft of the front property line. Standards for garages in rowhouse development are in Subsection 19.505.5.

**C. Standards**

1. The front of a garage or carport can be no closer to the front lot line than the longest street-facing wall of the house that encloses living area. The following exceptions apply:
  - a. A garage or carport may extend up to 5 ft in front if there is a covered front porch and the garage or carport does not extend beyond the front of the porch.
  - b. A garage may extend up to 5 ft in front if the garage is part of a 2-story facade that has a window at least 12 sq ft in area on the second story that faces the street.
2. The width of a street-facing garage door(s), as measured between the inside of the garage door frame, may not exceed 40% of the total width of the street-facing facades on the same street frontage as the garage door. See Figure 19.505.2.C.2. Notwithstanding this limit, a dwelling is allowed 1 12-ft-wide garage door, regardless of the total width of street-facing facades.

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

**Figure 19.505.2.C.2**  
**Maximum Garage Width**



3. Garages may be side-oriented to the front lot line if the eyes on the street standard in Subsection 19.505.1.C.2 is met.

**19.505.3 Design Standards for Multifamily Housing**

**A. Purpose**

The purpose of these design standards is to facilitate the development of attractive multifamily housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multifamily development:

**1. Livability**

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

**2. Compatibility**

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

**3. Safety and Functionality**

Development should be safe and functional, by providing visibility into and within a multifamily development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

**4. Sustainability**

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

**B. Applicability**

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multifamily and congregate housing developments with 3 or more dwelling units on a single lot, except within the downtown zones of Section 19.304. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

**1. All new multifamily or congregate housing development is subject to the design elements in this subsection.**

**2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.**

**a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.**

**b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.**

**c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.**

**d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.**

e. Subsection 19.505.3.D.7 Building Materials, only or additions or new buildings.

f. Subsection 19.505.3.D.8 Landscaping, for the entire site.

g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.

h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.

j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.

3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multifamily or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.

2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multifamily and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

**Table 19.505.3.D  
Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
<p>1. <u>Private Open Space</u></p>	<p>The development should provide private open space for each dwelling unit. Private open space should have direct access from the dwelling unit and should be visually and/or physically separate from common areas.</p> <p>The development may provide common open space in lieu of private open space if the common open space is well designed, adequately sized, and functionally similar to private open space.</p>	<p>Private open space (patios or balconies) shall be provided as follows:</p> <p>a. For each dwelling unit located on the ground floor, or within 5 ft of finished grade, a minimum of 96 sq ft of private open space, with a minimum dimension of 5 ft.</p> <p>b. For each dwelling unit located more than 5 ft above finished grade, a minimum of 48 sq ft of private open space.</p> <p>c. For each dwelling unit with private open space, the private open space shall be directly accessible from the interior of the dwelling unit.</p> <p>d. Private open space shall be separated from common open space and adjacent dwelling units through the use of landscaping, fencing, or a wall.</p>
<p>2. <u>Public Open Space</u></p>	<p>The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.</p>	<p>Common open space shall be provided as follows:</p> <p>a. For buildings with more than 5 dwelling units, a minimum of 10% of the gross site area, or 750 sq ft, whichever is greater, shall be designated as common open space.</p> <p>b. The minimum dimension for any common open space shall be 20 ft.</p> <p>c. Projects with 20 units or less shall provide at least 2 of the following common open space features. Projects with more than 20 units shall provide at least 4 of the features: recreation area, play fields, children’s play area, sport courts, gardens, permanent picnic tables, swimming pools, walking trails, pedestrian amenities, or similar items.</p> <p>d. If a development includes a children’s play area, the play area shall be located such that it is visible from at least 50% of the abutting units. Play areas shall not be located within required yards.</p> <p>e. User amenities—such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pool— may be placed in the outdoor area.</p>

**Table 19.505.3.D CONTINUED**  
**Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
3. <u>Pedestrian Circulation</u>	<p>Site design should promote safe, direct, and usable pedestrian facilities and connections throughout the development. Ground-floor units should provide a clear transition from the public realm to the private dwellings.</p>	<p>The on-site pedestrian circulation system shall include the following:</p> <ul style="list-style-type: none"> <li>a. <u>Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.</u></li> <li>b. <u>At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.</u></li> <li>c. <u>Pedestrian walkways shall be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.</u></li> <li>d. <u>Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.</u></li> <li>e. <u>On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.</u></li> </ul>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
<p>4. <u>Vehicle and Bicycle Parking</u></p>	<p><u>Vehicle parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site. Bicycle parking should be secure, sheltered, and conveniently located.</u></p>	<p>Parking for the development shall comply with the following:</p> <ul style="list-style-type: none"> <li>a. <u>On-site surface parking areas, garages, and vehicle maneuvering areas shall not be located directly between the façade of a primary building(s) and an abutting street right-of-way.</u></li> <li>b. <u>Parking located to the side of a dwelling structure shall be limited to 50% of the linear frontage of that side. Drive aisles without adjacent parking spaces do not count as parking areas for purposes of this standard.</u></li> <li>c. <u>All garages that are part of the same structure that contains dwelling units shall be located at least 4 ft behind the front building façade.</u></li> <li>d. <u>For developments with more than 20 units, the covered bicycle parking required by Subsection 19.609.2.B shall meet the following standards. These standards apply instead of, and not in addition to, the standards in Subsections 19.609.3 and 4.</u> <ul style="list-style-type: none"> <li>(1) <u>The parking area shall be inside a building or sheltered to provide complete, year-round protection from precipitation.</u></li> <li>(2) <u>Entrance to the parking area shall be secured by lock so that only residents have access to the area.</u></li> <li>(3) <u>The area shall have permanently mounted bicycle racks or hangers that allow the bicycle frame to be locked to the rack or hanger.</u></li> <li>(4) <u>Spaces and aisles within the parking area shall allow for storage and movement of a bicycle width of 2.5 ft and length of 6.5 ft.</u></li> <li>(5) <u>The parking area shall have an average illumination of at least 1.0 ft candles.</u></li> <li>(6) <u>Parking areas not located within a dwelling structure or structured parking shall be located no further than 30 ft from the main entrance of a dwelling structure.</u></li> </ul> </li> </ul>
<p>5. <u>Building Orientation &amp; Entrances</u></p>	<p><u>Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.</u></p>	<ul style="list-style-type: none"> <li>a. <u>The primary building entry, or entries, for ground-floor units shall face the street right-of-way or a central common open space. Secondary entries may face parking lots or other interior site areas.</u></li> <li>b. <u>Building entrances shall be emphasized through the use of features or elements such as recesses, projections, corner entries, or landscape treatments.</u></li> <li>c. <u>For sites not on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 10 ft from the required setback line.</u></li> <li>d. <u>For sites on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 20 ft from the required setback line.</u></li> </ul>

**Table 19.505.3.D CONTINUED**  
**Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
<p>6. <u>Building Façade Design</u></p>	<p><u>Changes in wall planes, layering, horizontal datums, vertical datums, building materials, color, and/or fenestration shall be incorporated to create simple and visually interesting buildings.</u></p> <p><u>Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</u></p> <p><u>Windows should be used to provide articulation to the façade and visibility into the street.</u></p> <p><u>Building facades shall be compatible with adjacent building façades.</u></p> <p><u>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</u></p>	<p>a. <u>Street-facing building facades shall be divided into wall planes. The wall plane on the exterior of each dwelling unit shall be articulated by doing one or more of the following:</u></p> <p style="margin-left: 20px;">(1) <u>Incorporating elements such as porches or decks into the wall plane.</u></p> <p style="margin-left: 20px;">(2) <u>Recessing the building a minimum of 2 ft deep x 6 ft long.</u></p> <p style="margin-left: 20px;">(3) <u>Extending an architectural bay at least 2 ft from the primary street-facing façade.</u></p> <p>b. <u>Windows shall occupy a minimum of 25% of the total street-facing façade.</u></p> <p>c. <u>Buildings shall have a distinct base and top. The base of the building (ground-floor level) shall be considered from grade to 12 ft above grade. The base shall be visually distinguished from the top of the building by any of the following physical transitions: a change in brick pattern, a change in surface or siding materials, a change in color, or a change in the size or orientation of window types.</u></p> <p>d. <u>To avoid long, monotonous, uninterrupted walls, buildings shall incorporate exterior wall off-sets, projections and/or recesses. At least 1 ft of horizontal variation shall be used at intervals of 40 ft or less along the building's primary façade on the ground-floor level.</u></p> <p>e. <u>Blank, windowless walls in excess of 750 sq ft are prohibited when facing a public street, unless required by the Building Code. In instances where a blank wall exceeds 750 sq ft, it shall be articulated or intensive landscaping shall be provided.</u></p> <p>f. <u>Garage doors shall be painted to match the color or color palette used on the rest of the buildings.</u></p>

**Table 19.505.3.D CONTINUED**  
**Multifamily Design Guidelines and Standards**

<u>Design Element</u>	<u>Design Guideline (Discretionary Process)</u>	<u>Design Standard (Objective Process)</u>
<p>7. <u>Building Materials</u></p>	<p><u>Buildings should be constructed with architectural materials that provide a sense of permanence and high quality.</u></p> <p><u>Street-facing façades shall consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles.</u></p> <p><u>A hierarchy of building materials shall be incorporated. The materials shall be durable and reflect a sense of permanence and quality of development.</u></p> <p><u>Split-faced block and gypsum reinforced fiber concrete (for trim elements) shall only be used in limited quantities.</u></p> <p><u>Fencing shall be durable, maintainable, and attractive.</u></p>	<p>a. <u>The following building materials are prohibited on street-facing building facades and shall not collectively be used on more than 35% of any other building façade:</u></p> <ul style="list-style-type: none"> <li><u>(1) Vinyl PVC siding</u></li> <li><u>(2) T-111 Plywood</u></li> <li><u>(3) Exterior insulation finishing (EIFS)</u></li> <li><u>(4) Corrugated metal</u></li> <li><u>(5) Plain concrete or concrete block</u></li> <li><u>(6) Spandrel glass</u></li> <li><u>(7) Sheet pressboard</u></li> </ul> <p>b. <u>The following fence materials are prohibited.</u></p> <ul style="list-style-type: none"> <li><u>(1) Plastic or vinyl</u></li> <li><u>(2) Chain link</u></li> </ul>
<p>8. <u>Landscaping</u></p>	<p><u>Landscaping of multifamily developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible.</u></p> <p><u>Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management.</u></p>	<p>a. <u>For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved.</u></p> <ul style="list-style-type: none"> <li><u>(1) New trees must be listed as native trees in the Milwaukie Native Plant List.</u></li> <li><u>(2) Preserved tree(s) must be at least 6 in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.</u></li> </ul> <p>b. <u>Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</u></p> <p>c. <u>On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</u></p> <p>d. <u>For projects with more than 20 units:</u></p> <ul style="list-style-type: none"> <li><u>(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system.</u></li> <li><u>(2) To reduce the "heat island" effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.</u></li> </ul>

**Table 19.505.3.D CONTINUED**  
**Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
9. Screening	<u>Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.</u>	<p><u>Mechanical and communication equipment and outdoor garbage and recycling areas shall be screened so they are not visible from streets and other ground-level private open space and common open spaces.</u></p> <p><u>a. Appropriate screening for rooftop equipment includes parapet walls or architecturally compatible fabricated enclosures such as panels and walls.</u></p> <p><u>(1) The Planning Director may require a review of rooftop equipment screening by requesting sight line studies.</u></p> <p><u>(2) Solar energy systems are exempt from this requirement.</u></p> <p><u>b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment shall be not be located within 5 ft of a front entrance and shall be screened with sight-obscuring materials.</u></p>
10. Recycling Areas	<u>Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.</u>	<p><u>A recycling area or recycling areas within a multifamily development shall meet the following standards.</u></p> <p><u>a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.</u></p> <p><u>b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.</u></p> <p><u>c. Recycling containers must be covered by either a roof or weatherproof lids.</u></p> <p><u>d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof.</u></p> <p><u>e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.</u></p> <p><u>f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.</u></p> <p><u>g. Fire Department approval will be required for the recycling collection area.</u></p> <p><u>h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.</u></p>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

<b><u>Design Element</u></b>	<b><u>Design Guideline (Discretionary Process)</u></b>	<b><u>Design Standard (Objective Process)</u></b>
<p>11. Sustainability</p>	<p>Multifamily development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.</p>	<p>In order to promote more sustainable development, multifamily developments shall incorporate the following elements:</p> <ul style="list-style-type: none"> <li>a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.</li> <li>b. Windows that are operable by building occupants.</li> <li>c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.</li> <li>d. Projects with more than 20 units shall incorporate at least 2 of the following elements:               <ul style="list-style-type: none"> <li>(1) A vegetated ecoroof for a minimum of 30% of the total roof surface.</li> <li>(2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12.</li> <li>(3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface.</li> <li>(4) An integrated solar panel system for a minimum of 30% of the total roof or building surface.</li> <li>(5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof.</li> <li>(6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.</li> </ul> </li> </ul>
<p>12. Privacy Considerations</p>	<p>Multifamily development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.</p>	<p>In order to protect the privacy of adjacent properties, multifamily developments shall incorporate the following elements:</p> <ul style="list-style-type: none"> <li>a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties.</li> <li>b. Where windows on a multifamily development are within 30 ft of windows on adjacent residences, windows on the multifamily development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multifamily unit.</li> </ul>

**Table 19.505.3.D CONTINUED**  
**Multifamily Design Guidelines and Standards**

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

### **19.505.4 Design Standards for Cottage Cluster Housing**

#### **A. Purpose**

These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

#### **B. Applicability**

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300. The standards apply to development of new cottage clusters and modifications to existing cottage clusters.

#### **C. Land Division**

1. A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.
2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.
3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.
4. Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.
5. Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.

#### **D. Development Standards**

The standards listed below are the applicable development and design standards for cottage cluster housing. The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.

Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.

##### **1. Cottage Standards**

###### **a. Size**

The total footprint of a cottage unit shall not exceed 700 sq ft, and the total floor area of each cottage unit shall not exceed 1,000 sq ft.

###### **b. Height**

The height for all structures shall not exceed 18 ft. Cottages or amenity buildings having pitched roofs with a minimum slope of 6/12 may extend up to 25 ft at the ridge of the roof.

c. Orientation

- (1) The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.
- (2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.

d. Required Yards

- (1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.
- (2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.
- (3) The required yard depth for all yards other than a front or rear yard is 5 ft.
- (4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections—such as eaves, overhangs, or chimneys—may project into this required separation by 18 in.
- (5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.

e. Cottage Design Standards

The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.

- (1) Cottages fronting a street shall avoid blank walls by including at least one of the following:
  - (a) Changes in exterior siding material.
  - (b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.
  - (c) Wall offsets of at least 1 ft deep.
- (2) Trim around windows and doors shall be at least 3 in wide and  $\frac{5}{8}$  in deep.
- (3) All roofs shall have a minimum roof pitch of 4/12.
- (4) Windows and doors shall account for at least 15% of the façade area for facades oriented toward a public street or common open space.
- (5) At least 60% of the siding material on each wall shall be either horizontal lap siding, between 3 to 7 in wide once installed, or shake siding.

f. Front Porches

Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semipublic area between the cottage and the open space.

- (1) The minimum porch depth shall be 6.5 ft.

- (2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.
- (3) The front door of the dwelling must open onto the porch.
- (4) The entire area of the front porch must be covered.
- (5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.

2. Site Design and Other Standards

a. Number of Cottages Allowed

The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4. A cottage cluster development shall include a minimum of 4 cottages and a maximum of 12 cottages.

b. Common Open Space

An adequately sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards.

(1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.

(2) The minimum dimension for the common open space is 20 ft on 1 side.

c. Private Open Space

Each cottage shall have a private open space on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on 1 side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.

d. Maximum Lot Coverage and Impervious Area

The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.

e. Internal Pedestrian Circulation

The cottage cluster development shall include continuous pedestrian paths for internal circulation on-site. The minimum width for pedestrian paths shall be 6 ft. Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within the development.

f. Perimeter Setback Areas

All structures within a cottage cluster development shall be located at least 15 ft from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed.

g. Off-Street Parking

(1) There shall be at least 1 off-street parking space per dwelling unit. The parking space shall be located together with parking spaces for other cottages

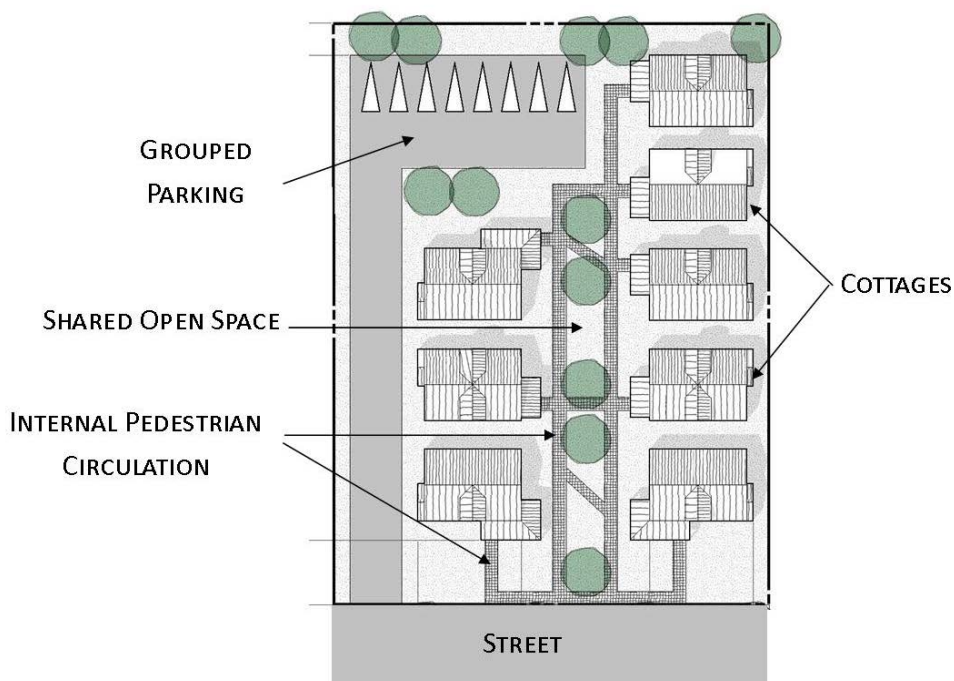
in a common area, and not located on the same lot as an individual cottage unit.

- (2) A cottage cluster parking area shall be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
- (3) If there are more than 8 units in a cottage cluster, there shall be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
- (4) Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high.
- (5) Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

h. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

**Figure 19.505.4**  
**Cottage Cluster Development**



### **19.505.5 Standards for Rowhouses**

#### **A. Purpose**

Rowhouses provide a type of housing that includes the benefits of a single-family detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. The purpose of these standards is to allow rowhouses in medium to high density residential zones. Rowhouses are allowed at the same density as single-family detached and multifamily dwellings, and the general design requirements are very similar to the design requirements for single-family detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of rowhouses.

#### **B. Applicability**

1. The standards of Subsection 19.505.5 apply to single-family dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a rowhouse lot in both Section 19.302 and Subsection 19.505.5.E. Rowhouse development may take place on existing lots that meet the lot standards for rowhouse lots or on land that has been divided to create new rowhouse lots.
2. Development standards for rowhouses are in Subsection 19.302.4.
3. Design standards for single-family detached dwellings in Subsections 19.505.1-2 are also applicable to rowhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either duplexes or multifamily housing.

#### **C. Rowhouse Design Standards**

1. Rowhouses are subject to the design standards for single-family housing in Subsection 19.505.1.
2. Rowhouses shall include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
  - a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the the bottom step must be at least 5 ft from the front lot line.
  - b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it shall be at least 7 ft from the front lot line.

**D. Number of Rowhouses Allowed**

No more than 4 consecutive rowhouses that share a common wall(s) are allowed. A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.

**E. Rowhouse Lot Standards**

1. Rowhouse development is not allowed on lots with a lot width of more than 35 ft.
2. Rowhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.
3. Rowhouse development in the R-3 and R-2.5 Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1.
4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.4.

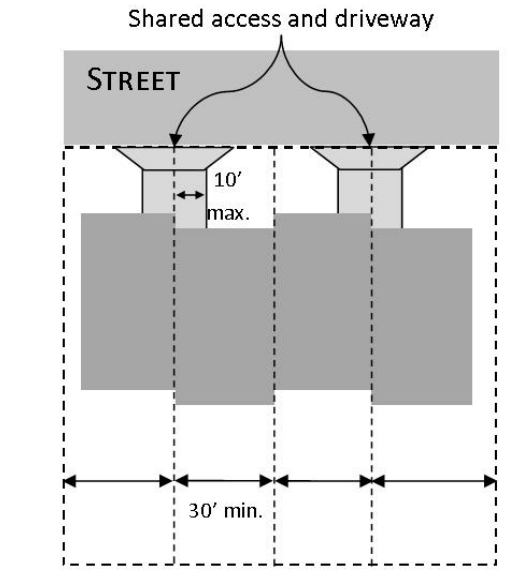
<b>Table 19.505.5.E.4</b>		
<b>Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones</b>		
<b>Number of Rowhouses</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
<u>2</u>	<u>7,500 sq ft</u>	<u>6,400 sq ft</u>
<u>3</u>	<u>10,000 sq ft</u>	<u>7,800 sq ft</u>
<u>4</u>	<u>12,500 sq ft</u>	<u>9,200 sq ft</u>

**F. Driveway Access and Parking**

1. Garages on the front façade of a rowhouse, off-street parking areas in the front yard, and driveway accesses in front of a rowhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.
  - a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.
  - b. Development of 2 or 3 rowhouses has at least 1 shared access between the lots, and development of 4 rowhouses has 2 shared accesses.

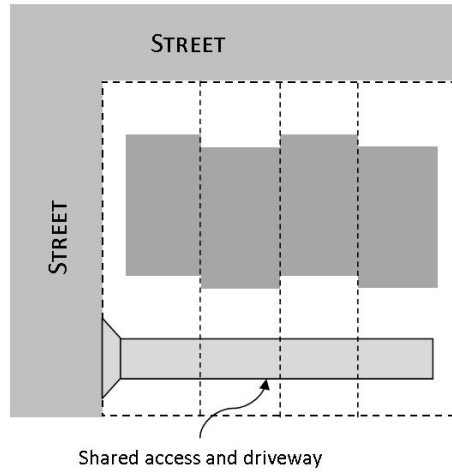
- c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
- d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

**Figure 19.505.5.F.1**  
**Rowhouse Development with Front Yard Parking**



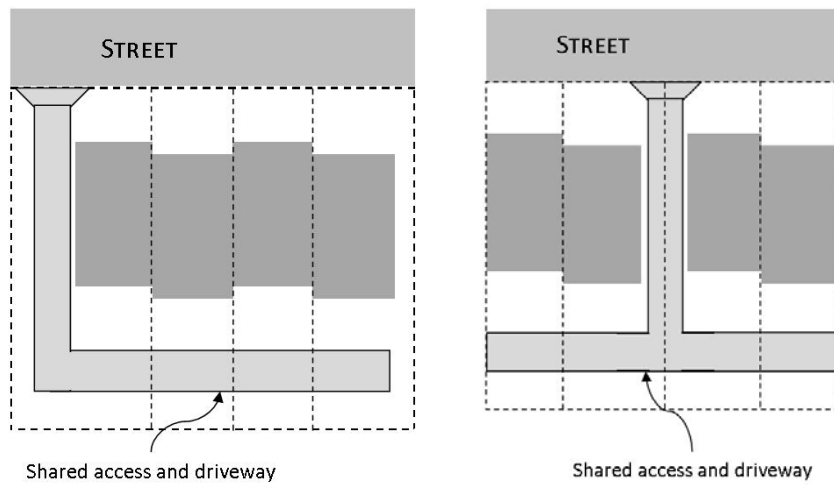
- 2. The following rules apply to driveways and parking areas for rowhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
  - a. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a rowhouse.
  - b. Rowhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The Engineering Director may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

**Figure 19.505.5.F.2.b**  
**Rowhouse Development with Corner Lot Access**



- c. Rowhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front facade and front lot line of any of the rowhouses. See Figure 19.505.5.F.2.c.

**Figure 19.505.5.F.2.c**  
**Rowhouse Development with Consolidated Access**



- d. A rowhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

**G. Accessory Structure Setbacks**

On rowhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

**19.505.26 Building Orientation to Transit**

The following requirement applies to all new multifamily, commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

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 1 entrance. If the development has frontage on more than 1 transit street, the primary building entrance may be oriented to either street or to the corner.

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**19.506 MANUFACTURED DWELLING SITING AND DESIGN STANDARDS**

**19.506.4 Siting Standards**

Manufactured homes are allowed outright in any zone that allows single-family detached dwellings outright. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

- A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 sq ft.
- B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in 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 in rise for every 12 in 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 Planning 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.~~
- ~~CE. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit. 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 Planning Director. Materials that shall not be allowed include bare metal siding or roofing.~~
- DF. The unit shall comply with the definition for manufactured home as identified in this section.
- EG. The unit shall comply with single-family parking and paving standards as described in Chapter 19.600.

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

**19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

<b>Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements</b>		
<b>Use</b>	<b>Minimum Required</b>	<b>Maximum Allowed</b>

<b>A. Residential Uses</b>		
1. Single-family dwellings, including <u>rowhouses and manufactured homes</u> .	1 space per dwelling unit.	No maximum.

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**19.605.3 Exemptions and By-Right Reductions to Quantity Requirements**

**B. Reductions to Minimum Parking Requirements**

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

**5. Bicycle Parking**

The minimum amount of required parking for all non-single-family residential uses may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

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**19.606 PARKING AREA DESIGN AND LANDSCAPING**

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for cottage clusters, rowhouses, duplexes ~~single-family attached dwellings~~, single-family detached dwellings, and residential homes.

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**19.606.2 Landscaping**

**B. General Provisions**

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for cottage clusters, rowhouses, duplexes, and single-family detached dwellings ~~and single-family attached residences~~. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.
2. Landscaped areas required by Subsection 19.606.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
3. Parking areas with 10 or fewer spaces in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, are exempt from the requirements of Subsection 19.606.2.

### 19.606.3 Additional Design Standards

#### D. Pedestrian Access and Circulation

Subsection 19.504.~~940~~ establishes standards that are applicable to an entire property for on-site walkways and circulation. The purpose of Subsection 19.606.3.D is to provide safe and convenient pedestrian access routes specifically through off-street parking areas. Walkways required by Subsection 19.606.3.D are considered part of the on-site walkway and circulation system required by Subsection 19.504.~~940~~.

1. Pedestrian access shall be provided for off-street parking areas so that no parking space is further than 100 ft away, measured along vehicle drive aisles, from a building entrance, or a walkway that meets the standards of Subsection 19.606.3.D.2.
2. Walkways through off-street parking areas must be continuous, must lead to a building entrance, and meet the design standards of Subsection 19.504.~~940~~.E.

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## 19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

### 19.607.1 Residential Driveways and Vehicle Parking Areas

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

#### A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

#### B. Location

1. Off-street vehicle parking for ~~single family attached dwellings, single family detached dwellings, and residential homes~~ shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.
2. No portion of the required parking space for ~~single family attached dwellings, single family detached dwellings, or residential homes~~ is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

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#### C. Parking Surface Materials

Parking of vehicles ~~on a property with a single family attached dwellings, single family detached dwelling, or residential home~~ shall only be allowed on surfaces described in Subsection 19.607.1.C.

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#### D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to rowhouses, which are subject to the standards in Subsection 19.505.5.

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### 19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking

Subsection 19.607.2 is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.607.2 apply to off-street parking areas for cottage clusters, rowhouses, duplexes ~~single-family attached dwellings~~, single-family detached dwellings, and residential homes in all zones.

- A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached dwelling, or residential home properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in 1 day if the vehicle is engaged in loading or unloading materials for a residence(s).
- B. Recreational vehicles and pleasure crafts on cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached, or residential home properties must comply with the following regulations:
  - 1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft long shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.
  - 2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a cottage cluster, rowhouse, duplex ~~single-family attached dwellings~~, single-family detached dwelling, or residential home.

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### 19.609 BICYCLE PARKING

#### 19.609.2 Quantity of Spaces

- A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.
  - 1. Unless otherwise specified, the ~~The~~ number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use. ~~In no case shall less than 2 spaces be provided.~~
  - 2. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.
  - 3. Multifamily residential development with 4 or more units shall provide 1 space per unit.
- B. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any ~~either~~ of the following situations:
  - 1. When 10% or more of vehicle parking is covered.

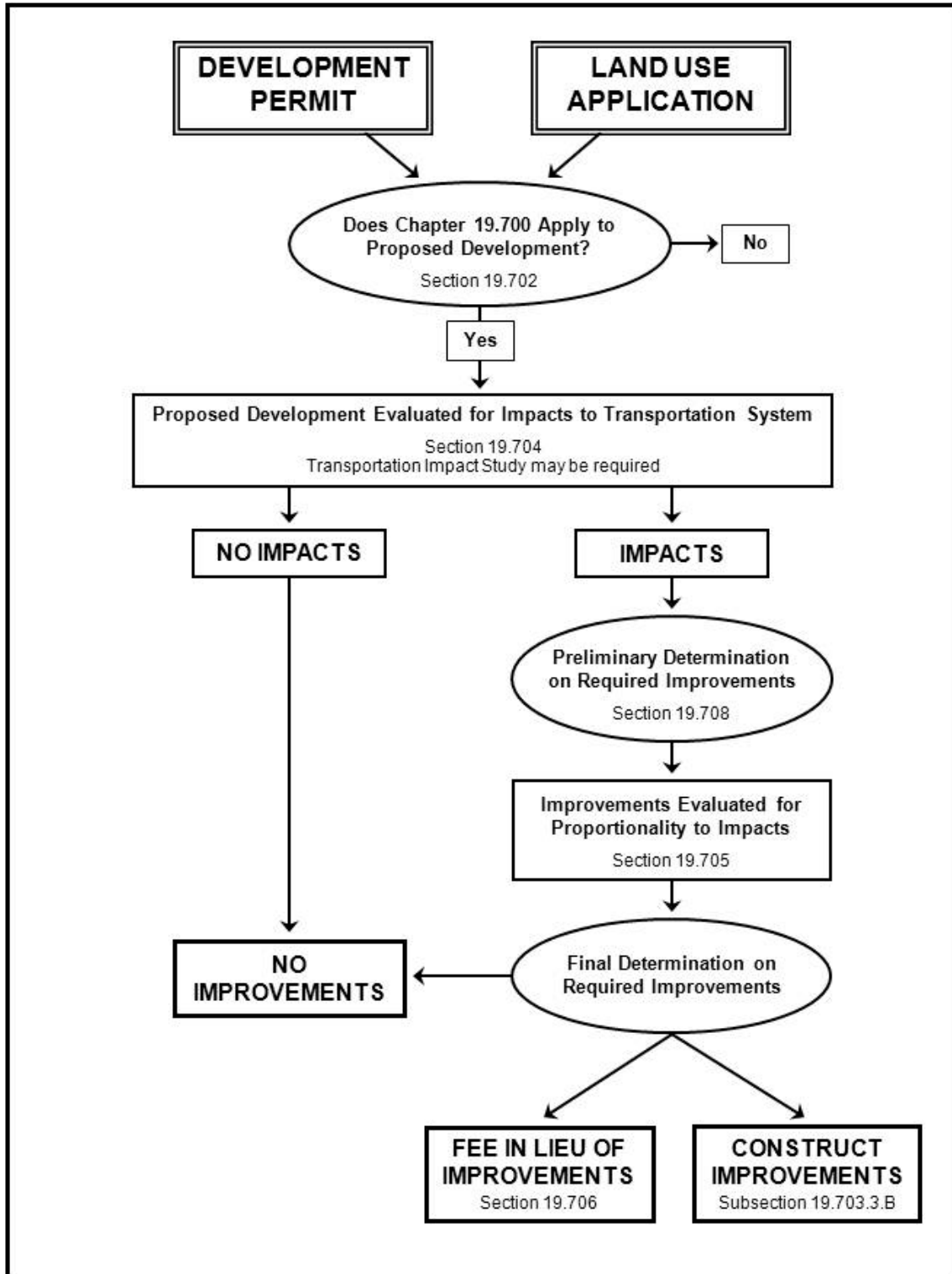
2. If more than 10 bicycle parking spaces are required.
3. Multifamily residential development with 4 or more units.

## **CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS**

*[Section references within the graphic for Figure 19.703.4 corrected. This was missed when Chapter 19.1400 was renumbered as 19.700 in a previous amendment.]*

### **19.703 REVIEW PROCESS**

#### **Figure 19.703.4 Process for Determining Transportation Facility Improvements**



**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

**19.708.1 General Street Requirements and Standards**

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 Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.304-19.5.

**CHAPTER 19.900 LAND USE APPLICATIONS**

**19.901 INTRODUCTION**

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City’s land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

<b>Table 19.901 Land Use Applications</b>		
<b>Application Type</b>	<b>Municipal Code Location</b>	<b>Review Types</b>
Amendments to Maps and Ordinances:	Section 19.902	
Comprehensive Plan Text Amendment	Subsection 19.902.3	V
Comprehensive Plan Map Amendment	Subsection 19.902.4	IV, V <sup>1</sup>
Zoning Text Amendment	Subsection 19.902.5	V
Zoning Map Amendment	Subsection 19.902.6	III, V <sup>2</sup>
Annexations and Boundary Changes:	Chapter 19.1100	
Boundary Change	Section 19.1103	NA
Expedited Annexation	Section 19.1104	NA
Nonexpedited Annexation	Section 19.1102	IV
Appeal	Section 19.1010	Varies
Code Interpretation	Section 19.903	I
Community Service Use	Section 19.904	I, III
Compensation for Reduction in Property Value (Measure 37)	Chapter 1.20	NA
Conditional Use	Section 19.905	I, III
Development Review	Section 19.906	I, II
Director Determination	Section 19.903	I
Downtown Design Review	Section 19.907	I, II, III

**Proposed Code and Comp. Plan Amendments**

Extension to Expiring Approval	Section 19.908	I, II
Historic Resource:	Section 19.403	
Alteration	Subsection 19.403.5	I, III
Demolition	Subsection 19.403.7	III
Status Designation	Subsection 19.403.4	IV
Status Deletion	Subsection 19.403.4	IV
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony	Subsection 19.503.1.D	III
<del>Multifamily Recycling Area</del>	<del>Subsection 19.504.8</del>	<del>I</del>
Mixed Use Overlay Review	Section 19.404	III
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, IV
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311 <del>347</del>	IV
Residential Dwellings:	Section 19.910	
Accessory Dwelling Unit ( <del>Type 1</del> )	Subsection 19.910.1	<del>I, II</del>
Duplex-Accessory Dwelling Unit ( <del>Type 2</del> )	Subsection 19.910.2	<del>II-III</del>
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

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

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

**19.904 COMMUNITY SERVICE USES**

**19.904.4 Approval Criteria**

A. An application for a community service use may be allowed if the following criteria are met:

- A4. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;
- B2. Specific standards for the proposed uses as found in Subsections 19.904.7-11 are met;
- C3. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;
- D4. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and
- E5. The location is appropriate for the type of use proposed.

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**19.905 CONDITIONAL USES**

**19.905.9 Standards Governing Conditional Uses**

A conditional use shall comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

~~F. Single Family Attached Dwellings~~

~~In considering a conditional use application for single family attached dwellings, the Planning Commission shall consider the following:~~

- ~~1. Whether a structure of a similar type is within 200 ft.~~
- ~~2. Relationship to neighboring uses.~~
- ~~3. Street access.~~
- ~~4. Terrain of the site.~~

FG. Multifamily Condominium and Apartment Dwellings

In considering a conditional use application for multifamily condominium and apartment dwellings, the Planning Commission shall consider the following:

- 1. Relationship to neighboring uses.
- 2. Street access.
- 3. Terrain of the site.

GH. Senior and Retirement Housing

In considering a conditional use application for senior and retirement housing, the Planning Commission shall consider the following:

- 1. Pedestrian access to transit.
- 2. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.

3. Pedestrian access to banking, churches, hospitals, and restaurants.
4. Quality of project as a living environment for residents.
5. Minimizing impact on the surrounding area.

~~The Planning Commission may recommend to the City Council an increase in density to as much as that permitted by the next higher zone. The City Council shall make the final decision on density increase.~~

An applicant shall submit materials and the Planning Commission shall attach conditions that will ensure that the special nature of the housing, and the groups to be served, are clearly defined and maintained in perpetuity. A project is required to meet the definition for this type of housing in Section 19.201.

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## **19.907 DOWNTOWN DESIGN REVIEW**

### **19.907.2 Applicability**

All new construction and changes to buildings and/or properties in the downtown zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in Subsection 19.304340.6.B are subject to design review in accordance with the procedures as outlined below under Subsection 19.907.5.

### **19.907.3 Design Guidelines**

Design guidelines shall be established for the downtown zones and shall be considered as part of design review applications in accordance with the provisions of Section 19.304340.

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### **19.907.5 Application Procedure**

Applications for design review shall be processed in accordance with Chapter 19.1000, Type I, Type II, and Type III procedures as indicated in this section, as follows:

#### **A. Exterior Maintenance and Repair**

Exterior maintenance and repair, as defined in Subsection 19.304340.6.B.1, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I review.

#### **B. Minor Exterior Alterations**

Minor exterior alterations, as defined in Subsection 19.304340.6.B.2, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. The Planning Director may change a Type I review to a Type II review upon finding the following:

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#### **C. Major Exterior Alterations**

~~A m~~Major exterior alterations, as defined in Subsection 19.304340.6.B.3, shall be evaluated through a Type III review in accordance with the procedures in Section 19.1006. Applications for major exterior alterations shall be reviewed at a public hearing and decided by the Planning Commission, except as follows:

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D. Residential

1. “Stand-Alone” Residential Buildings

“Stand-alone” residential buildings that do not include nonresidential uses are exempt from design review, but shall be subject to the clear and objective design standards under Subsection 19.304340.6. Applicants may elect to process a stand-alone residential building design review.

2. Mixed Use Buildings

The residential portion of mixed use buildings shall be subject to the clear and objective standards under Subsection 19.304340.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed use building through design review.

Any change in use of the residential portion of a mixed use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the Planning Commission.

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**19.907.9 Variances to Development Standards**

The Planning Commission may authorize variances to the development standards under Subsection 19.304340.4 in accordance with procedures of Section 19.911.

**19.907.10 Modification of Design Standards**

The Planning Commission may authorize modification of the design standards under Subsection 19.304340.6.C, in accordance with the following procedures.

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**19.907.11 Consideration of Prohibited Material or Design Features**

The Planning Commission may authorize the use of prohibited materials or design features specified in Subsection 19.304340.6.C subject to the following criteria:

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**19.910 RESIDENTIAL DWELLINGS**

This section contains applications for types of residential dwellings that require land use approval.

**19.910.1 Accessory Dwelling Units (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 homeowners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this subsection 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 Section 19.1005 Type II 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 net floor area of 600 sq ft, 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 submittal 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 5.08.~~

~~H. Use, Alteration, or Conversion of Structure~~

~~Type 1 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 1 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 1 accessory dwelling unit per lot is permitted.~~

~~I. Required Parking~~

~~Off street parking shall be provided in accordance with Chapter 19.600. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.~~

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit shall be evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per the standards of Table 19.910.1.E.4.B.

Where a detached accessory dwelling unit is proposed that would undergo a Type I review, properties adjoining the site shall receive mailed notice of the proposed development. The notice shall include a site plan, building elevations, and a description of the standards and review process for the development. The notice shall be mailed within 7 days of the date that the application is deemed complete per Subsection 19.1003.3.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit reviewed through a Type I review shall be approved if the following standards are met.
  - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
  - b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.
  - c. One accessory dwelling unit per lot is allowed.
  - d. The development standards of Subsection 19.910.1.E are met.

- e. The proposal complies with all other applicable standards of this title.
- 2. An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.
  - a. The standards in Subsection 19.910.1.D.1 are met.
  - b. The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.
  - c. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.
  - d. There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

The more restrictive provisions shall be applicable in the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property. An attached accessory dwelling unit shall be reviewed by a Type I review per Subsection 19.1004.

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit.

b. Design Standards

- (1) The façade of the structure that faces the front lot line shall have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.
- (2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.
- (3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.
  - (a) The exterior finish on the addition shall match the exterior finish material of the primary dwelling unit in type, size, and placement.

- (b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.
- (c) Windows on street-facing facades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
- (d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

**4. Standards for Detached Accessory Dwelling Units**

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

**a. Maximum Allowed Floor Area**

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

**b. Footprint, Height, and Required Yards**

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a Type I review require Type II review. Structures are not allowed to exceed any of the maximums associated with a Type II review without approval of a variance per Section 19.911.

<b>Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units</b>		
<b><u>Level of Review</u></b>	<b><u>Type I</u></b>	<b><u>Type II</u></b>
<b>Maximum Structure Footprint</b>	600 sq ft	800 sq ft
<b>Maximum Structure Height</b>	15', limited to 1 story	25', limited to 2 stories
<b>Required Side and Rear Yard</b>	Base zone requirement for side and rear yard	5'
<b>Required Front Yard</b>	10' behind front yard as defined in Section 19.201, unless located at least 40' from the front lot line.	
<b>Required Street Side Yard</b>	Base zone requirement for street side yard	

**c. Design Standards**

- (1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 standard.
  - (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
  - (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II review, pursuant to Subsection 19.911.3.B.

(3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

(4) A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.4.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards.

d. Privacy Standards

(1) Privacy standards are required for detached accessory dwelling units processed through a Type I review. A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

(a) The wall is within 20 ft of a side or rear lot line.

(b) The wall is at an angle of 45 degrees or less to the lot line.

(c) The wall faces an adjacent residential property.

(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.

(a) All windows on a wall shall be placed in the upper third of the distance between a floor and ceiling

(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft. high within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure established on or after October , 2012, the effective date of Ordinance # , is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established prior to October , 2012,

the effective date of Ordinance # \_\_\_\_\_, is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. However, the conversion shall not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.

The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 the dwelling units.

2. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
3. Additional home occupations are allowed for a property with an accessory dwelling unit.

**19.910.2 Accessory Dwelling Units (Type 2)**

Type 2 accessory dwelling units are only allowed in the base zones where they are listed as conditional uses. Where allowed, they are subject to conditional use review and approval per Section 19.905. A Type 2 accessory dwelling unit may be allowed in conjunction with a detached single family dwelling by conversion of existing space, or by means of an addition.

~~A. Requirements for Conversion of Existing Space or Addition~~

- ~~1. The unit is in conformance with the site development requirements of the underlying zone;~~
- ~~2. Off street parking shall be provided in accordance with Chapter 19.600;~~
- ~~3. Garage or carport space may not be converted to an accessory dwelling unit, unless parking standards can be met after the completion of the unit;~~
- ~~4. Public facilities must be adequate to serve both dwelling units, as determined by the Public Works Department;~~
- ~~5. One unit shall be occupied by the property owner;~~
- ~~6. The Planning Commission may impose conditions regarding modification of building height, landscaping, buffering and orientation of the accessory unit to protect privacy of the neighbors, and any other conditions deemed necessary to ensure compliance with the requirements of this subsection, except that no condition may be imposed that prohibits rental occupancy, separate access, and full kitchens in any accessory unit;~~
- ~~7. Conditions of approval shall be part of the deed restrictions;~~
- ~~8. No more than 1 additional unit is allowed.~~

~~B. Requirements for Conversion of Existing Space~~

1. ~~Cannot exceed 50% of the existing structure;~~
2. ~~Each unit shall be a minimum of 250 sq ft;~~
3. ~~No fire escape or exterior stair for access to an upper level may be located on the front of a building.~~

~~C. Requirements for Addition~~

1. ~~Does not exceed 1 bedroom;~~
2. ~~The maximum area is 800 sq ft.~~

**19.910.2 Duplexes**

A. Purpose

This subsection is intended to allow duplexes in order to increase available housing in the city while maintaining the coherence of single-family residential neighborhoods.

B. Applicability

The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert, or add on to, an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.

C. Review Process

1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of, or addition to, an existing structure.
  - a. In Residential Zones R-5, R-3, R-2.5 R-2, R-1, R-1-B, and R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.
  - b. A duplex in Residential Zone R-10 or R-7 is allowed outright, subject to the lot size requirements for the zone, in either of the following situations. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.
    - (1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.
    - (2) The property is a corner lot.
  - c. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b is allowed through a Type II review per Section 19.1005.
  - d. A duplex in the Limited Commercial Zone C-L is allowed through a Type II review per Section 19.1005.
2. For additions or modifications to an existing duplex, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.

D. Approval Criteria

1. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use, under Subsection 19.910.2.C.1.b, must meet the following criteria.
  - a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings within the general vicinity of the site.
  - b. The design of the proposed duplex is generally consistent with the surrounding development.
  - c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.
2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.
  - a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial Zone.
  - b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.

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## **19.911 VARIANCES**

### **19.911.3 Review Process**

#### **B. Type II Variances**

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

1. A variance of up to 40% to a side yard width standard.
2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

## **CHAPTER 19.1000 REVIEW PROCEDURES**

### **19.1001 GENERAL PROVISIONS**

#### **19.1001.6 Applications**

#### **C. Notice Requirements**

3. Continued Hearing Notice

If a hearing has been opened and is continued to a specific date and time, additional mailed notice and sign notice for the continuation is not required. If a date and time of the continuation is not specified, notice for the continuation shall be provided as specified per Sections 19.1005-19.1008.

4. Department of Land Conservation and Development Notice

a. Notice of Proposed Change

Applications that involve amendments described by Section 19.902 may require notice of the proposed change to the Oregon Department of Land Conservation and Development (DLCD). The notice shall meet the submittal requirements specified in OAR 660-018-0020. The notice shall be submitted to DLCD at least 35 days prior to the first evidentiary hearing on the application, unless the proposed change is exempt or eligible for a shorter notice period per OAR 660-018-0022.

b. Notice of Adopted Change

Following a final decision on an application described by Section 19.902 that results in a change to an acknowledged comprehensive plan or a land use regulation, notice of the adopted change shall be provided to the Oregon Department of Land Conservation and Development (DLCD). The notice shall meet the submittal requirements specified in OAR 660-018-0040. The notice shall be submitted to DLCD within 20 days of making the decision. The notice of adopted change is required regardless of whether a notice of proposed change was required.

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**19.1003 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

**19.1003.2 Application Submittal Requirements**

All application information must be sufficiently detailed and specific to the development being proposed to allow for adequate public review. The application submittal must include all of the items listed below for the City to accept the application and initiate completeness review. ~~If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.C and D prior to the public hearing.~~

If the application requires sign notice, a sign posting and sign posting affidavit will be required per Subsection 19.1001.6.C.1. If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.D prior to the public hearing.

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**19.1004 TYPE I REVIEW**

**19.1004.3 Type I Public Notice**

Public notice is not required for Type I applications. Application referral to other agencies may be required per Section 19.707 prior to issuing a Type I decision.

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**19.1005 TYPE II REVIEW**

**19.1005.3 Type II Public Notice**

B. Mailed Notice

## Proposed Code and Comp. Plan Amendments

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The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application and submit written comments concerning the application prior to issuance of the Type II decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

3. The City shall prepare an affidavit of mailing of notice for the file. The affidavit shall indicate the date that the public notice was mailed to the parties required by Subsection 19.1005.3.B.1.

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### 19.1006 TYPE III REVIEW

#### 19.1006.3 Type III Public Notice

##### A. DLCD Notice

For Zoning Map amendments, the City shall provide notification to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.a 45 days prior to the first public hearing on adoption.

##### D. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type III decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to the first public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1006.3.D.3.

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##### E. Sign Notice ~~Sign~~

At least 14 days prior to the hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

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#### 19.1006.5 Type III Decision

- D. In addition to the requirements of Subsections 19.1006.5.A, B, and C, the following requirements apply to Zoning Map amendments evaluated through a Type III review process.

4. The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.

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### 19.1007 TYPE IV REVIEW

#### 19.1007.3 Type IV Public Notice

##### A. DLCD Notice

For Zoning Map or Comprehensive Plan map amendments, the City shall provide notification to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.a at least 45 days prior to the first public hearing on adoption.

D. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type IV decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to each a public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1007.3.D.3.

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E. Sign Notice

At least 14 days prior to each the hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

**19.1007.5 Type IV Decision**

G. The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.

H. The notice of decision shall include the following:

6. A statement that only persons who submitted comments or made an appearance of record at a public hearing on the application have standing to appeal the decision by filing a written appeal within the 45-day appeal period for the Land Use Board of Appeals.

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**19.1008 TYPE V REVIEW**

**19.1008.3 Type V Public Notice**

A. General Public Notice

The purpose of general public notice for Type V applications is to allow the public, organizations, and other governmental agencies a meaningful opportunity to review and comment on legislative proposals.

2. At least 30 days prior to a public hearing on a Type V application, except for continuations as noted in Subsection 19.1001.6.C.3, the City shall provide notice of the hearing. At a minimum, the notice shall be available on the City web site and at City facilities that are open to the public and that customarily display public information. At a minimum, the notice shall include:

B. DLCD Notice

Notice of a Type V application shall be mailed to the Department of Land Conservation and Development as described in Subsection 19.1001.6.C.4.a at least 45 days prior to the initial evidentiary hearing on adoption.

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**19.1008.5 Type V Recommendation and Decision**

- A. The following procedures apply to applications evaluated through a Type V review.
- A 4. The Planning Commission shall serve as the recommendation authority for Type V applications.
- B 2. The Planning Commission shall conduct an initial evidentiary hearing and provide a recommendation to the City Council within 180 days from the date that the application was deemed complete.
- C 3. The Planning Commission may recommend that the City Council approve or deny the application with or without changes. The Planning Commission shall provide a written justification for the recommendation.
- D 4. The City shall provide notice of the hearing before the City Council consistent with the public notice requirements in Subsection 19.1008.3.A.
- E 5. At the conclusion of the first public hearing before City Council, the City Council shall take one of the following actions:
- 1 a. Continue the matter to a date, time, and place certain.
  - 2 b. Remand the matter back to the recommendation authority for additional deliberation.
  - 3 c. Approve the proposal, with or without changes. City staff, with review from the City Attorney, shall prepare the ordinance with written findings that demonstrate how the proposal meets all applicable approval criteria.
  - 4 d. Deny the proposal. This action is appealable.
  - 5 e. Take no action on the proposal. This decision is not appealable.
- F 6. The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.
- G 7. Within 7 days after the date of the approval or denial of the proposal on which one of the actions in Subsection 19.1008.5.E. 3 or 4 is taken, the City shall mail, or otherwise provide, notice to persons who testified orally or in writing to the recommendation or review authority while the public record was open regarding the proposal. The notice shall include the following information:
- 1 a. A brief summary of the decision.
  - 2 b. If adopted:
    - a (1) The date and number of the adopting ordinance.
    - b (2) Where and when the adopting ordinance and related findings may be reviewed.
  - 3 c. A summary of the requirements for appealing the decision to the Land Use Board of Appeals.

## 19.1009 PUBLIC HEARINGS

### 19.1009.12 Decision

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

## 19.1010 APPEALS

### 19.1010.5 Specific Provisions for Appeal of a Type II Decision

- B. At least 20 days prior to the appeal hearing, tThe City shall mail written notice of the appeal hearing to all parties who were entitled to Type II public notice per Subsection 19.1005.3.B.1, interested persons, and the appellant(s) at least 20 days prior to the appeal hearing.

### 19.1010.6 Specific Provisions for Appeal of a Type III Decision

- B. At least 20 days prior to the appeal hearing, tThe City shall mail written notice of the appeal hearing to all parties who were entitled to Type III public notice per Subsection 19.1006.3.D.1, interested persons, the appellant(s), Planning Commission, and Design and Landmarks Committee if they made a recommendation on the initial land use application at least 20 days prior to the appeal hearing.
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## 19.1011 DESIGN REVIEW MEETINGS

### 19.1011.2 Design Review Meeting Notice Requirements

- B. The mailed public notice shall meet the requirements of Subsections 19.1006.3.D.2 and E.

## CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

### 19.1102 ANNEXATIONS

#### 19.1102.2 The Petition

- C. An annexation petition shall include the completed petition form and the following information.

5. Census forms or demographic information about the area to be annexed.

#### 19.1102.3 Approval Criteria-

The City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

## CHAPTER 19.1200 SOLAR ACCESS PROTECTION

### SECTIONS:

- 19.1201 Purpose
- 19.1202 Definitions
- 19.1203 Solar Access for New Development
- ~~19.1204 Solar Balance Point~~
- ~~19.1205 Solar Access Permit~~

### 19.1201 PURPOSE

#### 19.1201.1 The purpose of this chapter is:

- A. ~~To orient new lots and parcels to allow utilization provide solar access protection to new development in subdivisions, new and remodeled single-family homes, structures within single-family zoning districts, and homes which make beneficial use of solar energy;~~
- 

### 19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

#### 19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in single-family zones ~~and for single-family detached dwellings in any zone~~, except to the extent the Director finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

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#### 19.1203.6 Protection from Future Shade

~~Structures and nonexempt vegetation must comply with Section 19.1204 on all lots in a development subject to Section 19.1203, including lots for which exemptions or adjustments to Section 19.1203 have been granted.~~

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Subsection 19.1203.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this subsection. The covenant or restriction shall not be amended without written City approval.

#### 19.1203.8 Process for Approval

Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title, ~~or in conjunction with building permit requests. The City's decision to grant or deny approval is intended to be ministerial.~~

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*Repeal Section 19.1204 Solar Balance Point.*

*Repeal Section 19.1205 Solar Access Permit.*

**"Clean" Amendments**

**Comprehensive Plan**

**CHAPTER 4 LAND USE**

**RESIDENTIAL LAND USE AND HOUSING ELEMENT**

**OBJECTIVE #2 — RESIDENTIAL LAND USE: DENSITY AND LOCATION**

To locate higher density residential uses so that the concentration of people will help to support public transportation services and major commercial centers and foster implementation of the Town Center Master Plan.

Planning Concept

The most basic concept underlying residential land use policy in Milwaukie is that the City is and will continue to be composed primarily of single family neighborhoods. Housing types resulting in higher densities are to be concentrated in order to support public transportation services and major commercial centers, have close proximity to major streets, and to lessen the impact of through traffic on single family areas. A range of housing types is encouraged in all areas of the City, as long as the character of existing neighborhoods is not dramatically altered by new development. The Land Use Plan for the City, Map 7, shows how residential areas of differing density will be distributed throughout the City.

Table 2 summarizes the amount of vacant buildable land within each residential land use category and the total number of new dwelling units which would result from full development of these vacant buildable lands. These figures do not include density bonuses which may be available in development of high quality, nor the total variety of housing types which may result from Planned Unit Developments or application of the residential density policies. Residential design policies have little or no effect on the number of new units calculated in Table 2. At the time of full development, some 2,827 potential new dwelling units, added to the approximately 8,377 existing dwelling units, will result in 11,204 total dwelling units. The Town Center is anticipated to accommodate 1,773 new units (approximately 63 percent of the new units) primarily through infill and redevelopment, while vacant land outside the Town Center is anticipated to accommodate 1,054 new units. Because nearly all of the remaining buildable vacant land in Milwaukie is designated as low and moderate density land, distribution of future housing types within Milwaukie will be primarily single family outside the Town Center, with high density housing occurring on redevelopable land in the Town Center. In addition to these estimates, Milwaukie has the capacity for an estimated 198 secondary dwelling units to be developed on existing and future single family lots.

<b>Zone Abbr.</b>	<b>Gross Unconstrained Vacant Land (Gross Vacant Buildable Land—Outside Town Center)</b>	<b>Gross Unconstrained Vacant Land Minus Needed Schools, Park, Church, and Street (Net Vacant Buildable Land—Outside)</b>	<b>Min. Lot Area Per Unit</b>	<b>Max. Res. DU Per Net Acre</b>	<b>With Underbuild (DU Per Net Acre x .97)</b>	<b>DU Estimate (Outside Town Center)</b>	<b>Addnl. DU from Possible Infill (Outside Town Center)</b>	<b>DU Estimate from Vacant Redevelopable Land in the Town Center</b>
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## Proposed Code and Comp. Plan Amendments

		Town Centers)						
R-10	8.31	7.41	10,000	4.36	4.23	36	83	
R-7	19.53	17.95	7,000	6.22	6.04	113	550	
R-5	6.37	5.55	5,000	8.71	8.45	50	221	
R-3	0.12	0.12	3,750	11.62	11.27	1	0	
R-2.5	0.00	0.00	2,000	21.78	21.13	0	0	
R-2	0.00	0.00	2,000	21.78	21.13	0	0	
R-1	0.00	0.00	2,000	21.78	21.13	0	0	
R-1-B	0.00	0.00	2,000	21.78	21.13	0	0	
<b>Totals</b>	<b>34.33</b>	<b>31.03</b>				<b>200</b>	<b>854</b>	<b>1,773</b>

Table 2 methodology summary (detailed methodology in Technical Appendix C, City of Milwaukie Metro Functional Plan Compliance Report:

- Dwelling unit capacity was estimated on a parcel-by-parcel basis.
- *The City of Milwaukie 1998 Housing Inventory* was used to identify vacant residential land in the city.
- Environmentally constrained land, as defined by Metro, was subtracted from gross vacant land to arrive at gross vacant buildable land.
- Gross vacant buildable land was reduced by 5% to account for future needed schools, local and regional parks, and churches.
- A second gross-to-net reduction of 10% or 20% was made for right-of-way, depending on the size of the lot.
- The minimum lot size of each zone was used to determine the maximum dwelling units per acre.
- To account for underbuild, the capacity was reduced by 3% based on a study of actual built densities for housing in Milwaukie (see *Technical Appendix B, City of Milwaukie Metro Functional Plan Compliance Report*).
- To calculate dwelling unit estimate per vacant lot, the acreage of net vacant buildable land was multiplied by the maximum dwelling units per acre and the underbuild factor.
- Additional units were added to Milwaukie's housing capacity for dwelling units likely to be constructed through infill development. The rate of infill used in the above estimates is based on a local study of partitioning trends in the city.
- Estimates for new dwelling units on vacant and redevelopable land in the Town Center were added separately. See the *City of Milwaukie Town Center Master Plan* for the methodology used to estimate new dwelling units in the Town Center.

### Policies

#### 1. Residential densities will be based on the following net\* density ranges:

Low Density (Zones R-10, R-7) - up to 6.2 units per net acre

Moderate Density (Zone R-5) - 6.3 to 8.7 units per net acre

Medium Density (Zones R-3, R-2.5, R-2) - 8.8 to 21.1 units per net acre

High Density (Zones R-1, R-1-B) - 21.2 to 24.0 units per net acre

Town Center: Downtown Residential Transition Area (Zone DR) - 10 to 40 units per net acre

Town Center: Downtown Residential Outside of Transition Area (Zone DR) - 40+ units per net acre

Town Center: Outside of Downtown (Zone R-O-C) -25 to 50 units per net acre

\*In calculating buildable lands, density standards will be applied to net parcel areas to determine the maximum number of dwelling units allowed. Gross site area will be reduced to net site area according to the following schedule:

- Areas one acre or larger will be reduced by twenty percent (20%) for the purposes of right-of-way dedication.
- Areas greater than 3/8 of an acre and less than one acre will be reduced by ten percent (10%) for the purposes of right-of-way dedication. Areas less than or equal to 3/8 of an acre (16,335 s.f.) are assumed to be platted and receive zero reduction for right-of-way.

A general definition of housing types are:

Single family detached - a house normally occupied by one family with no structural connection to adjacent units. The unit may be situated at a specified distance from lot lines, or with one wall on a side property line. Typical density is 4 to 6.2 units per acre.

Cottage cluster – a grouping of individual, detached single-family dwelling units. The units are smaller than a typical single-family dwelling, and are located on their own lot with a limited amount of private yard surrounding the structure. The dwellings are arranged around a central, common open space.

Duplex - two units within one dwelling structure, each normally occupied by one family, sharing common structural walls. For purposes of buildable land inventories and needed housing types related to state statutes and statewide planning goals, duplexes are considered as a form of single-family attached housing.

Rowhouse - 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. Rowhouses on interior lots may have a zero side yard setback.

Multifamily - a single structure containing 3 or more dwelling units on a lot. 2. Areas may be designated Low Density residential if any of the following criteria are met:

- a. The predominant housing type will be single family detached.
  - b. Low Density areas are residential areas which are developed at Low Density and little need for redevelopment exists.
  - c. Within Low Density areas, transportation routes are limited primarily to collectors and local streets.
  - d. Low Density areas may include sites where sensitivity to the natural environment or natural hazards necessitate a reduced density.
3. Areas may be designated Moderate Density Residential based on the following policies:
- a. The predominant housing types will be single family detached on moderate to small lots, and duplex units.
  - b. Moderate Density areas are residential areas which are currently developed at Moderate Density and little need for redevelopment exists.
  - c. Within Moderate Density areas, convenient walking distance to a transit stop or close proximity to major trip generators shall be considered.
4. Areas may be designated Medium Density residential based on the following policies:
- a. The predominant housing types will be duplexes.
  - b. Medium Density areas are residential areas with access primarily to major or minor arterials. Siting should not result in increased traffic through Low Density Residential areas.
  - c. Medium Density areas are to be located near or adjacent to commercial areas, employment concentrations or transit stops.
  - d. Medium Density areas may include areas of deteriorating dwellings or structures in neighborhoods in order to stimulate private investment, infilling and redevelopment, provided one or more of the preceding policies apply.
5. Areas may be designated High Density Residential based on the following policies:

- a. The predominant housing types will be multifamily units.
  - b. High Density Residential areas shall be located either adjacent to or within close proximity to the downtown or district shopping centers, employment concentrations and/or major transit centers or transfer areas.
  - c. Access to High Density areas should be primarily by major or minor arterials.
6. High Density in Mixed Use Areas will be based on the following policies:
- a. Within the Mixed Use Area designated on Map 7, a range of different uses including residential, commercial and office are allowed and encouraged. It is expected that redevelopment will be required to implement these policies, and that single structures containing different uses will be the predominant building type.
  - b. Commercial uses will be allowed at the ground floor level, and will be located relative to the downtown area so that pedestrian access between areas is convenient and continuous.
  - c. Office uses will be allowed at the ground and first floor levels.
  - d. High Density residential uses will be allowed on all levels. At least fifty (50) percent of the floor area within a project must be used for residential purposes.
  - e. Within the Mixed Use Area, a residential density bonus of fifteen (15) percent over the allowable density may be granted in exchange for exceptional design quality or special project amenities.
  - f. All parking must be contained within a project.
7. Town Center Areas will be designated based on the following policies:
- a. Regional Plan Areas are those sites identified within the subareas depicted on the Subareas Map in the Town Center Master Plan as suitable for redevelopment. Within the Town Center areas designated on Map 7, mixed use development combining residential high density housing with retail, service commercial, and/or offices is encouraged. This is intended to foster a Town Center environment in accordance with the Town Center Master Plan.
  - b. A mixed use zone will be applied to designated Town Center Areas as an interim tool to implement the Town Center Master Plan.
  - c. The Downtown and Riverfront Land Use Framework Plan and specific implementing zones shall replace the Mixed Use Zone for Subarea 1 of the Town Center Master Plan. Specific ratios of retail and office to residential shall be specified by the interim Mixed Use Zone.
  - d. Outside of the Downtown and Riverfront Land Use Framework Plan area, the Residential-Office-Commercial (R-O-C) Zone is the most appropriate zone for the Town Center Area.
  - e. The Town Center Area shall be served by multimodal transportation options; therefore, on-street parking, shared parking, and enclosed parking are the most appropriate parking options in the Town Center Area. Off-street surface parking is to be discouraged.
  - f. A variety of higher density housing is desired in a designated Town Center Area, and the City shall work cooperatively with the private sector to provide a diverse range of affordable housing.

- g. Residential densities in the Downtown Residential Transition Area are in the range of 10 to 40 units per net acre, and 40+ units per acre outside of the Transition Area. Residential densities in the portion of the Town Center outside of Downtown are in the range of 25 to 50 units per net acre.

**OBJECTIVE #3 — RESIDENTIAL LAND USE: DESIGN**

To encourage a desirable living environment by allowing flexibility in design, minimizing the impact of new construction on existing development, and assuring that natural open spaces and developed recreational areas are provided whenever feasible.

Planning Concepts

Residential design policies are intended to ensure a high quality of environmental design, a flexible design approach, and a smooth integration of new development into existing neighborhoods. Density bonuses and transfers will be encouraged so that full development potential on individual parcels may be realized. Transition policies will be applied to reduce any negative impacts of development on adjacent uses. The transition policies will have little or no effect on the number of new units calculated in Table 2.

Policies

1. New multifamily development projects will take measures to reduce potentially negative impacts on existing, adjacent single-family development and adjacent lower-density zones. Such measures may include reduced maximum heights, increased setbacks for large facades, building size limitations, and other design features to maintain privacy of nearby properties.
2. In all Planned Unit Developments, a density bonus up to 20% over the allowable density may be granted in exchange for exceptional design quality or special project amenities.
3. All Planned Unit Developments will have at least one third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.
4. All projects in Medium Density and High Density areas will have area devoted to open space and/or outdoor recreational areas. At least half of the open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets and parking areas, but may include private yards.
5. In all cases, existing tree coverage will be preserved whenever possible, and areas of trees and shrubs will remain connected particularly along natural drainage courses.
6. Specified trees will be protected during construction, in accordance with conditions attached to building permits.
7. Sites within open space, natural hazard or natural resource areas will be protected according to specifications in the Natural Hazard and Natural Resources Elements.

**OBJECTIVE #4 — NEIGHBORHOOD CONSERVATION**

To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

### Planning Concept

Milwaukie is predominantly a built-up city. It contains several districts, however, where neighborhood character, available buildable areas, and existing lotting patterns suggest different approaches to new residential development are appropriate. Within High Density areas reconstruction of older neighborhoods is encouraged; within Moderate and Medium Density areas infilling consistent with local scale is emphasized, and in Low Density areas conservation of single family character will be maintained.

### Policies

1. Within High Density areas, clearance and new construction will be allowed, as will construction on currently vacant lands. Identified historic resources will be protected as outlined in the Historic Resources Chapter. The predominant housing type will be multifamily.
2. Within Moderate and Medium Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. When projects involve destruction of older housing, it must be shown that rehabilitation is not justified because of structural, health or other important considerations.
3. Within Moderate and Medium Density areas, residential infill which maintains existing building heights, setbacks, yard areas and building mass will be encouraged. Of particular importance is the maintenance of existing residential scale when viewed from the street. The predominant type of new housing in Moderate Density areas will be single family detached on moderate to small lots and duplexes . The predominant type of new housing in Medium Density areas will be duplex units. Multifamily housing may be allowed in Medium Density areas.
4. Within Low Density areas, the rehabilitation of older housing is encouraged in lieu of large area clearance and new construction. The predominant type of new housing in Low Density areas will be single family detached. Duplex units will be allowed based on location criteria in the Zoning Ordinance.
5. Within Low Density areas, new projects will maintain a single family building bulk, scale and height when abutting existing single family areas, or when abutting a street where existing single family houses face the project.

### **OBJECTIVE #5 — HOUSING CHOICE**

To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

### Planning Concept

While the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplexes , rowhouses, cottage clusters, accessory dwelling units, multifamily, manufactured housing, and mobile home parks.

The City of Milwaukie will not immediately zone all high density or Town Center land for maximum development. Some areas involved are already predominantly developed at a lower density, leaving only pockets of vacant land currently suitable for immediate density increases. The rezoning will occur over time, and will be consistent with the Town Center Master Plan based on applications which can demonstrate consistency with plan policies, as set forth in the City's Comprehensive Plan and, with public facility plans and standards, adequate to support

maximum development. This process will ensure that development will occur with a timely, orderly, and efficient provision of public facilities and services as required by State Goal 11.

Policies

1. The City will encourage the development of infill housing that uses innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques may include the reduction of lot size standards in established neighborhoods; allowing duplex housing units in appropriate areas; and encouraging the construction of small housing units. A design review process shall be used within the Mixed Use Overlay Zone to assure that infill development is suitable in a given location.
2. The City will encourage the development of larger subdivisions and PUDs that use innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques to reduce costs may include providing a variety of housing size, type, and amenities. The City may provide density bonuses, additional building height allowances, or other such incentives for the provision of affordable housing in residential development projects. Overall project density may not exceed the allowable density plus ten (10) percent, which may be added to the Planned Unit Development bonus.
3. Manufactured housing is encouraged and allowed wherever single-family housing is permitted in the City as long as density standards and other applicable policies are met. The City will encourage the provision of housing at types and densities indicated in the City's housing needs assessments summarized on Table 2.
4. Mobile home parks will be allowed in Low, Moderate, and Medium Density areas in zones allowing development at 6-12 units per acre, and will be subject to park design and appearance standards and review in a public hearing.
5. Although not all higher density and Town Center lands will immediately be zoned for maximum permissible densities, the rezoning of these lands will be approved when it can be demonstrated that adequate public facilities exist or can be provided in accordance with City plans and standards to support increased development.

## Municipal Code Title 14 Signs

### CHAPTER 14.16 SIGN DISTRICTS

#### 14.16.010 RESIDENTIAL ZONE

No sign shall be installed or maintained in an R Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.010.

Table 14.16.010 Standards for Signs in Residential Zones				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions or manufactured home parks	Max. 2 SF per dwelling unit to max. 32 SF per sign; max. 16 SF per display surface; total sign area for all display surfaces of no more than 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External illumination only
Freestanding signs on multifamily properties	Limited to 2 SF per dwelling unit to a max. area of 32 SF, 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage. <sup>2</sup>	External illumination only
Wall signs on multifamily properties	Limited to 2 SF per dwelling unit to a max. of 32 SF.	No wall sign shall extend above the roofline at the wall, or the top of a parapet wall, whichever is higher.	1 per street frontage permitted. <sup>2</sup>	External illumination only
Awning signs on multifamily properties	Max. display surface is 25% of awning area, up to max. of 32 SF.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per street frontage. <sup>3</sup>	
Hanging sign suspended beneath awning	Max. area limited to 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground to the lowest portion of awning or sign.	1 per street frontage. <sup>3</sup>	External illumination only

<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> Either 1 freestanding or 1 wall sign per street frontage is permitted.

<sup>3</sup> Either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

#### 14.16.020 RESIDENTIAL-OFFICE-COMMERCIAL ZONE

No sign shall be installed or maintained in an R-O-C or R-1-B Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020 Standards for Signs in Residential-Office-Commercial Zones R-O-C or R-1-B				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. <sup>2</sup>	External only
Wall signs on commercial property	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. <sup>3</sup>	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. <sup>4</sup>	External only

## Proposed Code and Comp. Plan Amendments

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Daily display sign <sup>5</sup>	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only
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<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> 1 freestanding sign is permitted in addition to 1 wall sign.

<sup>3</sup> 1 wall sign is permitted in addition to 1 freestanding sign or 2 wall signs permitted.

<sup>4</sup> For awnings related to residential use, either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

<sup>5</sup> Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

## **Municipal Code Title 17 Land Division**

### **CHAPTER 17.16 APPLICATION REQUIREMENTS AND PROCEDURES**

#### **17.16.080 COTTAGE CLUSTER DEVELOPMENT**

An application for subdivision preliminary plat or replat to create a cottage cluster housing development shall include narrative and plans with sufficient detail to demonstrate compliance with the standards of Subsection 19.505.4.

### **CHAPTER 17.28 DESIGN STANDARDS**

#### **17.28.040 GENERAL LOT DESIGN**

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

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.

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#### **17.28.060 FLAG LOT DESIGN STANDARDS**

A. Consistency with the Zoning Ordinance

Flag lot design shall be consistent with Subsection 19.504.8.

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#### **17.28.070 FLAG LOT LIMITATIONS**

Flag lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907.

# Municipal Code Title 19 Zoning

## CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

### 19.201 DEFINITIONS

“Eave” means a projecting overhang at the lower border of a roof, extending from the primary wall or support. Eaves are architectural features that aide in protecting buildings from precipitation and solar radiation; they are distinct from overhangs that provide shelter for persons or property.

“Footprint” means the area covered by the outer structural walls of a building, measured in sq ft. Included in the calculation of footprint are: roofed structures that are not fully enclosed; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade. Footprint does not include eaves.

“Fowl” means chickens, ducks, geese, turkeys, and other birds of a similar size.

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Corner lot” means a lot abutting 2 or more streets, other than an alley, at their intersection.

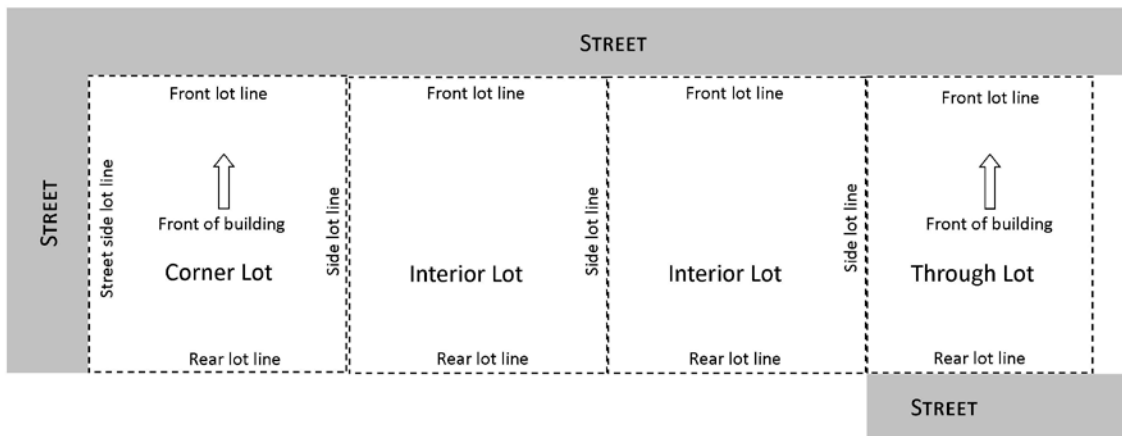
“Interior lot” means a lot other than a corner lot.

“Legal lot” means a unit of land other than a tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Through lot” means an interior lot having frontage on 2 streets.

**Figure 19.201-1  
Lots and Lot Lines**



“Lot coverage” means the amount of area covered by building(s) on a lot expressed as a percentage of the total lot area. Lot coverage includes open structures, such as pole barns; building features such as patio covers, roofed porches, and decks; or similar features with a surface height of more than 18 in above average grade. Lot coverage does not include eaves.

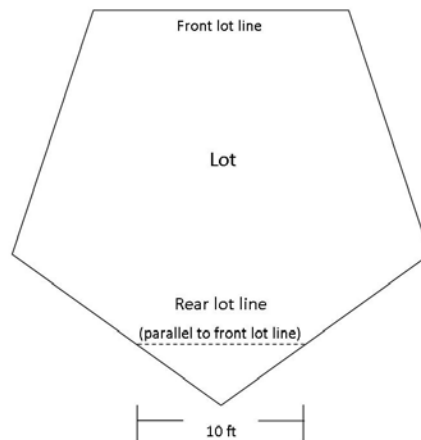
“Lot line” means the property line bounding a lot. The lot lines defined below are depicted in Figures 19.201-1 and 19.201-2.

“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 existing or 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. In the case of a flag lot, the front lot line is the lot line closest to the street from which the property takes access, excluding lot lines that are part of the pole portion of the flag lot.

“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 ft long within the lot parallel to and at the maximum distance from the front lot line.

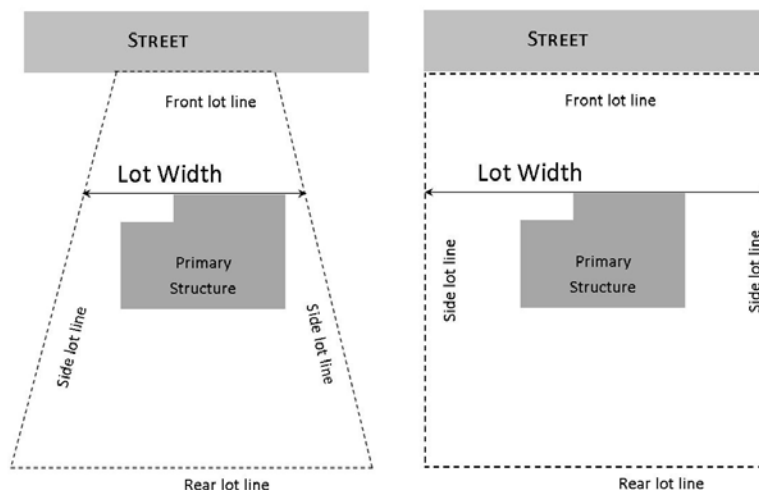
“Side lot line” means any lot line not a front or rear lot line.

**Figure 19.201-2  
Rear Lot Line**



“Lot width” means the horizontal distance between side lot lines measured at the building line.

**Figure 19.201-3  
Lot Width**



### Residential Uses and Structures:

“Accessory dwelling unit” means a second dwelling on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to, and smaller than, the primary dwelling on the lot. The accessory dwelling unit may be in a portion of the primary structure on the lot or contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people, independent of the primary dwelling unit.

“Duplex” means a structure on 1 lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.

“Dwelling” means a structure containing 1 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 unit” means a building, or portion of a building, that includes its own independent living facilities—including provision for sleeping, cooking, and sanitation—and is designed for residential occupancy by 1 or more people. Buildings with more than 1 set of cooking facilities are considered to contain multiple dwelling units, unless the additional cooking facility is clearly accessory and the property owner has recorded a covenant with the Clackamas County Records Division, stipulating that the additional cooking facility will not be used as part of a separate dwelling unit unless permitted under this title.

“Cooking facility” means an oven, stove, range, or other device used or intended for the preparation or heating of food.

“Cottage” means a structure containing 1 dwelling unit on 1 lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.

“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 that is constructed for movement on the public

highways; that has sleeping, cooking, and plumbing facilities; and that is being used for residential purposes.

“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.

“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.

“Multifamily development” means 3 or more dwelling units on 1 lot. Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in 1 or more structures on the lot. The dwelling units may be arranged with 1 dwelling unit per structure or with multiple dwelling units within a structure that are separated vertically and/or horizontally. Multifamily developments include the forms of housing that are typically called apartments and condominiums. Multifamily developments may include structures that are similar in form to rowhouses, cottage clusters, duplexes, or single-family dwellings.

“Rowhouse” means a residential structure on its own lot that shares 1 or more common or abutting walls with at least 1 or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25% of the length of the side of the building. The shared or abutting wall may be the wall of an attached garage. A rowhouse does not share common floors/ceilings with other dwelling units.

“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence—which includes food, shelter, personal services, and care—for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.

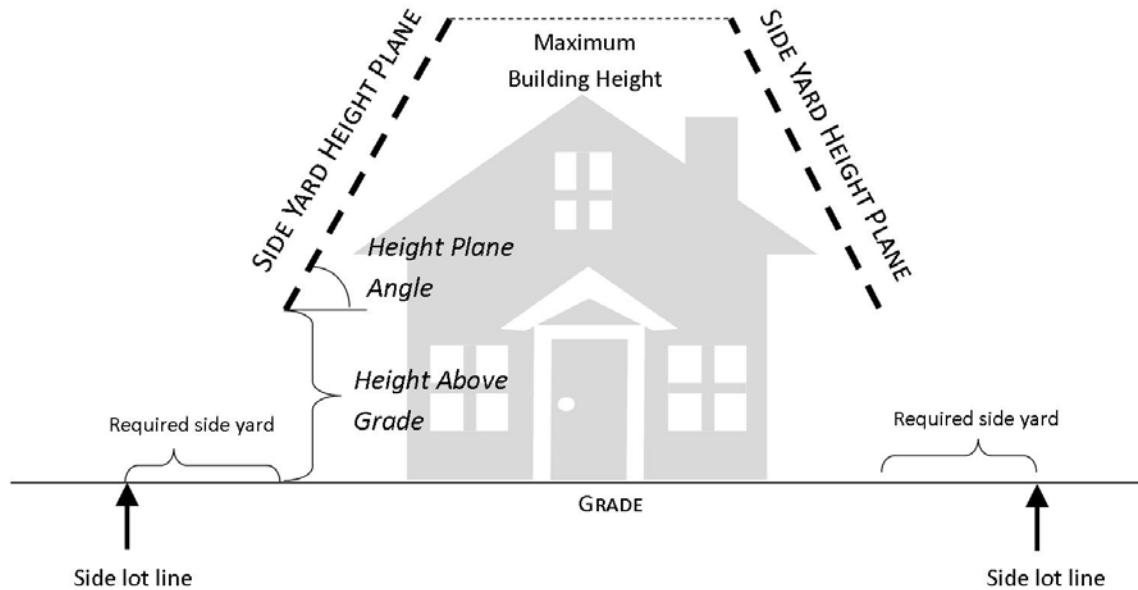
“Residential trailer” means a manufactured dwelling that was constructed prior to January 1, 1962.

“Single-family detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.

“Yurt” means a 1-story building with a circular footprint and a roof that is domed or conical, with the highest point at the center of the circle. The walls and roof of a yurt are typically canvas or other flexible fabric material.

“Side Yard Height Plane” means a plane that limits the building height along side lot lines. Structures on the site must remain underneath the height plane. The height plane applies along side lot lines and is not applicable to front, rear, or street side lot lines. The starting point of the side yard height plane is horizontally offset from the side lot line by the required side yard depth, and set at specified vertical distance above the grade at the depth of required side yard. From the starting point, the side yard height plane slopes up at a specified angle until it reaches the maximum allowed building height or intersects with the side yard height plane from an opposite side of the lot.

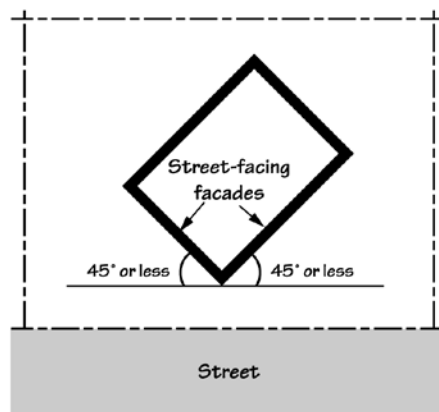
**Figure 19.201-4  
Side Yard Height Plane**



“Solar energy system” means equipment used to capture solar radiation for purposes of heating water or generating electricity. A solar energy system is an accessory use, and the energy generated by the system is used predominantly on-site,

“Street-Facing Façade” means the wall planes of a structure that are visible from, and at an angle of 45 degrees or less to, a front lot line or street side lot line. Angle measurements for curved front or street side lot lines shall be based on a straight line connecting the opposing lot corners of the front or street side lot line.

**Figure 19.201-5  
Street-Facing Façade**



“Wind energy system” means equipment used to generate electricity from wind. A wind energy system is an accessory use, and the energy generated by the system is used predominantly on-site.

“Yard” means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title. A yard may include areas with grass, mulch, barkdust, shrubs, trees, garden plantings, gravel, pavement, or asphalt. The yards defined below are depicted in Figure 19.201-6.

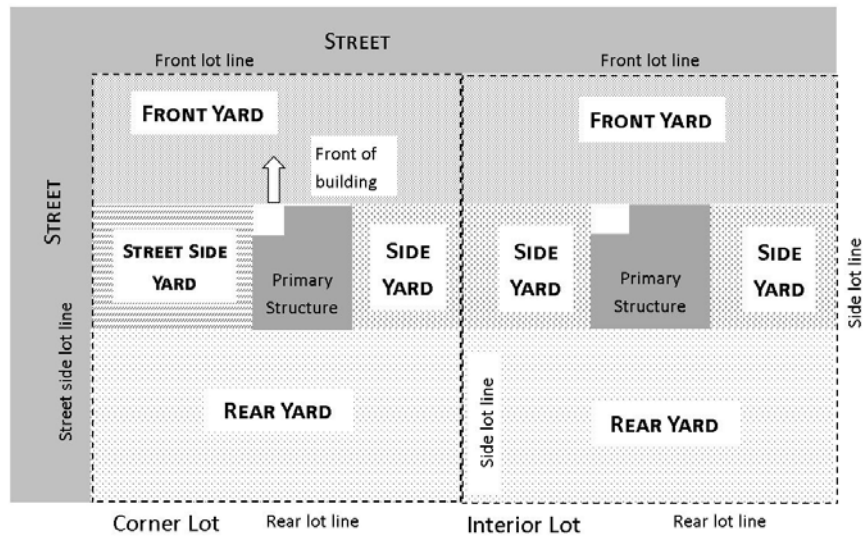
“Front yard” means a yard between side lot lines, measured horizontally and at right angles to the front lot line from the front lot line to the nearest point of the building.

“Rear yard” means a yard between side lot lines or between a street side yard and opposite side lot line, measured horizontally and at right angles to the rear lot line from the rear lot line to the nearest point of the building.

“Side yard” means a yard between the front and rear yards, 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 and rear yards, measured horizontally and at right angles from the side lot line to the nearest point of the building.

**Figure 19.201-6  
Yards**



## 19.202 MEASUREMENTS

### 19.202.2 Vertical Measurements

#### A. Interior Height

Floor-to-ceiling height shall be measured from the top of the floor finish to the bottom of the ceiling joists or, where there is no ceiling, to the bottom of the roof rafters.

#### B. Exterior Height of Primary Structures

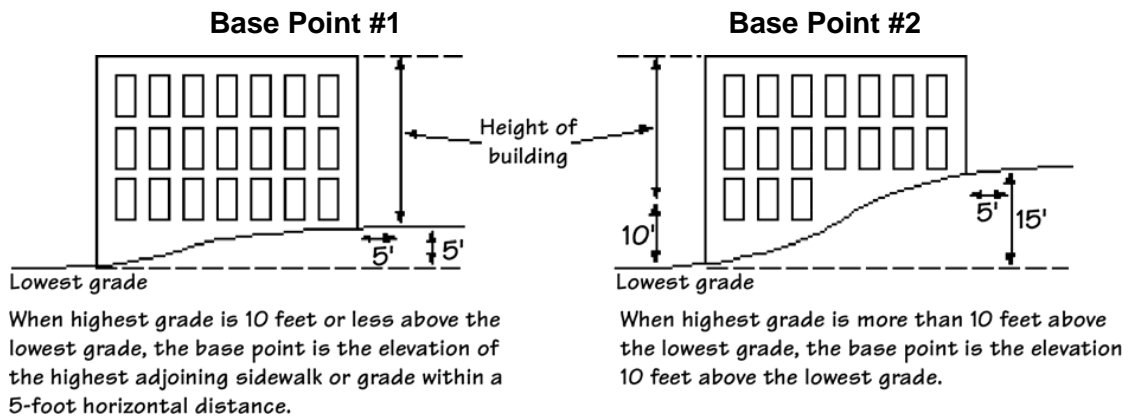
The height of a primary structure building is the vertical distance from the base point described in Subsection 19.202.2.B.1, below, to the top of a building described in Subsection 19.202.2.B.2, below.

##### 1. Base Point

The base point used for building height measurement shall be the base point that yields the greater building height. See Figure 19.202.2.B.1.

- a. Base point 1 is the elevation of the highest adjoining sidewalk or ground surface within a 5-ft horizontal distance from the exterior wall of the building, when such sidewalk or ground surface is not more than 10 ft above lowest grade.
- b. Base point 2 is 10 ft above lowest grade, when the sidewalk or ground surface described for base point 1 is more than 10 ft above lowest grade.

**Figure 19.202.2.B.1  
Base Point Measurement**

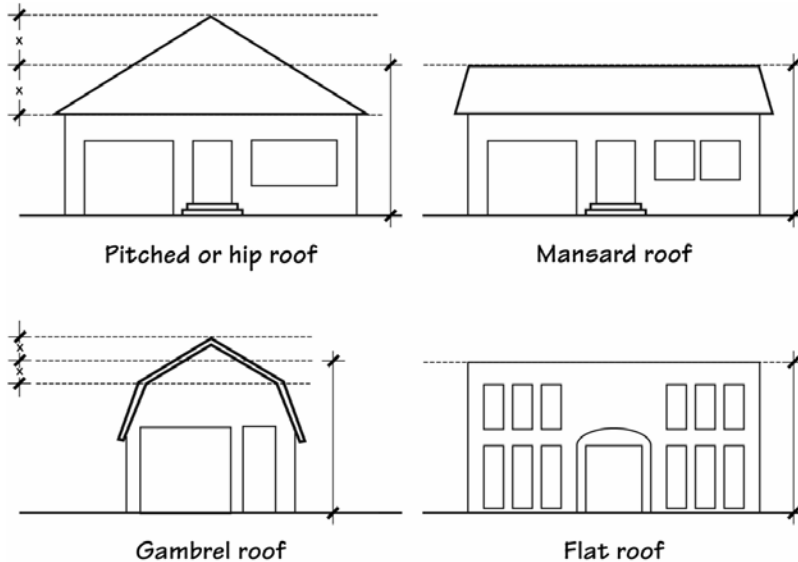


2. Top of Building

The top of building shall be determined based on the specific roof types listed below. See Figure 19.202.2.B.2.

- a. Flat roof: Measure to the top of the parapet or, if there is no parapet, to the highest point of the roof. If a roof includes multiple flat roofs at different elevations, measure to the top of the highest parapet or highest point of the highest roof.
- b. Mansard roof: Measure to the deck line.
- c. Pitched, hipped, or gambrel roof where roof pitch is 12/12 or less: Measure to the average height of the highest gable.
- d. Pitched or hipped roof with a pitch steeper than 12/12: Measure to the highest point.
- e. Gambrel roof where both pitches are steeper than 12/12: Measure to the highest point.
- f. Other roof shape, such as domed, vaulted, or pyramidal: Measure to the highest point.
- g. Stepped or terraced building: Measure to the highest point of any segment of the building.

**Figure 19.202.2.B.2  
Top of Building Measurement**



C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection 19.902.2.B.2.

**19.202.4 Density Calculations**

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

A. Gross Area

The gross area of a lot is measured in sq ft and is determined by a registered professional land surveyor or with data from the Clackamas County Assessor's Office.

B. Rounding

The results for minimum required and maximum allowed dwelling unit density are rounded based on a fraction that is truncated to 2 numbers past the decimal point. For example, 3.4289 is truncated to 3.42. Where a minimum density calculation results in a fraction that is .50 or above, the fraction is rounded up to the next whole number. Where a minimum density calculation results in a fraction that is less than .50, the fraction is rounded down to the preceding whole number. Where a maximum density calculation results in a fraction that is less than .75, the fraction is rounded down to the preceding whole number.

C. Discrepancy between Minimum Required and Maximum Allowed Density

In situations where the calculation of maximum allowed density results in a number smaller than the calculation of minimum required density, the result from the minimum allowed density is both the minimum required and maximum allowed density.

**D. Minimum Density**

**1. Deductions to Calculate Net Area**

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

- a. Floodways, as determined by Federal Emergency Management Agency flood maps.
- b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.
- c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.

**2. Density Calculation**

The minimum number of dwelling units required is calculated by dividing the net area by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

**3. Constrained Lands**

Regardless of the density calculation described above, any legal lot that meets the standards of Subsection 19.501.1 is allowed at least 1 dwelling unit.

**E. Maximum Density**

**1. Deductions to Calculate Net Area**

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

- a. 1% Annual Chance Flood areas (also called the 100-Year Floodplain), as determined by Federal Emergency Management Agency flood maps.
- b. Right-of-way dedications for new right-of-way or expansion of existing rights-of-way, as required in Chapter 19.700.
- c. Open space or parkland that will be publically owned or open space owned in common by owners within the residential development.
- d. Slopes in excess of 25%.

**2. Density Calculation**

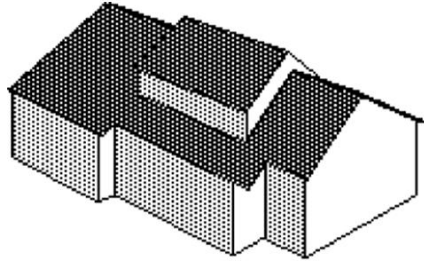
The maximum number of dwelling units allowed is calculated by dividing the net area by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.


**19.202.5 Façade Area**

The area of a building façade is the sum of all wall areas above grade that are visible on 1 side of a building. The following areas are excluded: roof areas; the wall area of a horizontal or vertical offset that is perpendicular to the primary orientation of the façade; and gable ends below the ridge of the roof and above the eave line. The wall area of a dormer is not exempt.

**Figure 19.202.5**

Façade Area



 Wall Area

**CHAPTER 19.300 BASE ZONES**

**SECTIONS:**

- 19.301 Low Density Residential Zones**
- 19.302 Medium and High Density Residential Zones**
- 19.303 Residential-Office-Commercial Zone R-O-C**
- 19.304 Downtown Zones**
- 19.305 Neighborhood Commercial Zone C-N**
- 19.306 Limited Commercial Zone C-L**
- 19.307 General Commercial Zone C-G**
- 19.308 Community Shopping Commercial Zone C-CS**
- 19.309 Manufacturing Zone M**
- 19.310 Business Industrial Zone BI**
- 19.311 Planned Development Zone PD**

**19.301 LOW DENSITY RESIDENTIAL ZONES**

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

**19.301.1 Purpose**

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single-family dwellings. They allow for some nonhousehold living uses but maintain the overall character of a single-family neighborhood.

**19.301.2 Allowed Uses in Low Density Residential Zones**

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.301.2 Low Density Residential Uses Allowed</b>				
<b>Use</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Standards/Additional Provisions</b>
<b>Residential Uses</b>				
Single-family detached dwelling	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes <b>Subsection 19.910.2</b> Duplexes
Residential home	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	N	III	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.

Senior and retirement housing	CU	CU	CU	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
<b>Accessory and Other Uses</b>				
Accessory use	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	<b>Subsection 19.301.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

**19.301.3 Use Limitations and Restrictions**

Agricultural or horticultural uses are permitted, provided that the following conditions are met.

- A. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
- B. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
- C. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

**19.301.4 Development Standards**

In the low density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

<b>Table 19.301.4 Low Density Residential Development Standards</b>				
<b>Standard</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Standards/ Additional Provisions</b>
<b>A. Lot Standards</b>				
1. Minimum lot size (sq ft)				<b>Subsection 19.501.1</b> Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (ft)	70	60	50	

**Proposed Code and Comp. Plan Amendments**

3. Minimum lot depth (ft)	100		80	
4. Minimum street frontage requirements (ft)				
a. Standard lot			35	
b. Flag lot			25	
c. Double flag lot			35	
<b>B. Development Standards</b>				
1. Minimum yard requirements for primary structures (ft)				<b>Subsection 19.301.5.A</b> Side Yards
a. Front yard	20	20	20	<b>Subsection 19.501.2</b> Yard Exceptions
b. Side yard	10	5/10	5	<b>Subsection 19.504.8</b> Flag Lot Design and Development Standards
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	
2. Maximum building height for primary structures		2.5 stories or 35 ft, whichever is less		<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)			20	
b. Slope of plane (degrees)			45	
4. Maximum lot coverage (percent of total lot area)		30%	35%	<b>Section 19.201 "Lot coverage"</b> definition <b>Subsection 19.301.5.B</b> Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	<b>Subsection 19.301.5.C</b> Front Yard Minimum Vegetation <b>Subsection 19.504.7</b> Minimum Vegetation
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre)				<b>Subsection 19.301.5.D</b> Residential Densities
a. Minimum	3.5	5.0	7.0	<b>Subsection 19.501.4</b> Density Exceptions
b. Maximum	4.4	6.2	8.7	

**19.301.5 Additional Development Standards**

**A. Side Yards**

In the R-7 Zone, 1 side yard shall be at least 5 ft and 1 side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

**B. Lot Coverage**

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than 1 story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.301.5.B.2  
Increased Lot Coverage for Single-Family Detached Dwellings**

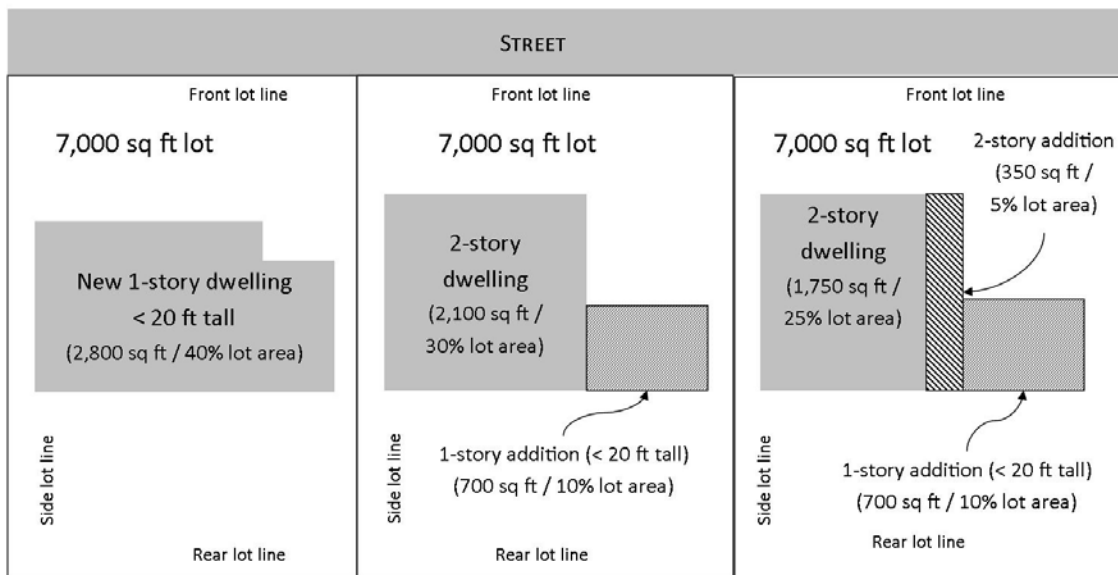


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-7 based on 7,000-sq-ft lot area.

3. Increased Lot Coverage for Duplexes

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20 percentage points for a duplex.

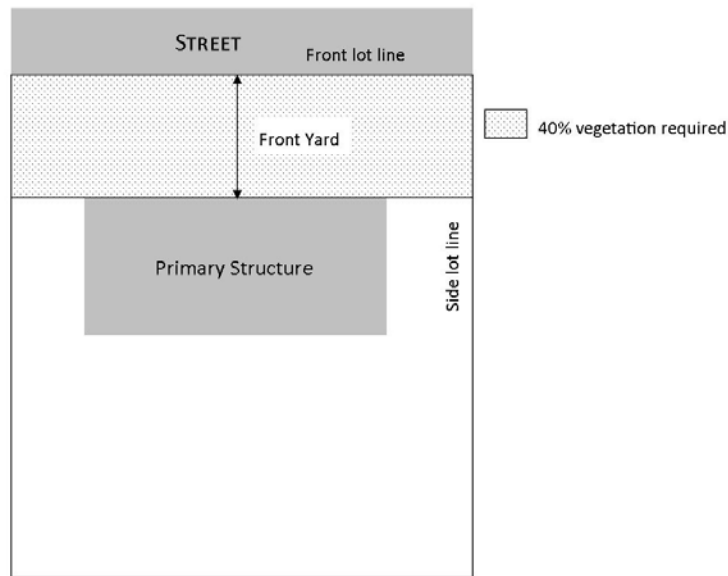
4. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.301.5.C  
Front Yard Minimum Vegetation**



D. Residential Densities

The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Number of Dwelling Structures

In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.

G. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

H. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
4. Subsection 19.505.2 Garage and Carport Standards
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

**19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES**

The medium and high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the Medium Density and High Density residential land use designations in the Milwaukie Comprehensive Plan.

**19.302.1 Purpose**

The medium and high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

**19.302.2 Allowed Uses in Medium and high density Residential Zones**

Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

<b>Table 19.302.2 Medium and High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>						
Single-family detached dwelling	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Residential home	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	P/II	P/II	<b>Subsection 19.910.1</b> Accessory Dwelling Units

**Proposed Code and Comp. Plan Amendments**

Manufactured dwelling park	III	N	N	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Rowhouse	P	P	P	P	P	<b>Subsection 19.505.1</b> Design Standards for Single-Family Dwellings and Duplexes <b>Subsection 19.505.5</b> Standards for Rowhouses
Cottage Cluster Housing	P	P	P	P	P	<b>Subsection 19.505.4</b> Design Standards for Cottage Cluster Housing Cottage cluster land division requires Type III review
Multifamily	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Design Standards for Multifamily Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Congregate housing facility	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Design Standards for Multifamily Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	
<b>Commercial Uses</b>						
Office	CU	CU	CU	CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Hotel or motel	N	N	CU	CU	CU	
Bed and breakfast	CU	CU	CU	CU	CU	
<b>Accessory and Other Uses</b>						
Accessory use	P	P	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

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

- A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.
1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
  2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
  3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.
- B. Office uses allowed in the medium and high density residential zones are offices, studios, clinics, and others similar professional offices.

### **19.302.4 Development Standards**

In the medium and high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

<b>Table 19.302.4 Medium and High Density Residential Development Standards</b>						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>A. Lot Standards</b>						
1. Minimum lot size (sq ft) a. Rowhouse b. Duplex c. All other lots	3,000 6,000 5,000	2,500 5,000 5,000	2,500 7,000 5,000		1,400 6,400 5,000	<b>Subsection 19.501.1</b> Lot Size Exceptions <b>Subsection 19.505.4</b> Design Standards for Cottage Cluster Housing <b>Subsection 19.505.5</b> Standards for Rowhouses
2. Minimum lot width (ft) a. Rowhouse b. All other lots	30 50		25 50		20 50	
3. Minimum lot depth (ft) a. Rowhouse b. All other lots	80 80	75 75	80 80		70 80	
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	30 35 25 35		25 35 25 35		20 35 25 35	
<b>B. Development Standards</b>						
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard				See Subsection 19.302.5.A	15 15 15	<b>Subsection 19.302.5.A</b> Side Yards <b>Subsection 19.501.2</b> Yard Exceptions <b>Subsection 19.504.8</b> Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less				3 stories or 45 ft, whichever is less	<b>Subsection 19.302.5.E</b> Height Exceptions <b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions <b>Subsection 19.302.5.I</b> Transition Measures

3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45		25 45	<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%		45% 50%	<b>Section 19.201 "Lot coverage"</b> definition
5. Minimum vegetation (percent of total lot area)	35%		15%	<b>Subsection 19.504.7</b> Minimum Vegetation <b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation <b>Subsection 19.302.5.C</b> Minimum Vegetation
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum	11.6 14.5	11.6 17.4	25.0 32.0	<b>Subsection 19.202.4</b> Density Calculations <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.501.4</b> Density Exceptions

**19.302.5 Additional Development Standards**

**A. Side Yards**

In the medium and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a rowhouse shall be at least 5 ft.
2. There is no required side yard for rowhouses that share 2 common walls. The required side yard for an exterior rowhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior rowhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

**B. Lot Coverage**

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

**1. Increased Lot Coverage for Single-Family Detached Dwellings**

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.302.5.B.1  
Increased Lot Coverage for Single-Family Detached Dwellings**

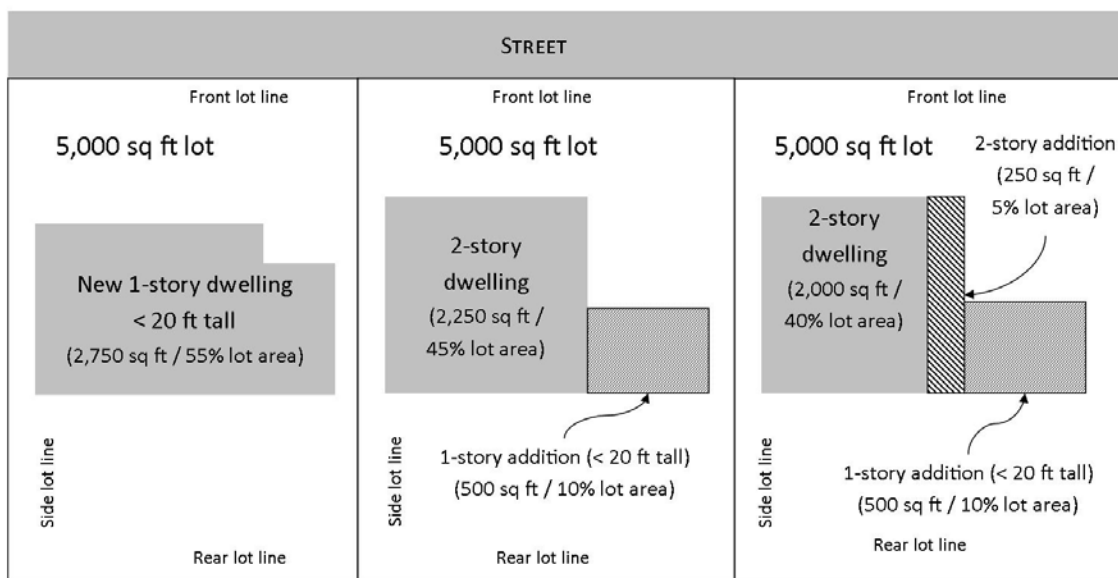


Figure 19.302.5.B.1 illustrates increased lot coverage for lots in Residential Zone R-2 based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for Duplexes and Rowhouses

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 20 percentage points for a duplex or rowhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

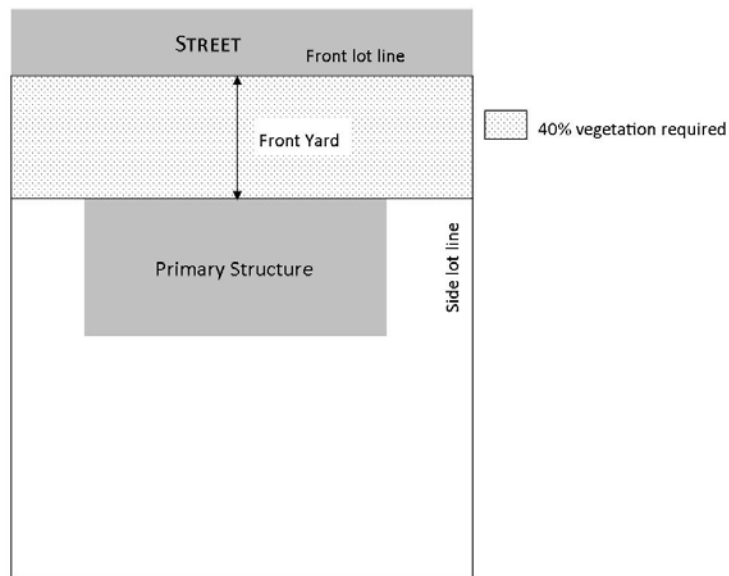
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.302.5.D  
Front Yard Minimum Vegetation**



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of a single-family detached dwelling or an accessory dwelling is exempt from the minimum and maximum density requirements.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

<b>Table 19.302.5.F.2 Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones</b>		
<b>Units</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	2,500 sq ft per unit	1,400 sq ft per unit

**G. Accessory Structure Standards**

Standards specific to accessory structures are contained in Section 19.502.

**H. Building Limitations**

1. In the R-3 Zone, 1 single-family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.
2. Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

**I. Transition Measures**

The following transition measures apply to multifamily development that abuts an R-10-, R-7-, or R-5-zoned property.

1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.
2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.

**J. Off-Street Parking and Loading**

Off-street parking and loading is required as specified in Chapter 19.600.

**K. Public Facility Improvements**

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

L. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 Design Standards for Single-Family Dwellings and Duplexes
6. Subsection 19.505.2 Garage and Carport Standards
7. Subsection 19.505.3 Design Standards for Multifamily Housing
8. Subsection 19.505.4 Design Standards for Cottage Cluster Housing
9. Subsection 19.505.6 Building Orientation to Transit
10. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

**19.303 RESIDENTIAL-OFFICE-COMMERCIAL ZONE R-O-C**

In an R-O-C Zone the following regulations shall apply:

**19.303.1 Uses Permitted Outright**

In an R-O-C Zone the following uses and their accessory uses are permitted outright:

- A. Single-family detached dwelling;
- B. Duplex ;
- C. Residential home;
- D. Multifamily development ;
- E. Congregate housing facility;
- F. Senior and retirement housing;
- G. Offices;
- H. Retail trade establishment such as a food store, drugstore, gift shop, hardware store selling primarily from a shelf-goods inventory;
- I. Personal service business such as a barber shop, tailor shop, or laundry and dry cleaning pickup station;
- J. Funeral home;
- K. Commercial recreation and motion picture theater;
- L. Eating establishment;

- M. Hotel or motel;
- N. Parking facility;
- O. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- P. Financial institution;
- Q. Trade or commercial school;
- R. Department or furniture store;
- S. Any other use similar to the above and not listed elsewhere.

**19.303.2 Conditional Uses Permitted**

In an R-O-C Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Boarding, lodging, or rooming house;
- B. Any other use similar to the above and not listed elsewhere.

**19.303.3 Standards**

In an R-O-C Zone the following standards shall apply:

- A. Lot size. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,400 sq ft. Lot width shall be at least 50 ft. Lot depth shall be at least 80 ft.
- B. Front yard. A front yard shall be at least 15 ft.
- C. Side yard. A side yard shall be at least 5 ft, and there shall be additional 1 ft of side yard for each 3 ft of height over 2 stories or 25 ft, whichever is less, except on corner lots a side yard shall be at least 15 ft on the side abutting the street.
- D. Rear yard. A rear yard shall be at least 15 ft.
- E. Off-street parking and loading. As specified in Chapter 19.600.
- F. Height restriction. Maximum height of a structure shall be 3 stories or 45 ft, whichever is less. 1 additional story may be permitted in excess of the required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.
- G. Use restrictions. Authorized commercial uses are permitted on the ground floor only. Office uses are permitted on the ground level and first floor. At least 50% of the floor area within a project shall be used for residential purposes.
- H. Lot coverage. Maximum area that may be covered by the principal structure and accessory buildings shall not exceed 50% of the total area of the lot.
- I. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15% of the total area of the lot.
- J. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft, except as provided in the Land Division Ordinance.
- K. Transition area. A transition area shall be maintained according to Subsection 19.504.6.

- L. Minimum and maximum density. Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the Planning Commission, pursuant to Section 19.1006 Type III Review, shall be at least 25 and not more than 32 dwelling units per net acre.
- M. Transportation requirements and standards. As specified in Chapter 19.700.

### **19.304 DOWNTOWN ZONES**

#### **19.304.1 Purpose**

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

#### **19.304.2 Characteristics of the Downtown Zones**

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

##### **A. Downtown Storefront (DS)**

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. Retail uses are required on the ground floors of buildings fronting on Main Street. Office and/or residential uses are allowed on upper floors. Industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses. These uses include rowhouses and multifamily buildings.

##### **B. Downtown Commercial (DC)**

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

##### **C. Downtown Office (DO)**

## Proposed Code and Comp. Plan Amendments

The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. Retail commercial uses are limited to support the primary uses (office, entertainment, and hotel establishments) and encourage retail development along Main Street. The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

### D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in a defined portion of the Downtown Residential Zone to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

### E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

## 19.304.3 Uses

### A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

<b>Table 19.304.3 Downtown Zones—Uses</b>					
<b>Use Categories</b>	<b>Downtown Storefront</b>	<b>Downtown Commercial</b>	<b>Downtown Office</b>	<b>Downtown Residential</b>	<b>Downtown Open Space</b>
<b>Residential</b>					
Single-family detached	N	N	N	N	N
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
<b>Commercial/Office<sup>1</sup></b>					
Automobile service station	N	N	N	N	N
Automobile repair	N	L[2]	N	N	N

Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Industrial	N	N	N	N	N
<b>Other</b>					
Adult entertainment	N	N	N	N	N
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
Transit centers	L[9]	L[9]	N	N	N

<sup>1</sup> Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

**B. Limited Uses**

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

**C. Nonconforming Uses**

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

**D. Prohibited Uses**

Uses listed in Table 19.304.3 with an “N” are prohibited as new uses.

**E. Accessory Uses**

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

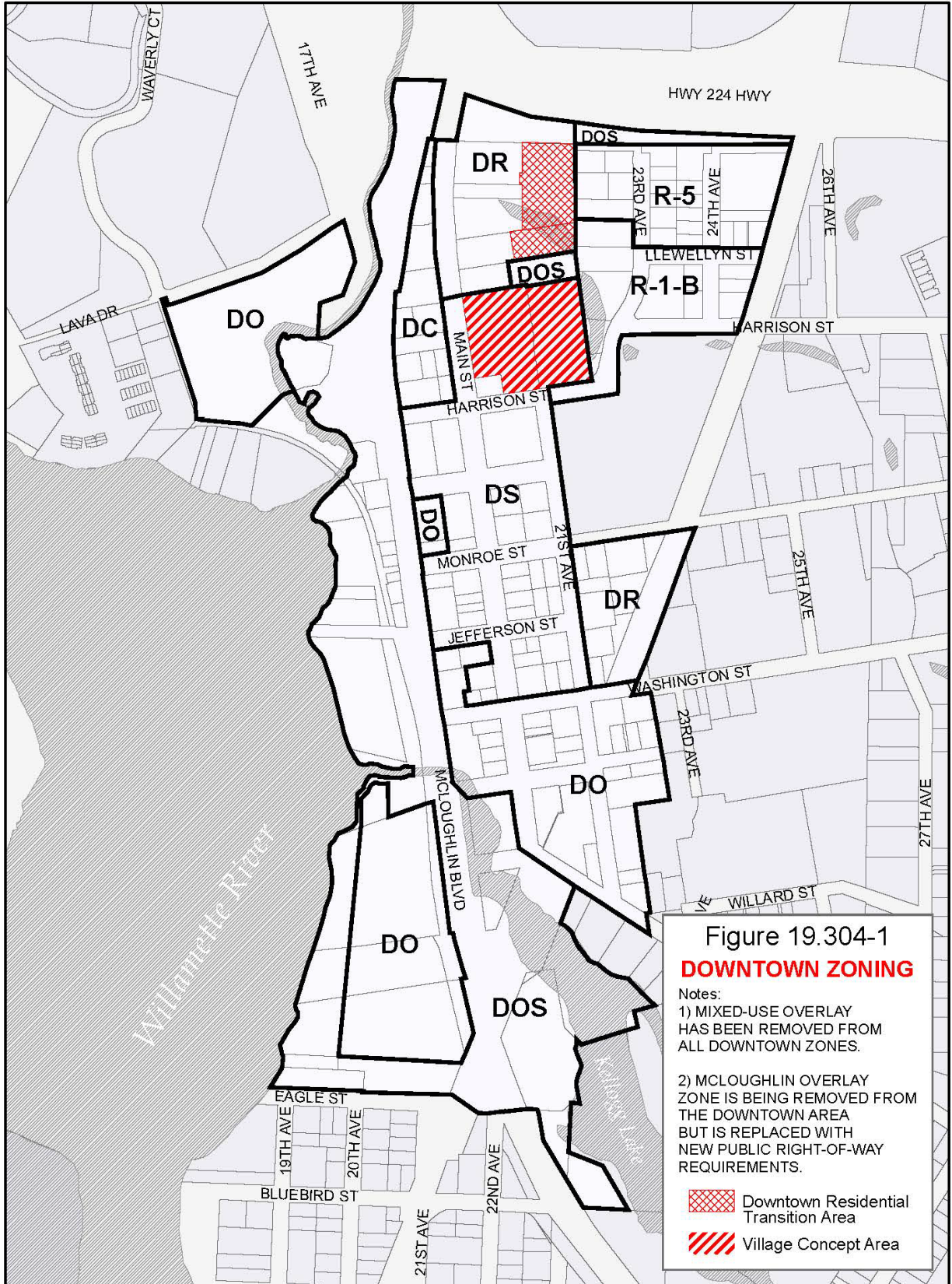
**F. Similar Uses**

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

**G. Limited Uses**

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Transitional Residential Area” on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”
2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use. These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).
4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.
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 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.
8. New community service uses or expansion/alteration of an existing community service use in the downtown zones may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Transit centers shall comply with the public area requirements for transit centers.
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.



**19.304.4 Development Standards**

A. Purpose

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

<b>Table 19.304.4 Downtown Zones—Development Standards</b>					
<b>Standard</b>	<b>Downtown Storefront</b>	<b>Downtown Commercial</b>	<b>Downtown Office</b>	<b>Downtown Residential</b>	<b>Downtown Open Space</b>
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft <sup>1</sup>	None
2. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
3. Building height (see Figure 19.304-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
4. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
5. Street setback (see Figure 19.304-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
6. Other setbacks (side and rear)	None	None	None	15' <sup>2</sup>	None
7. Ground-floor retail (see Figure 19.304-2)	Yes	Yes	Yes	No	No
8. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
9. Drive-through facilities	No	No	No	No	No
10. Off-street parking required	No	Yes	No/Yes <sup>3</sup>	Yes	Yes
11. Landscaping	None	10%	None	15%	20%

<sup>1</sup> Townhouse lots may be as small as 750 sq ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft.

<sup>2</sup> Setbacks are required only where the DR zone abuts a lower-density residential zone.

<sup>3</sup> Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

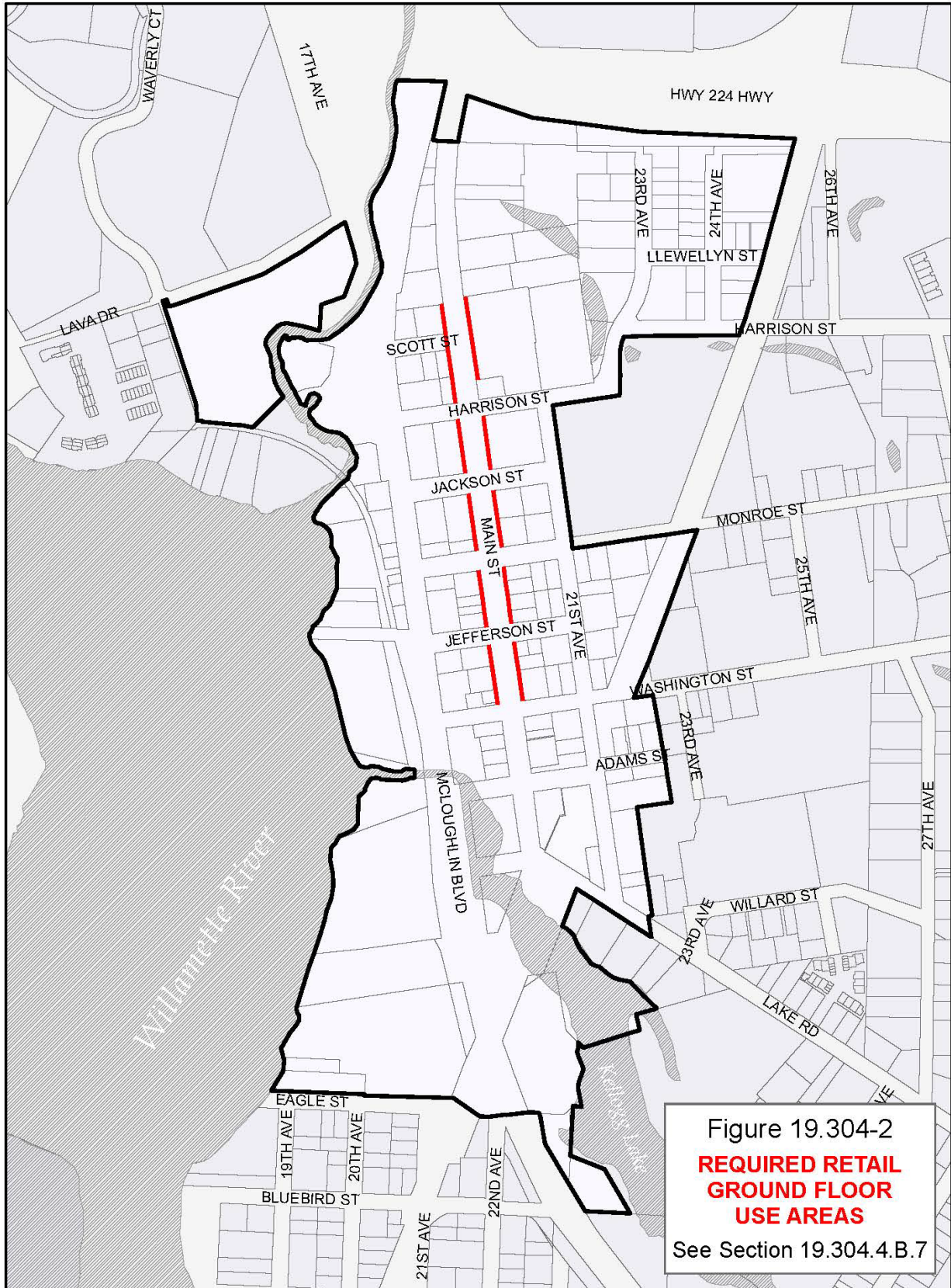
Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

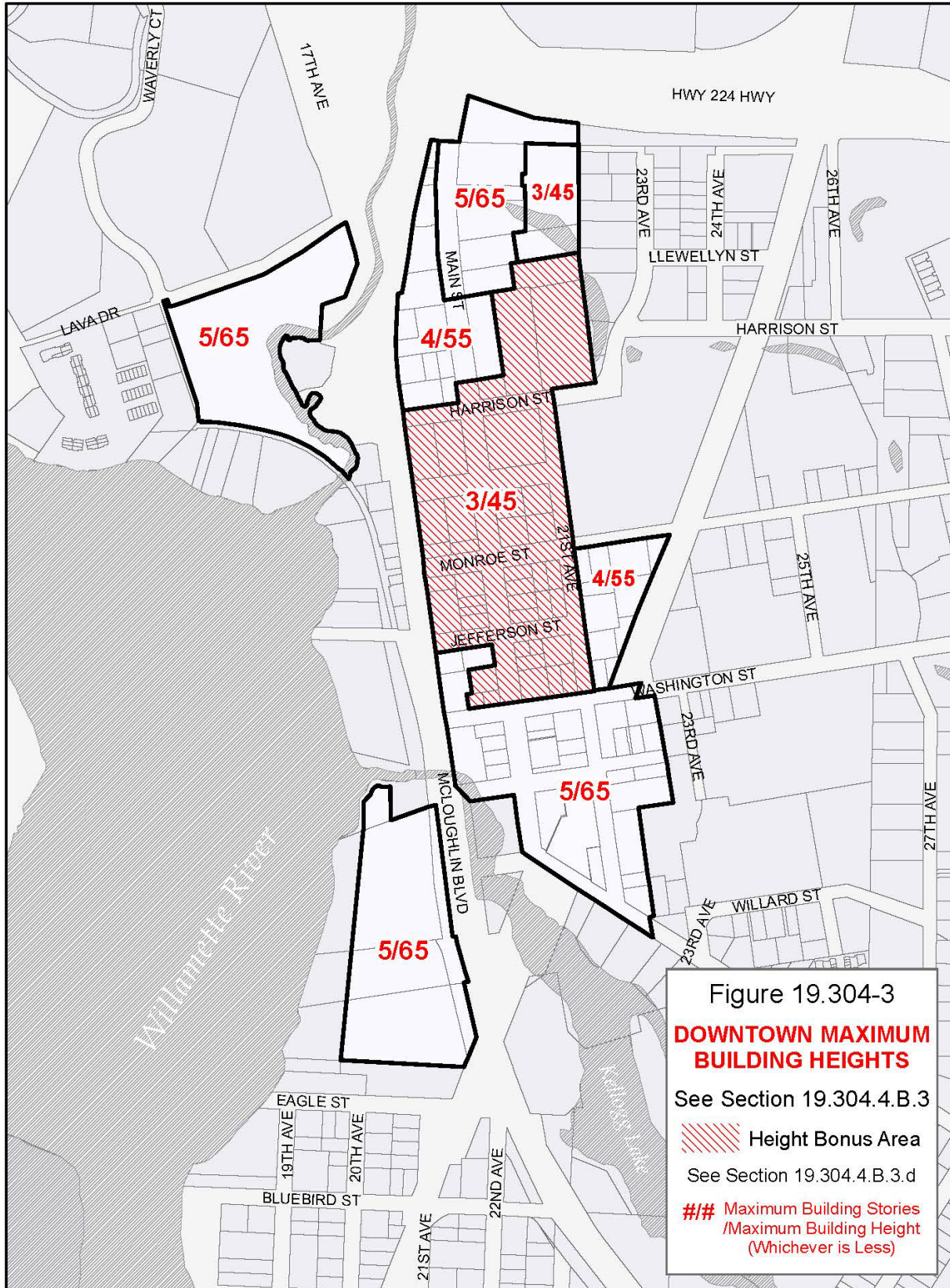
Figure 19.304-2—Required Retail Ground Floor Use Areas

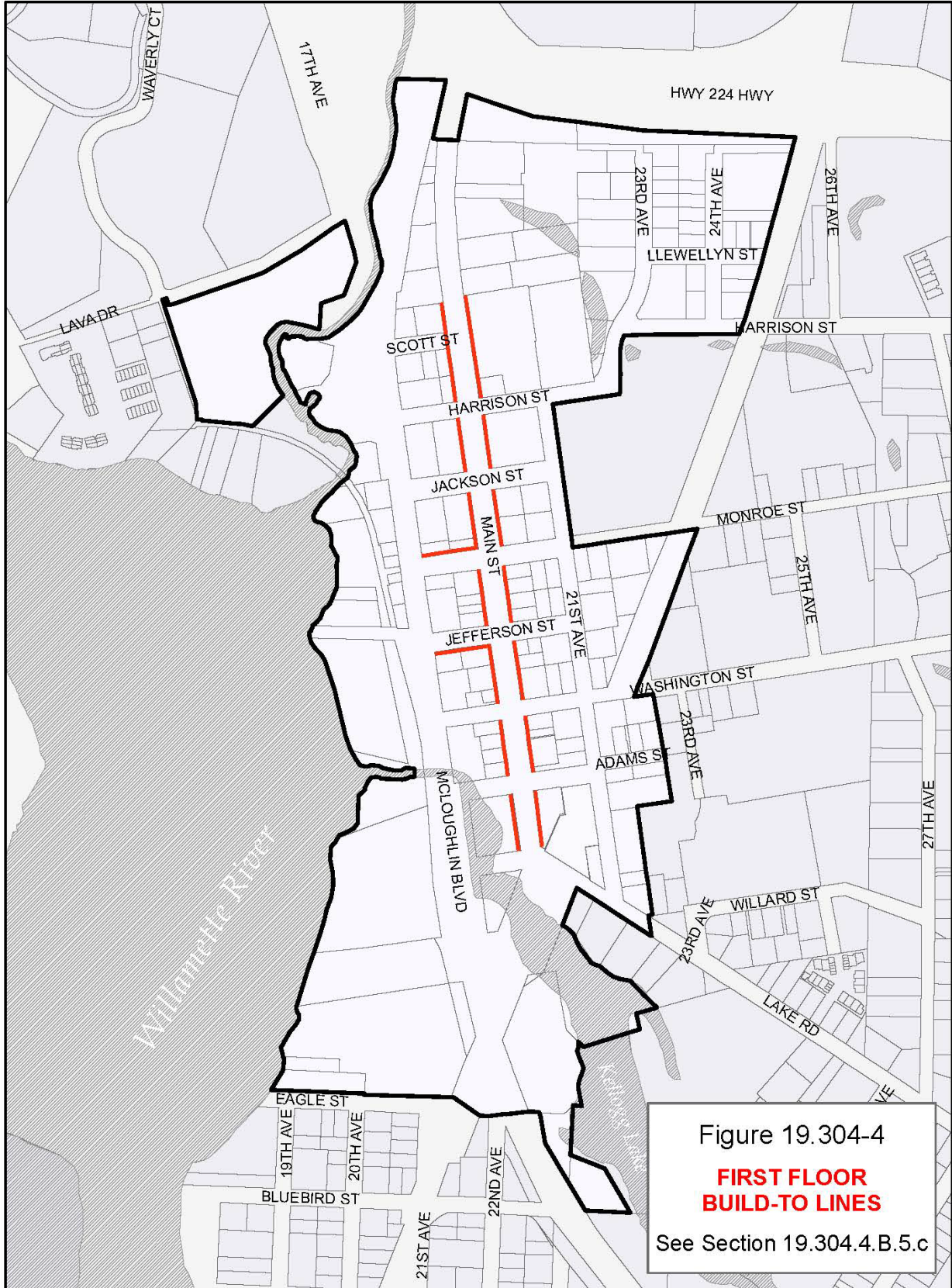
Figure 19.304-3—Maximum Building Heights

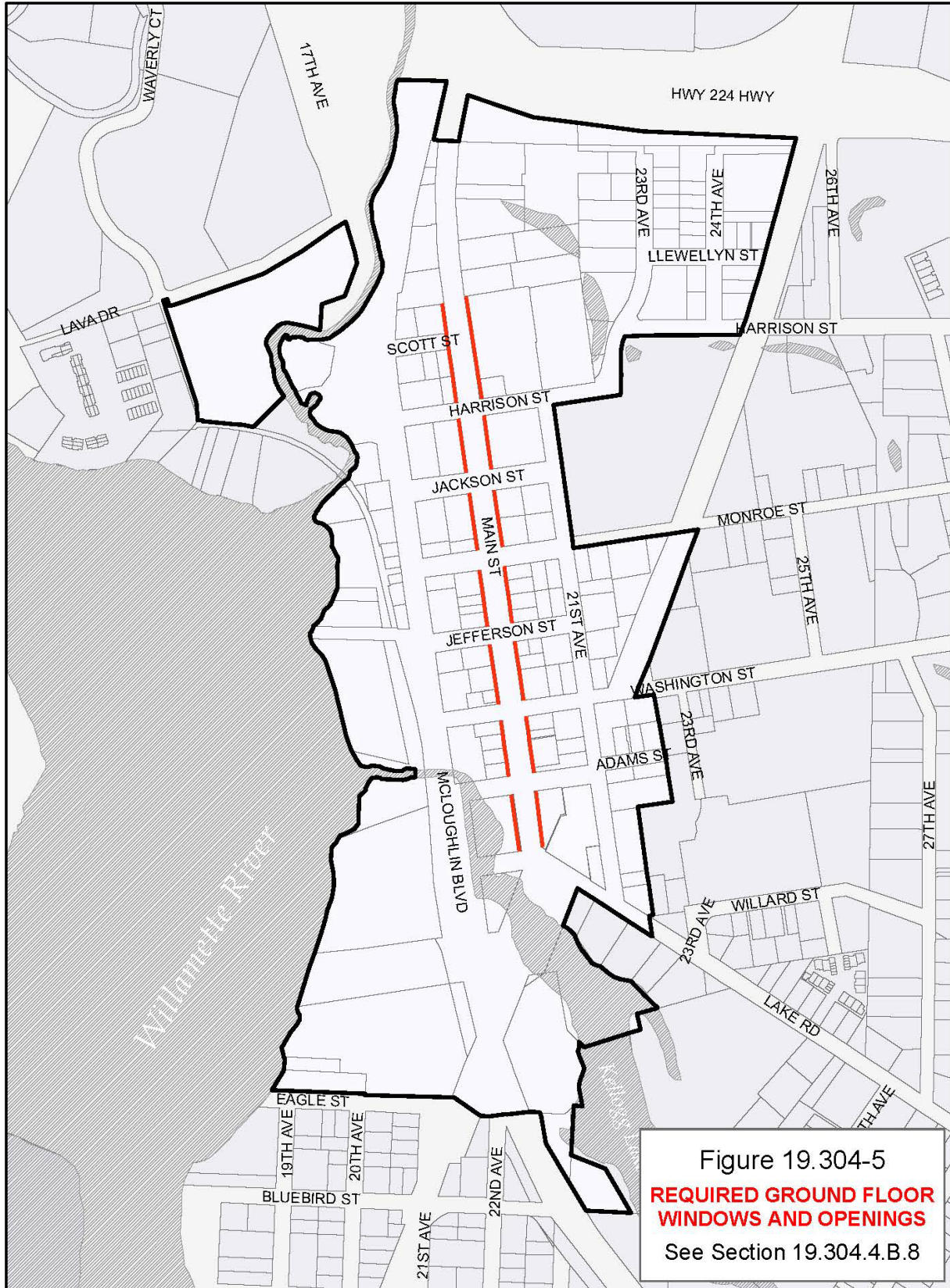
Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground Floor Windows and Openings









B. Explanation of Development Standards

1. Minimum Lot Size

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront and Downtown Residential Zones (in the transitional residential area only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the transitional residential area) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukee Municipal Code).

2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: transit centers, public parks and plazas, and commercial parking facilities.

3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.
- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
  - (1) Projections or recesses of up to 18 in are allowed.
  - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown

Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

7. Ground-Floor Retail/Restaurants

Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building.

8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. ( 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazing are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

10. Off-Street Parking

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:
  - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
  - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
  - (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

**11. Minimum Landscaping/Open Space**

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the public area requirements.
- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

**12. Right-of-Way Projections**

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

**19.304.5 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 19.702 are subject to Chapter 19.700 in its entirety, with the exception of specified portions of Section 19.708 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 19.702 shall submit all appropriate applications per Subsection 19.703.2. 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 19.703.2 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 19.704, 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 19.705. 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 19.703.3.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 19.703.5.B.

**19.304.6 Design Standards**

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards, together with the public area requirements, will support the development of a cohesive, attractive, and safe downtown area and encourage private investment. The design standards do not prescribe a particular building or architectural style. The standards are intended to be clear and objective, and compliance with the standards is checked as part of building plan review.

B. Applicability

The design standards are applicable to all new construction and to major exterior alterations in the downtown zones. Standards regarding prohibited materials are applicable to minor exterior alterations in the downtown zones. Exterior maintenance and repair of buildings in the downtown zones are exempt from compliance with the design standards. Definitions of exterior maintenance and repair, minor exterior alteration, and major exterior alteration follow.

1. Exterior maintenance and repair includes refurbishing, painting, and weatherproofing of deteriorated materials, and in-kind restoration or replacement of damaged materials. Exterior maintenance and repair does not include replacement of materials due to obsolescence or when associated with minor or major exterior renovation, as defined below. Exterior maintenance and repair does not include the placement of signs.

The design standards are not applicable to exterior maintenance and repair as defined above.

2. Minor exterior alterations include the exterior alterations of any portion of a structure that do not fall within the definitions of “exterior maintenance and repair” or “major exterior alterations.” Minor exterior alterations include, but are not limited to, the application or installation of finish building treatments, including windows and other glazing, doors, lintels, copings, vertical and horizontal projections including awnings, and exterior sheathing and wall materials. Minor exterior alteration does not include the placement of signs.

Additions not exceeding 250 sq ft may be permitted under a minor exterior alteration only when the additional floor area is designed and used for utility, HVAC, other mechanical equipment, ADA upgrades, or egress required by applicable fire safety or building codes.

The design standards pertaining to prohibited exterior building materials (see Subsection 19.304.6.C below) are applicable to minor exterior alterations. No other design standards apply to minor exterior alterations.

3. Major exterior alterations include any of the following:
  - a. Alterations that do not fall within the definitions of “exterior maintenance and repair” or “minor exterior alterations”;
  - b. Demolition or replacement of more than 25% of the surface area of any exterior wall or roof;
  - c. Floor area additions that exceed 250 sq ft or do not meet the limited purposes as defined under the minor exterior alteration (ADA upgrades, etc.).

The design standards are applicable to major exterior alterations as described below:

- (1) Major exterior alterations involving a wall(s) shall comply with the design standards for walls and the design standards for windows for that wall(s).
- (2) Major exterior alterations involving a roof shall comply with the design standards for roofs.

### C. Design Standards

#### 1. Design Standards for Residential

The following standards are applicable to “stand-alone” residential buildings in the Downtown Residential and Downtown Commercial Zones. Additional standards

pertaining to walls, windows, and roofs are also applicable to residential buildings and are addressed in Subsections 19.304.6.C.2 through 4 below.

- a. Residential Entries and Porches
  - (1) Porches, if provided, shall be a minimum of 6 ft deep by 8 ft wide.
  - (2) Front entries must face a public street or a landscaped courtyard.
- b. Garages and Parking Areas
  - Garage entrances and parking areas shall not be located between the residential building(s) and the abutting public street.
- c. Residential Courtyards, if Provided
  - (1) Courtyards shall have a minimum width of 30 ft.
  - (2) Up to 15% of the courtyard area may be claimed as private space. The remainder shall be common space.
  - (3) The courtyard shall be enclosed on a minimum of 2 sides by residential front entry doors.
  - (4) Garage doors shall not front onto the courtyard.
- d. Residential Balconies
  - Balconies for residential units shall have a minimum depth of 6 ft and minimum width of 8 ft.

2. Design Standards for Walls

The following standards are applicable to the exterior walls of buildings facing streets, courtyards, and/or public squares in all of the downtown zones.

- a. Exterior wall-mounted mechanical equipment is prohibited.
- b. The following wall materials are prohibited at the street level of the building:
  - (1) EIFS or other synthetic stucco panels;
  - (2) Splitface or other masonry block.
- c. The following wall materials are prohibited at all levels of the building in all downtown zones:
  - (1) Plywood paneling;
  - (2) Brick with dimensions larger than 4 by 8 by 2 in;
  - (3) Spandrel glazing/curtain wall;
  - (4) Vinyl or metal cladding;
  - (5) Composite wood fiberboard or composite cement-based siding, except as permitted in the Downtown Residential Zone in Subsection 19.304.6.C.2.d.(3);
  - (6) Metal panels, except at penthouse level.
- d. The following wall materials are permitted only in the Downtown Residential Zone where densities are less than 30 units per acre:
  - (1) Board and batten cladding (limited to a maximum of 20% of the wall area);

- (2) Wood shingles;
- (3) Composite wood fiberboard or composite cement-based siding.

3. Design Standards for Windows

The following standards are applicable to building windows facing streets, courtyards, and/or public squares in all of the downtown zones.

- a. Windows shall be “punched” openings recessed a minimum of 2 in from the wall surface.
- b. Window height shall be equal to or greater than window width.
- c. The following windows are prohibited:
  - (1) Reflective, tinted, or opaque glazing;
  - (2) Simulated divisions (internal or applied synthetic materials);
  - (3) Exposed, unpainted metal frame windows.

4. Design Standards for Roofs

The following standards are applicable to building roofs in all of the downtown zones.

- a. Flat roofs shall include a cornice with no less than 6 in depth (relief) and a height of no less than 12 in.
- b. Mansard or decorative roofs on buildings less than 3 stories are prohibited in all downtown zones.
- c. Metal roofs are prohibited only in the Downtown Residential Zone.

**19.305 NEIGHBORHOOD COMMERCIAL ZONE C-N**

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

**19.305.1 Uses Permitted Outright**

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

- A. No uses permitted outright.

**19.305.2 Conditional Uses Permitted**

In a C-N Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. A food store not exceeding 2,500 sq ft of floor area;
- B. A store providing convenience goods and services for a local area;
- C. Laundry;
- D. Eating establishment;
- E. Any other use similar to the above and not listed elsewhere.

**19.305.3 Standards**

In a C-N Zone the following standards shall apply:

- A. Lot size. Lot area shall be at least 5,000 sq ft but not greater than 25,000 sq ft. Lot width shall be at least 50 ft. Average lot depth shall be at least 80 ft.

- B. Front yard. A front yard shall be at least 15 ft.
- C. Side yard. A side yard shall be at least 5 ft, and there shall be additional 1 ft of side yard for each 3 ft of height over 2 stories or 25 ft, whichever is less, except on corner lots a side yard shall be at least 15 ft on the side abutting the street.
- D. Rear yard. A rear yard shall be at least 10 ft.
- E. Off-street parking and loading. As specified in Chapter 19.600.
- F. Height restriction. Maximum height of a structure shall be 2.5 stories or 35 ft, whichever is less.
- G. Lot coverage. Maximum area that may be covered by the dwelling structure and accessory buildings shall not exceed 40% of the total area of the lot.
- H. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, etc., shall be 20% of the total area of the lot.
- I. Screening. Neighborhood commercial uses must be screened from adjacent residential uses.
- J. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft.
- K. Transportation requirements and standards. As specified in Chapter 19.700.

#### **19.305.4 Prohibited Uses**

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

#### **19.306 LIMITED COMMERCIAL ZONE C-L**

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

##### **19.306.1 Uses Permitted Outright**

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

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature.
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific, or statistical organizations.
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory.
- D. Personal service business such as a barber shop, tailor shop, or laundry and dry cleaning pickup station.
- E. Any other use similar to the above and not listed elsewhere.

##### **19.306.2 Conditional Uses Permitted**

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Funeral home;

- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. Single-family detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock;
- I. Duplex or multifamily development ;
- J. Senior and retirement housing;
- K. Residential home;
- L. Congregate housing facility;
- M. High-impact commercial, except adult entertainment businesses;
- N. Any other use similar to the above and not listed elsewhere.

**19.306.3 Standards**

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

- A. Lot size. None, except as follows for dwelling. Lot area shall be at least 5,000 sq ft. Lot area for the first dwelling unit shall be at least 5,000 sq ft and for dwelling units over 1 there shall be not less than an average of 1,000 sq ft. Lot width shall be at least 50 ft. . Lot depth shall be at least 80 ft.
- B. Front yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- C. Side yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- D. Rear yard. None, except as provided in Subsections 19.306.3.E and 19.501.2.A.
- E. Transition area. A transition area shall be maintained according to Subsection 19.504.6.
- F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft except as permitted under the Land Division Ordinance. .
- G. Off-street parking and loading. As specified in Chapter 19.600.
- H. Height restriction. Maximum height of any structure shall be 3 stories or 45 ft, whichever is less.
- I. Open use. A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, shall be screened with a sight-obscuring fence not less than 6 ft high.
- J. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, barkdust for planting beds, etc., shall be 15% of the total area of the lot.
- K. Transportation requirements and standards. As specified in Chapter 19.700.

**19.306.4 Prohibited Uses**

The following uses and their accessory uses are prohibited:

- A. Adult entertainment businesses.

**19.307 GENERAL COMMERCIAL ZONE C-G**

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

**19.307.1 Uses Permitted Outright**

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

- A. Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature;
- B. Offices of administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, scientific or statistical organizations;
- C. Retail trade establishment such as a food store, drugstore, gift shop, hardware store, selling primarily from a shelf-goods inventory;
- D. Personal service business such as a barber shop, tailor shop or laundry, and dry cleaning pickup station;
- E. A use permitted outright in this zone with drive-in service facilities;
- F. Funeral home;
- G. Eating establishment;
- H. Marina;
- I. Parking facility;
- J. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- K. Financial institution;
- L. Trade or commercial school;
- M. Department or furniture store;
- N. Automobile, boat, trailer, or other vehicle or equipment sales and service;
- O. Car wash;
- P. Carpenter or cabinet shop;
- Q. Furniture upholstery;
- R. Building materials supply;
- S. Plumbing, heating, ventilation, or electrical shop;
- T. Printing plant;
- U. Repair garage;
- V. Automobile service station;

- W. Sign painting shop;
- X. Tire shop;
- Y. Any other use similar to the above and not listed elsewhere.

**19.307.2 Conditional Uses Permitted**

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Animal hospital or boarding kennel;
- B. Auditorium or stadium;
- C. Contractor's storage yard;
- D. Sheet metal shop;
- E. Agricultural or horticultural use, provided that poultry or livestock other than usual household pets are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock;
- F. Drinking establishment;
- G. High-impact commercial, except adult entertainment businesses;
- H. Any other use similar to the above and not listed elsewhere.

**19.307.3 Standards**

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

- A. Lot size. None. Lot width shall be at least 50 ft. Average lot depth shall be at least 80 ft.
- B. Front yard. None, except as provided in Subsections 19.307.3.E and 19.501.2.A.
- C. Side yard. None, except as provided in Subsections 19.307.3.E and 19.501.2.A.
- D. Rear yard. None, except as provided in Subsections 19.307.3.E and 19.501.2.A.
- E. Transition area. A transition area shall be maintained according to Subsection 19.504.6.
- F. Frontage requirements. Every lot shall abut a public street other than an alley for at least 35 ft.
- G. Off-street parking and loading. As specified in Chapter 19.600.
- H. Height restriction. Maximum height of a structure shall be 3 stories or 45 ft, whichever is less.
- I. Lot coverage. Maximum area that may be covered by buildings and structures shall not exceed 85% of the total area of the lot.
- J. Open use. A use not contained within an enclosed building, such as open storage, abutting or facing a residential zone, or which would be visible from a public street, shall be screened with a sight-obscuring fence not less than 6 ft high.

Except for open storage, the following uses shall be conducted within an enclosed building:

- 1. Carpenter or cabinet shop;
- 2. Furniture upholstery;
- 3. Plumbing shop;

4. Repair garage;
  5. Sign painting shop;
  6. Tire shop;
  7. Heating or ventilation shop.
- K. Minimum vegetation. Minimum area that must be left or planted in trees, grass, shrubs, bark dust for planting beds, etc., shall be 15% of the total area of the lot.
- L. Transportation requirements and standards. As specified in Chapter 19.700.

**19.307.4 Prohibited Uses**

The following uses and their accessory uses are prohibited:

- A. Adult entertainment business.

**19.308 COMMUNITY SHOPPING COMMERCIAL ZONE C-CS**

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

**19.308.1 Uses**

Development shall be a community-scale shopping center.

- A. Such center shall include at least 3 out of the 4 following uses:
1. Department store uses;
  2. Drug and/or variety store uses;
  3. Food supermarket;
  4. Retail specialty shops.
- B. Such center may include the following additional uses:
1. Eating and drinking establishment;
  2. Financial institution;
  3. Entertainment use (theater, etc.);
  4. Personal service businesses;
  5. Repair, service or maintenance of goods authorized in this district;
  6. Offices, clinics, or trade schools, provided no more than 15% of the total floor space of the center is devoted to such uses;
  7. Any other uses determined by the Planning Commission to be similar and compatible to the above-listed uses.
- C. Uses prohibited shall be: industrial, warehousing, vehicular sales or service, motels, adult entertainment business, machinery sales or repair, contractor's office, and similar uses as determined by the Planning Commission.

**19.308.2 Scale**

The minimum size of the community-scale shopping center shall be 200,000 gross leasable sq ft. Construction of the center may be phased, however, and the first phase must be at least 140,000 sq ft. If construction is phased, all phases must be completed in 3 years.

**19.308.3 Application Review; Minimum Requirements**

- A. Site development plan showing site and adjacent streets, access, parking, circulation, landscaped areas, location of buildings, location of pedestrian walkways, location of utilities, service areas, loading areas, lighting, utilities and public facilities;
- B. Landscaping plan showing size, species and location of plant materials, irrigation system, site contouring;
- C. Preliminary architectural plans indicating floor plans, elevations, building orientation and signing;
- D. Phasing plan, if proposed;
- E. Detailed traffic report, analyzing existing traffic, traffic generation, turning movements, and impact on adjacent streets. Report shall recommend roadway improvements needed to mitigate impacts as specified in Chapter 19.700. The application shall be reviewed under Type III review procedures as provided in Section 19.1006;
- F. Proposed on and off-site improvements to the remaining public facilities (water, sanitary sewer and storm sewer).

**19.308.4 Criteria for Approval**

An application for development will be approved if it meets the following criteria:

- A. It complies with the application requirements under Subsection 19.308.3 above;
- B. It meets the scale requirements of Subsection 19.308.2 above;
- C. It meets the use requirements of Subsection 19.308.1 above;
- D. It meets the development standards of Subsection 19.308.5 below;
- E. The site plan and building orientation/design shall address the following guidelines:
  - 1. Create an aesthetically pleasing development by the use of quality materials and the arrangement of buildings, landscaping and parking,
  - 2. Relate functionally to the site, surroundings and internally,
  - 3. Be designed to maximize safety and convenience, for the motorist and pedestrian,
  - 4. Be designed to consider crime prevention techniques,
  - 5. Signs shall be integrated into the design of the center.

**19.308.5 Development Standards**

- A. Setbacks (Minimum) from Property Line
  - 1. Along Hwy. 224: 30 ft
  - 2. Along Oak Street: 40 ft
  - 3. Along 37th Street: 20 ft
  - 4. From other property lines: 5 ft
- B. Heights (maximum)  
3 stories or 45 ft, whichever is less.
- C. Access

1. Maximum of 2 curb cuts along Oak St. frontage.
2. Maximum of 3 curb cuts along 37th St. frontage.
3. Location of access points to be approved by the Public Works Director, after consultation with the State Highway Division.

D. Landscaping

1. A minimum of 20% of the net site area shall be landscaped. Net site area is gross site area minus right-of-way (ROW) dedications.
2. All setback areas to be landscaped.
3. A landscaped berm on the Hwy. 224 and Oak St. frontages shall be installed. The berm shall be designed to provide visual relief from the parking and activity areas of the center. The berm may be “tapered” down on either side of access drives.
4. An irrigation system shall be installed for the landscaped areas.
5. Trees (minimum 6 ft high at time of planting) shall be planted, at least 1 every 50 ft, along the bermed landscaped areas adjacent to streets.
6. “Landscaped” means a combination of ground cover, shrubbery, and trees installed to form a unified landscape.
7. A bond or financial guarantee of performance will be required.

E. Utilities

All utilities (electric, gas, telephone) shall be installed underground.

F. Transit

Reserve areas for transit facilities (bus turnout, shelter, benches, station, etc.) for the use of mass transit if requested by TriMet in their review of the project as specified in Chapter 19.700.

G. Public Facilities

All necessary public facilities (water, sanitary sewer, storm sewer, streets) must be improved to meet City and State standards.

H. Parking requirements of Chapter 19.600.

I. Design Standards

1. Roof-mounted mechanical equipment shall be screened from view.
2. Loading and delivery areas should be separated from parking and pedestrian areas.
3. A minimum of 80% of the floor space shall be designed as an enclosed mall (where access from one store to another is possible without walking outside). Alternatively, a pedestrian walkway covering is permitted, if designed to shelter pedestrians from inclement weather.
4. Outdoor trash or delivery areas are screened from the public’s view.

J. Transportation Requirements and Standards

As specified in Chapter 19.700.

**19.309 MANUFACTURING ZONE M**

Statement of Purpose. The purpose of this manufacturing zone is to promote clean, employee-intensive industries which may also include related accessory uses, such as commercial and office uses, which serve the industrial area.

**19.309.1 Permitted Uses**

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

- A. Any combination of manufacturing, office, and/or commercial uses are allowed when at least 25% of the total project involves an industrial use as described under Subsection 19.309.1.B. The combined uses shall provide at least 10 employees per net acre.
- B. A use which involves the collection and assembly of durable goods, warehousing of goods, transshipment of goods from other sources, and/or the assembly of goods from products which have been processed elsewhere, general manufacturing, and production.
- C. Commercial and office uses which are accessory to the industrial use(s). Such uses may include gymnasium, health club, secretarial services, sandwich deli, small restaurant, and retail/wholesale commercial use and showroom.
- D. May produce small amounts of noise, dust, vibration, or glare, but may not produce off-site impacts that create a nuisance, as defined by DEQ or the City Noise Ordinance.
- E. Has access to a collector or arterial street.
- F. A permitted use may require outside storage areas. These storage areas shall be screened with a sight-obscuring fence or dense plantings from any adjoining residential uses or public streets.
- G. Warehouse use which is accessory to an industrial use.

**19.309.2 Preexisting Uses and Developments**

Notwithstanding the provisions of Chapter 19.800 Nonconforming Uses and Development, prohibited uses and structures located in any mapped “employment” or “industrial” area, as shown on the Milwaukie Comprehensive Plan Title 4 Lands Map, that were lawfully in existence prior to May 6, 1999, and would be impacted by amendments prohibiting retail uses in excess of 60,000 sq ft, are considered to be approved uses and structures for the purposes of this section. If such a preexisting use or development is damaged or destroyed by fire, earthquake, or other natural force, then the use will retain its preexisting status under this provision, so long as it is substantially reestablished within 3 years of the date of the loss.

Notwithstanding the provisions of Chapter 19.800 Nonconforming Uses and Development, prohibited uses and structures located in any mapped “industrial” area, as shown on the Milwaukie Comprehensive Plan Title 4 Lands Map, that were lawfully in existence prior to March 17, 2009, may continue and expand to add up to 20% more floor area and 10% more land area than exists on the above-stated date. This expansion requires a conditional use review.

**19.309.3 Prohibited Uses**

- A. Any use which has a primary function of storing, utilizing, or manufacturing explosive materials or other hazardous material as defined by the Uniform Fire Code, Article 80;
- B. New residential construction, churches, public schools;

- C. Retail uses greater than 60,000 sq ft gross floor area per building or business are prohibited on all lots included in mapped “Employment” or “Industrial” areas as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999.
- D. All lots included in mapped “Industrial” areas, as shown on Milwaukie Comprehensive Plan Title 4 Lands Map, April 6, 1999, carry the following additional restrictions:
  - 1. Individual retail trade uses greater than 5,000 sq ft gross floor area per building or business are prohibited.
  - 2. Multiple retail trade uses that occupy more than 20,000 sq ft gross floor area are prohibited, whether in a single building or in multiple buildings within the same project.
  - 3. Facilities whose primary purpose is to provide training to meet industrial needs are exempted from this prohibition.

#### **19.309.4 Conditional Uses**

##### **A. Natural Resource Extraction**

- 1. Open pit and gravel excavating or processing shall not be permitted nearer than 50 ft to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 ft to the right-of-way line of an existing platted street or an existing public utility right-of-way.
- 2. An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.
- 3. A rock crusher, washer, or sorter shall not be located nearer than 500 ft to a residential or commercial zone. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

##### **B. High-Impact Commercial Uses**

When considering a high-impact commercial use, the Commission shall consider the following:

- 1. Nearness to dwellings, churches, hospitals, or other uses which require a quiet environment;
- 2. Building entrances, lighting, exterior signs, and other features which could generate or be conducive to noise or other disturbance for adjoining uses;
- 3. Parking vehicles and pedestrian access and circulation could contribute to noise or attract habitual assembly or unruly persons;
- 4. Hours of operation;
- 5. In addition to consideration of the above with respect to building and site design, the Planning Commission may attach conditions or standards of performance and impact, and methods for monitoring and evaluating these, to ensure that such establishments do not become unduly or unnecessarily disruptive.

In addition, when considering an adult entertainment business, the following criteria shall be used: The proposed location of an adult entertainment business shall not be within 500 ft of an existing or previously approved adult entertainment business or

within 500 ft of either a public park, a church, a day-care center, a primary, elementary, junior high, or high school, or any residentially zoned property, both of which distances shall be measured in a straight line, without regard to intervening structures, between the closest structural wall of the adult entertainment business and either the closest property line of the impacted property or the closest structural wall of any pre-existing or previously approved adult entertainment business.

**19.309.5 Site Development Requirements**

A. Setbacks

Front: 20 ft

Side: None\*

Corner side yard: 10 ft

Rear: None\*

\* Except when abutting a residential district, in which case the setback shall match the abutting property.

B. Height. 45 ft

C. Parking and loading. See Chapter 19.600.

D. Landscaping

15% landscaping of the site is required. A variety of trees, shrubbery, and ground cover is encouraged. Street trees are required along street frontages and within parking lots to help delineate entrances, provide shade, and permeable areas for storm water runoff. A bond or a financial guarantee of performance will be required.

E. Site access. 1 curb cut (45 ft maximum) per 150 ft of street frontage.

F. Transition Area

Industrial development adjacent to and within 120 ft of areas zoned for residential uses is subject to Type I or II review per Section 19.906 Development Review. The following characteristics will be considered:

1. Noise
2. Lighting
3. Hours of operation
4. Delivery and shipping
5. Height of structure
6. Distance to residential zone boundary

The review authority may attach conditions to reduce any potentially adverse impacts to residential properties.

G. Transportation requirements and standards. As specified in Chapter 19.700.

## **19.310 BUSINESS INDUSTRIAL ZONE BI**

### **19.310.1 Purpose**

This section is adopted to implement the policies of the Comprehensive Plan for industrial land uses providing a mix of clean, employee-intensive, industrial and office uses, with associated services, in locations supportive of mass transit and the regional transportation network.

### **19.310.2 Uses Permitted Outright**

- A. The following business and industrial uses are allowed outright, subject to the standards of Subsection 19.310.6.
  - 1. Experimental, research, film, or testing laboratories, provided no operation shall be conducted or equipment used which would create hazards and/or nuisances off the site;
  - 2. Manufacturing, processing, fabrication, packaging, or assembly of products from previously prepared materials;
  - 3. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing;
  - 4. Trade schools primarily serving the business community within the area.
- B. Business and professional offices, including product design, sales, service, packaging; corporate headquarters or regional offices.
- C. Warehousing and distribution.
- D. Any other use similar to the above uses but not listed elsewhere.

### **19.310.3 Accessory Uses**

Uses accessory to and in conjunction with uses permitted outright may include the following:

- A. Employee lounges and dining rooms, employee day-care facilities, conference rooms for tenant use, newsstands, central mail room and self-service postal and banking facilities, and product information and display areas;
- B. Executive, administrative, design, or product showroom offices provided in conjunction with uses listed under Subsection 19.310.2 of this section;
- C. Indoor and outdoor recreational facilities, such as swimming pools, saunas, game and craft rooms, exercise and dance studios, community meeting rooms, lounges, playgrounds, tennis and other courts, bike and walking trails, and pedestrian plazas and courts, which are provided in association with uses listed in Subsection 19.310.2 of this section;
- D. Rental and development information offices, handyman and maintenance services, and other business offices and services in association with allowed uses in the development;
- E. Recycling center, provided that any storage of materials shall be adequately screened;
- F. Accessory uses and structures not otherwise prohibited which are customarily accessory and incidental to any use permitted outright or limited use;
- G. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
- H. Retail outlets associated with manufacturing uses as outlined in Subsection 19.310.2.A.2 of this section. Products sold at the accessory retail outlet shall be primarily those assembled or manufactured onsite. The accessory retail outlet shall be located within the associated

manufacturing building and occupy up to a maximum of 25% of the floor area of the associated manufacturing building or 4,000 sq ft, whichever is less.

**19.310.4 Limited Uses**

- A. Limited retail or service uses may be allowed that primarily service the needs of BI Zone clients, employees, and businesses, as opposed to the general public. These uses, subject to the provisions of Subsection 19.310.4.B below, shall include:
  - 1. A restaurant or deli, offering at least breakfast and/or lunch items, without a drive-in or drive-through service;
  - 2. Office supply and equipment, sales, or service;
  - 3. Personal service businesses such as a barber, beauty parlor, tailor, dressmaking, shoe repair shop, self-service laundry, dry cleaning, photographer, instruction studios, or similar uses;
  - 4. A bank or other financial institution;
  - 5. A computer or other similar small electronic office machines store, sales and service; and
  - 6. Any other use similar and compatible to the above-listed uses.
- B. Limitations and conditions on the development of the limited uses itemized above shall be as follows:
  - 1. All limited uses shall be located, arranged, and integrated within the district to serve primarily the shopping and service needs of clients, businesses, and employees of the district;
  - 2. Limited uses may occupy up to a maximum of 25% of the square footage of a building. A limited use that is to be located in a building and exceeds 25% of the building's square footage shall be reviewed as a conditional use;
  - 3. Maximum floor area for a limited use shall be 4,000 sq ft;
  - 4. All limited uses shall comply with the standards under Subsection 19.310.6.

**19.310.5 Conditional Uses**

- A. Conditional uses may be established in a business industrial district subject to review and action on the specific proposal, pursuant to Section 19.905 Conditional Uses. Approval shall not be granted unless the proposal satisfies the criteria in Section 19.905; and, in addition, the proposed use:
  - 1. Will have minimal adverse impact on the appropriate development of uses permitted outright on abutting properties and the surrounding area considering location, size, design, and operating characteristics of the use;
  - 2. Is compatible with the character and scale of uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use;
  - 3. Will provide vehicular and pedestrian access, circulation, parking, and loading areas which are compatible with uses on the same site or adjacent sites; and
  - 4. Is a needed service/product in the district, considering the mix of potential clientele and the need to maintain high-quality development in a highly visible area.
- B. Uses allowed subject to the above conditions are:

1. Public and private community buildings, indoor and outdoor recreational facilities, such as swimming pools, racquetball clubs, athletic clubs, health and exercise spas, gymnasiums, tennis courts, playground, and other similar uses, developed to serve primarily the recreational needs of clients and employees of the district;
2. Mini-warehousing, mini-storage, public storage, and similar commercial facilities that lease storage space to the general public;
3. A limited use or uses that exceed 25% of the building's square footage as per Subsection 19.310.4.B.2 above.

### 19.310.6 Standards

In the BI district, the following standards shall apply to all uses:

- A. Lot size. None, except that lots created shall be of a size sufficient to fulfill the applicable standards of this district.
- B. Front yard. A front yard shall be at least 20 ft unless additional setback is required in Subsection 19.501.2.A.
- C. Side yard. No side yard shall be required except on corner lots where a side yard shall be at least 10 ft on the side abutting the street, unless additional setback is required in Subsection 19.501.2.A.
- D. Rear yard. No rear yard shall be required except as provided in Subsection 19.501.2.A.
- E. Off-street parking and loading. As specified in Chapter 19.600.
- F. Site Access  
One curb cut (45 ft maximum) per 150 ft of street frontage, or fraction thereof, for industrial uses; and 1 curb cut per 100 ft of street frontage or fraction thereof, for business park, limited or conditional uses.
- G. Height restriction. Maximum height of a structure shall be 3 stories or 45 ft, whichever is less.
- H. Landscaping  
15% of the site must be landscaped, except for sites adjacent to Hwy. 224, which shall provide landscaping to 20% of the site. This should consist of a variety of lawn, trees, shrubbery, and ground cover. Street trees must be provided along street frontages and within required off-street parking lots to help delineate entrances, provide shade, and permeable areas for stormwater runoff. A bond or financial guarantee for landscape completion shall be required.
- I. Screening and Outside Storage  
Outside storage adjacent to International Way, Freeman Way, 37th Ave., Lake Road, or Hwy. 224 is prohibited. Outside storage in side or rear yards is allowed, provided it is enclosed by a sight-obscuring fence or vegetative screen.
- J. Building Siting and Design  
Buildings and sites shall be designed using the following principles:
  1. Sites shall be developed to the maximum extent practicable, so that buildings have solar access and utilize other natural features in their design.

2. Assure that building placement and orientation and landscaping allow ease of security surveillance.
3. Design buildings with shapes, colors, materials, textures, lines, and other architectural design features which enhance the character of the district and complement the surrounding area and development, considering, but not limited to, the following techniques:
  - a. Use color, materials, and architectural design to visually reduce the scale and impact of large buildings;
  - b. Use building materials and features that are durable and consistent with the proposed use of the building, level of exposure to public view, and exposure to natural elements.
4. To the extent possible, screen or mask roof-mounted mechanical equipment, except solar collection apparatus, from view.
5. Orient major service activity areas (e.g., loading, delivery, and garbage collection, etc.) of the development away from major streets.
6. Arrange use and buildings to maximize opportunities for shared circulation, access, parking, loading, pedestrian walkways and plazas, recreation areas, and transit-related facilities.
7. Provisions for bus shelters, bike racks, street furniture, kiosks, drinking fountains, art sculptures, and/or other pedestrian and transit amenities as required by Chapter 19.700.

**K. Nuisances**

The use shall not be of a type or intensity which produces dust, odor, smoke, fumes, noise, glare, heat, or vibrations which are incompatible with other uses allowed in this zone; and the use does not produce off-site impacts that create nuisance as defined by the Oregon D.E.Q. and the City Noise Ordinance.

**19.310.7 Validity of Uses**

In the BI Zone, uses that are subject to the provisions of this zone and were legally established/occupied on or prior to the effective date of the zone, shall be considered as legally approved permitted, limited, or conditional uses as described by the BI Zone.

**19.311 PLANNED DEVELOPMENT ZONE PD**

In a Planned Development Zone the following regulations shall apply:

**19.311.1 Purpose**

The purpose of a PD Planned Development Zone is:

- A. To provide a more desirable environment than is possible through the strict application of Zoning Ordinance requirements;
- B. To encourage greater flexibility of design and the application of new techniques in land development;
- C. To provide a more efficient, aesthetic, and desirable use of public and private common open space;
- D. To promote variety in the physical development pattern of the City; and

- E. To encourage a mix of housing types and to allow a mix of residential and other land uses.

**19.311.2 Use**

A planned development approved by the City Council and based on a final development plan and program shall constitute the Planned Development Zone. The PD Zone is a superimposed zone applied in combination with regular existing zones. A PD Zone shall be comprised of such combinations of types of dwellings and other structures and uses as shall be authorized by the Council, but the Council shall authorize only those types of dwellings and other structures and uses as will:

- A. Conform to the City's Comprehensive Plan;
- B. Form a compatible and harmonious group;
- C. Be suited to the capacity of existing and proposed community utilities and facilities;
- D. Be cohesively designed and consistent with the protection of public health, safety, and welfare in general; and
- E. Afford reasonable protection to the permissible uses of properties surrounding the site. In addition to residences and their accessory uses, the Council may authorize commercial and nonresidential uses which it finds to be:
  - 1. Designed to serve primarily the residents of the planned development,
  - 2. Limited to those nonresidential uses which do not exist in the vicinity, and
  - 3. Fully compatible with, and incorporated into, the design of the planned development.

**19.311.3 Development Standards**

All standards and requirements of this chapter and other City ordinances shall apply in a PD Zone unless the Planning Commission grants a variance from said standards in its approval of the PD Zone or accompanying subdivision plat.

- A. Minimum Size of a PD Zone

A PD Zone may be established only on land which is suitable for the proposed development and of sufficient size to be planned and developed in a manner consistent with the purposes of this zone. A PD Zone shall not be established on less than 2 acres of contiguous land unless the Planning Commission finds that a smaller site is suitable because of unique character, topography, landscaping features, or constitutes an isolated problem area.

- B. Special Improvements

In its approval of the final plan or subdivision plat within a PD Zone, the City may require the developer to provide special or oversize sewer lines, water lines, roads and streets, or other service facilities. Such approval shall not obligate the City to expend funds for additional construction equipment or for special road, sewer, lighting, water, fire, or police service.

- C. Density Increase and Control

The Council may permit residential densities which exceed those of the underlying zone, if it determines that the planned development is outstanding in planned land use and design and provides exceptional advantages in living conditions and amenities not found in similar developments constructed under regular zoning. In no case shall such density increase be

more than 20% greater than the density range prescribed for the primary land use designation indicated in the Comprehensive Plan.

**D. Peripheral Yards**

Along the periphery of any PD Zone, additional yard depth, buffering, or screening may be required. Peripheral yards shall be at least as deep as that required by the front yard regulations of underlying zones. Open space may serve as peripheral yard and/or buffer strips to separate one planned area from another, if such dual use of the land is deemed to comply with this section.

**E. Open Space**

Open space means the land area to be set aside and used for scenic, landscaping, or open recreational purposes within the development. Open space may also include areas which, because of topographic or other conditions, are deemed by the Council to be suitable for leaving in a natural condition. Open space shall be adequate for the recreational and leisure needs of the occupants of the development, and shall include the preservation of areas designated by the City for open space or scenic preservation in the Comprehensive Plan or other plans adopted by the City.

The development plan and program shall provide for the landscaping and/or preservation of the natural features of the land. To ensure that open space will be permanent, deeds or dedication of easements of development rights to the City may be required. Instruments and documents guaranteeing the maintenance of open space shall be approved as to form by the City Attorney. Failure to maintain open space or any other property in a manner specified in the development plan and program shall empower the City to enter said property in order to bring it up to specified standards. In order to recover such maintenance costs, the City may, at its option, assess the real property and improvements within the planned development.

All planned unit developments will have at least one-third of the gross area devoted to open space and/or outdoor recreational areas. At least half of the required open space and/or recreational areas will be of the same general character as the area containing dwelling units. Open space and/or recreational areas do not include public or private streets.

**19.311.4 Subject to Design Review**

Any development within a PD Zone shall be subject to the provisions of design review as outlined in a separate ordinance.

**19.311.5 Preliminary Development Plan and Program.**

**A. Applicant**

For the purpose of this section, “owner” or “owner-applicant” means and includes any individual(s), partnership(s), corporation(s), public body(ies), legal entity(ies), or holder(s) of a written option to purchase said property. An owner of land located outside, but contiguous to, the City may submit a preliminary development plan for consideration by the City providing that an application for annexation to the City has been filed.

**B. Preliminary Development Plan**

A preliminary development plan and program shall be submitted by the applicant with information as required by resolution of the Planning Commission.

## CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

### 19.401 WILLAMETTE GREENWAY ZONE WG

#### 19.401.5 Procedures

The following procedures shall govern the application of WG Zones:

- A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.D.
- D. A greenway conditional use is required for all intensification or change of use, or alteration of the vegetation buffer area, or development, as defined in this section. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change in use or intensification. Approval shall be granted only if the criteria in Subsection 19.401.6 are met.

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### 19.404 MIXED USE OVERLAY ZONE MU

#### 19.404.3 Primary Uses

Provisions of Section 19.404 are intended to allow mixed use development, subject to the processes identified in Subsection 19.404.6 below, including retail, commercial, office, and residential development, as listed below.

- A. Retail commercial uses such as food store, drugstore, gift shop, and hardware store selling shelf goods primarily (drive-up convenience stores are not permitted);
- B. Multifamily dwellings;
- C. Rowhouses ;
- D. Professional offices;
- E. Personal service businesses such as haircutting shop, tailor shop, laundry, and dry cleaning pickup station, shoe repair, computer, and bicycle repair, office equipment and services, and electronics repair;
- F. Motion picture theater (adult theaters are not permitted);
- G. Restaurant and cafe, outdoor seating where provided for in the site design and located off of the public sidewalk area (drive-in and drive-through food establishments are not permitted);
- H. Brew pub which serves food;
- I. Hotel;
- J. Parking facility;
- K. Financial institution (without drive-up tellers);
- L. Trade or commercial school;
- M. Department or furniture store;
- N. Bed and breakfast;

## Proposed Code and Comp. Plan Amendments

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- O. Service station without associated minimart—minor repair service allowed if approved through a mixed use overlay review application;
- P. Farmers' market;
- Q. Public park or community meeting area;
- R. Youth center;
- S. Day-care facilities;
- T. Any other use similar to the above and not listed elsewhere.

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### 19.404.8 Development Standards

Except as provided in Subsection 19.404.9.A.1, the following development standards apply to all proposals which have been determined to be subject to the Mixed Use Overlay Zone. Development in this overlay zone shall follow the standards and guidelines for development and for specific sites, as indicated below. All development proposals shall comply and not conflict with the Milwaukie Comprehensive Plan and the Town Center Master Plan.

- A. Commercial and Commercial/Residential Mixed Use (office uses are Included in the Commercial designation)
  - 13. Owners of existing single-family homes within the Mixed Use Overlay Zone may apply for a conditional use permit to allow a detached secondary living unit, an accessory dwelling unit, or conversion to a duplex or multifamily dwelling with 3 units , provided that 1 of the units shall remain owner-occupied. Sound insulating and energy-efficient materials shall be provided in any of the above conversions of existing space. Setbacks and development standards of the underlying zone must be met.

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### 19.404.9 Specific Sites in Subareas 2 and 4

The following additional requirements apply to proposed development in specific subareas and on specific sites:

- A. Subarea 2
  - 1. Sites 2-1 and 2-2 (Murphy Plywood Site)
    - b. Business Industrial (BI) uses as set forth in Section 19.310 shall also be allowed. The development of BI uses on Sites 2-1 and 2-2 shall comply with the development requirements of Section 19.310 , except that outdoor storage shall be permitted. In this case, the 32nd Avenue and Meek Street property lines shall be considered front yards and a 20-ft setback shall be applied. These setbacks shall be landscaped in accordance with Subsection 19.606.2.C.2, and provided with a sight-obscuring wooden fence adjacent to the public right-of-way and residential property lines. The Planning Commission may allow these setbacks to be reduced to 10 ft, where the proposed design of the buffer is of a high quality and includes: (1) the use of masonry walls, or other acceptable material, of up to 8 ft high; (2) enhanced landscaping; and (3) one of the elements listed in Subsection 19.404.8.A.18. Development of BI uses on the site is not required to comply with the standards set forth in Subsections 19.404.8 and 19.303.3.

B. Subarea 4

1. This site shall be developed with high-density (16 to 24 dwelling units per acre) diverse housing types. Retail, office, or lodging uses are also allowed at a 2:1 ratio (for every 2 sq ft of residential, 1 sq ft of commercial will be permitted). Commercial uses on the site shall be limited to those listed in Subsections 19.404.3.D, E, G, K, Q, R, and S . Commercial use may be increased to a 1:1 ratio (1 sq ft of commercial for every 1 sq ft of residential), if amenities b, c, d, e, g, h, i, and k 2 of Subsection 19.404.8.A.18 are provided. A report on the status of contamination on this site shall be submitted with any proposed development.
2. Minimum vegetation for the site shall be 30%. Particular attention shall be paid to landscaping, which shall be designed to provide buffers to the residential neighborhoods to the north and east. Building heights shall also be designed to provide a transition for the neighboring residential properties. The height limit within 50 ft of the Monroe Street or 37th Avenue right-of-way shall be 2 stories or 35 ft, whichever is less. The building height for the remainder of the development on this site is 3 stories or 45 ft, whichever is less. Building setbacks from property lines shall be 15 ft for the front and rear yards and 5 ft for side yards. Minimum lot standards shall conform to the R-O-C standards, except that the minimum lot width for rowhouses may be reduced to 20 ft wide if amenities b, d, e, g, h and i of Subsection 19.404.8.A.18 are provided. The distance between buildings on the same lot shall be 6 ft for 1 story and a minimum of 5 ft per every story over 1.

## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

### 19.501 GENERAL EXCEPTIONS

The exceptions listed in Subsections 19.501.1–4 below are “by right” exceptions. “By right” exceptions require no special review or approval by the City to implement.

#### 19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, with the following limitations:

- A. The development must conform to all other applicable standards of Title 19, unless a variance is granted per Section 19.911.
- B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.

#### 19.501.2 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 19.501.2.A 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 19.501.2.A plus the yard requirement of the underlying zone.

**Table 19.501.2.A  
Additional Yard Requirements**

## Proposed Code and Comp. Plan Amendments

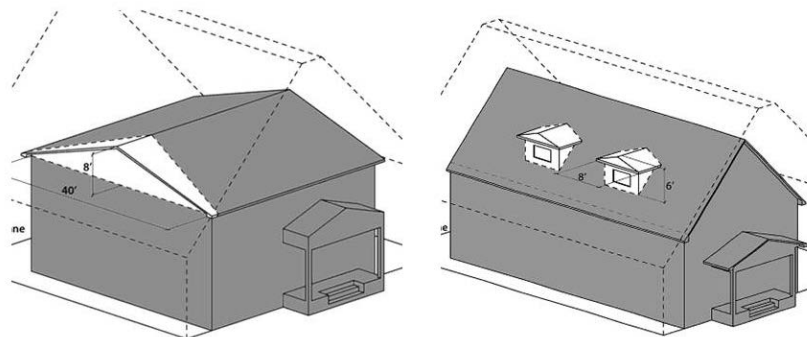
Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th Ave. to Stanley Ave.)	25'
Harmony Road	40'
Harrison Street (Milwaukie Expressway to 44th Ave.)	40'
Harrison Street (Milwaukie Expressway to McLoughlin Blvd.)	30'
Harvey Street (32nd Ave. to 42nd Ave.)	25'
Howe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

- B. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 in into a required side yard or 36 in into a required front or rear yard. Such features extending from an accessory structure shall not be closer than 3 ft from a property line.
- C. A covered porch on a single-family detached dwelling may extend 6 ft into a required front yard if the following standards are met.
1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
  2. The surface of the porch does not exceed 18 in high above the average grade.
  3. The porch is at least 5 ft from the front lot line.

**19.501.3 Building Height and Side Yard Height Plane 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 and side yard height plane limitations of the Zoning Ordinance , except as provided in an L-F Zone.
- B. The following encroachments into a side yard height plane are allowed:
  - 1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
  - 2. The gable end of a roof, provided that the encroachment is not more the 8 ft high above the side yard height plane or more than 40 ft wide.
  - 3. Dormers, with the following limitations:
    - a. The highest point of any dormer is at or below the height of the primary roof ridge.
    - b. The encroachment is not more the 6 ft high above the side yard height plane or more than 8 ft wide.
    - c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.

**Figure 19.501.3.B  
Allowed Height Plane Encroachments**



**19.501.4 Density Exceptions**

In exchange for the dedication of parkland, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

**19.502 ACCESSORY STRUCTURES**

**19.502.1 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, flagpoles, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.
- E. Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft, except as described below.
  - 1. Accessory structures are subject to the minimum street side yard requirements of the base zones in Chapter 19.300.
  - 2. Regulations for overlay zones or special areas in Chapter 19.400 may require an accessory structure to be set back beyond the minimum side or rear yard requirements.
  - 3. If the rear or side yard requirement in the base zone in Chapter 19.300 is less than 5 ft, then the yard requirements of the base zone shall apply.
  - 4. The rear or side yard requirement for residential accessory structures per Subsection 19.502.2.A or 19.910.1.E.4 may specify a different yard requirement.
- F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Development.
- G. Fences, flagpoles, pergolas, arbors, and trellises are permitted in yards in all residential zones.

**19.502.2 Specific Provisions for Accessory Structures**

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

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

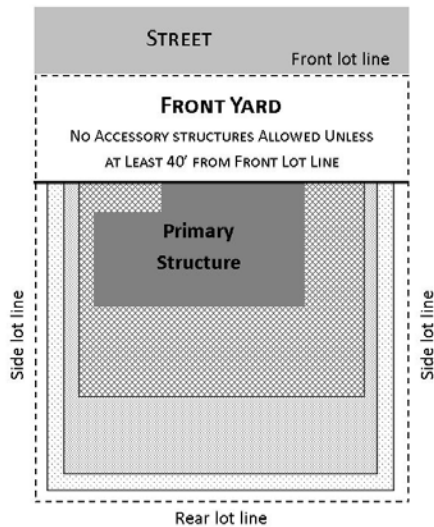
- 1. Development Standards
  - a. Height and Footprint

The maximum height and footprint allowed for an accessory structure is determined by the yard depths between the structure and the lot lines. Accessory structures with a larger height and footprint must meet the increased yard requirements. An accessory structure is allowed the maximum building height and footprint listed in Table 19.502.2.A.1.a only if the entire structure meets or exceeds all the yard requirements in the same column. See Figure 19.502.2.A.1.a.

<b>Table 19.502.2.A.1.a Residential Accessory Structure Height and Footprint Standards</b>			
<b>Standard</b>	<b>Type A</b>	<b>Type B</b>	<b>Type C</b>
Maximum building height	10'	15'	Lesser of 25' OR not taller than highest point of the primary structure (allowed at least 15' height regardless of primary structure height)

Maximum building footprint	200 sq ft	600 sq ft	Lesser of 75% of primary structure OR 1,500 sq ft (allowed at least 850 sq ft if lot area > 10,000 sq ft)  On lots less than 1 acre in area, maximum is 800 sq ft if any portion of the structure is in the front yard.
Required rear yard	3 ft	5 ft	Base zone required rear yard
Required side yard	3 ft	5 ft	Base zone required side yard
Required front yard	Not allowed in front yard unless the structure is at least 40 ft away from the front lot line.		

**Figure 19.502.2.A.1.a**  
**Accessory Structure Height, Footprint, and Yard Requirements**



Accessory Structure Type	Distance from side / rear lot line	Structure Height	Structure Footprint
A	3'	10'	200 sq ft
B	5'	15'	600 sq ft
C	Base zone yard requirements	25' OR height of primary structure (allowed at least 15')	Lesser of 75% of primary structure OR 1,500 sq ft; 10,000 sq ft lots allowed at least 850 sq ft; 800 sq ft maximum if located in front yard

If the footprint of a structure is in more than one area, the entire structure is subject to the size and height limits of the most restrictive area.

b. Other Development Standards

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
- (2) The yard exceptions in 19.501.2 are applicable for accessory structures.
- (3) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site, excluding a fence or similar structure.
- (4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space.

2. Design Standards

- a. Metal siding is prohibited on structures more than 10 ft high or with a footprint greater than 200 sq ft, unless the siding replicates the siding on the primary dwelling or has the appearance of siding that is commonly used for residential structures.
- b. Structures located in a front, side, or street side yard that are visible from the right-of-way at a pedestrian level shall use exterior siding and roofing materials that are commonly used on residential structures.

3. Roof Pitch

There are no roof pitch requirements for an accessory structure with a height equal to or less than 10 ft. A minimum 4/12 roof pitch is required for an accessory structure with a height over 10 ft,

4. Exceptions for Large Lots

Lots larger than 1 acre in size are allowed an exception to the Type C accessory structure height limitation and footprint size limitation of 75% of the primary structure.

- a. The allowed exceptions are:
  - (1) The structure is allowed the base zone height limit or 25 ft, whichever is greater.
  - (2) The structure is allowed a maximum footprint of 1,500 sq ft, regardless of the footprint of the primary structure.
- b. The exceptions are allowed with the following limitations:
  - (1) The sum of accessory structure footprints that exceed 75% of the footprint of the primary structure is limited to 2,500 sq ft.
  - (2) The side yard requirement shall be 20 ft, regardless of the base zone.
  - (3) The structure must conform to all other base zone and accessory structure regulations.

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 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.

b. Commercial Zones

Maximum height 6 ft. 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 review per Section 19.1005 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-ft-high sight-obscuring fence.

c. Industrial Zones

Maximum height 8 ft. 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 review per Section 19.1005 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 ft.

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 1-ft 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 ft for an uncovered patio, deck, or swimming pool not exceeding 18 in high above the average grade of the adjoining ground (finished elevation). An uncovered ramp with handrails is allowed to exceed 18 in high if it provides access from grade to the elevation of the main entrance of a residential structure.
- D. A stand-alone flagpole in a residential zone is limited to 25 ft high and must be at least 5 ft from any lot line. A stand-alone flagpole in commercial or industrial zones is subject to the height limits of the base zone in which it is located, and it must be at least 5 ft from any lot line.

**19.502.3 Sustainability-Related Accessory Structures**

A. Purpose

The purpose of these regulations is to allow apparatus for the generation of renewable energy and collection of stormwater, subject to standards to ensure that these structures are appropriate for their surroundings in both design and scale.

B. Maintenance Requirement

All of the sustainability-related structures in this subsection shall be maintained to be functional and safe. The Planning Director may require the repair or removal of a structure listed in this subsection if the structure is deteriorated, malfunctioning, or is otherwise unsafe.

C. Solar Energy Systems

1. Allowance

The installation of a solar energy system is an outright permitted use in zones where commercial, industrial, and residential structures are allowed outright. Installation of solar equipment that does not meet the definition of a solar energy system shall be reviewed as a Community Service Use, per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Solar Energy Systems

- a. A stand-alone solar energy system that is not wholly supported by another structure is subject to the reviews required by applicable base zones and overlay zones or special areas.

- b. A solar energy system that is wholly supported by another structure shall be subject to review, or not, as described below.
  - (1) The installation of a solar energy system on an historic resource that is designated either "contributing" or "significant," per Section 19.403, shall follow the review procedures of that section for alteration of the resource.
  - (2) The installation of a solar energy system in a downtown zone shall be exempt from downtown design review, per Section 19.907.
  - (3) The installation of a solar energy system on a structure within the Willamette Greenway Zone, or within a designated Natural Resource, is exempt from the review requirements of that zone or special area.
  - (4) The installation of a solar energy system on a structure that has been designated as a Conditional Use or a Community Service Use is exempt from the reviews of Subsections 19.904.3 and 19.905.3.
  - (5) The installation of a solar energy system under circumstances other than those described in 19.502.3.C.2.b(1)-(4) above is exempt from any land use review.
- c. A Type I development review permit may be required for installation of a solar energy system depending upon the applicability criteria in Subsection 19.906.2.A. In no case shall a Type II development review application be required for installation of a solar energy system.

3. Standards

- a. A stand-alone solar energy system is subject to the development standards that apply to the site. The design standards of Subsection 19.502.2.A.2 shall not be construed so as to prevent installation of a stand-alone solar energy system.
- b. A solar energy system that is attached to a structure is subject to the following standards.
  - (1) The solar energy system will not increase the lot coverage or footprint of the structure on which the system is installed.
  - (2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof, except that the plane of the system is allowed a minimum slope of 35 degrees from horizontal regardless of the slope of the roof.

D. Wind Energy Systems

1. Allowance

A wind energy system is allowed outright as an accessory use in all zones. Installation of wind turbines, and related equipment that does not meet the definition of a wind energy system, shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Wind Energy Systems

The review of a freestanding or roof-mounted wind energy system is subject to the reviews required by applicable base zones and overlay zones or special areas.

3. General Standards

- a. The minimum distance between the ground and any part of a rotor blade must be at least 20 ft.
  - b. Wind energy systems may not be illuminated, nor may they bear any signs or advertising.
  - c. Wind energy systems must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.
  - d. All wiring serving small wind energy systems must be underground.
  - e. Noise produced by wind energy systems may not exceed 45 dBA measured at the property line.
  - f. Wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, any public safety agency or organization's radio transmissions, or any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference, should any occur, or must immediately shut down the system or parts of the system causing the interference.
  - g. A finish (paint/surface) must be provided for the wind energy system that reduces the visibility of the facility, including the rotors. The Planning Director may specify that the support structure and rotors be brown, blue, light gray haze, or other suitable color to minimize the structure's visibility. If the support structure is unpainted, it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.
  - h. The rotor sweep area, as defined by the American Wind Energy Association, is 50 sq ft in residential zones and 150 sq ft in all other zones.
4. Standards for Freestanding Systems

Wind energy systems may be mounted on a tower that is detached from other structures on the lot.

a. Setback

A freestanding wind energy system is not allowed in a required front yard or street side yard, and it must be at least 10 ft away from any side or rear lot line. All portions of the support pole, blades, guy wires, and associated structures or equipment must meet these standards.

b. Height

The pole and turbine are subject to the base zone height limit for primary structures, except that an increase of 1 additional ft high is allowed for every 1 ft that the wind energy system is set back beyond what is required in Subsection 19.502.3.D.4.a, up to a maximum of 50% above the base zone height limit.

c. Number

A maximum of 1 freestanding small wind generator system may be allowed on a lot of 15,000 sq ft or less. 1 additional freestanding system is allowed for each 7,500 sq ft of lot area above 15,000 sq ft.

5. Standards for Roof-Mounted Systems

Wind energy systems may be mounted on the roof of a structure.

a. Setback

The roof-mounted wind energy system is subject to the minimum yard requirements of the building on which it is mounted.

b. Height

Roof-mounted systems are subject to the height limit for freestanding systems in Subsection 19.502.3.D.4.b.

c. Number

There is no maximum number of roof-mounted systems permitted.

E. Rainwater Cisterns

1. A rainwater cistern installed below ground, at grade, or above ground is a permitted accessory use for all properties.
2. A rainwater cistern that meets the standards listed below may encroach up to 3 ft into a required yard, but not be closer than 3 ft from any lot line. Rainwater cisterns that meet the standards below are not subject to any design or materials standards.
  - a. The rainwater cistern is not mounted more than 2 ft above grade.
  - b. The rainwater cistern's storage capacity is 80 gallons or less.
3. A rainwater cistern that exceeds the standards listed in Subsection 19.502.3.E.2 is allowed subject to all other applicable regulations for an accessory structure.
4. A below-ground rainwater cistern shall be located at least 3 ft away from any lot line.

**19.503 ACCESSORY USES**

**19.503.1 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, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.
- B. A greenhouse or hothouse may be maintained accessory to a dwelling .
- C. The keeping of chickens or other domestic or domesticated fowl shall not exceed 50 in number . Subsections 19.301.3 and 19.302.3.A contain additional regulations on keeping chickens or other domesticated fowl in the residential zones.
- D. Keeping of bees shall be a permitted accessory use for residentially zoned properties.
- 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 are not permitted within any required front yard or street side yard, and shall be located at least 5 ft away from any side or rear property line. Amateur and CB radio structures and towers may exceed the height limits for the base zone, but shall not exceed a height of 70 ft. 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.

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## 19.504 SITE DESIGN STANDARDS

### 19.504.4 Buildings on the Same Lot

- A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.
- B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

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### 19.504.6 Transition Area Measures

Where commercial or industrial development is proposed adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses. The downtown zones are exempt from this subsection.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.
- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

### 19.504.7 Minimum Vegetation

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or bark dust under the canopy of trees or shrubs is excluded from this limit. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

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### 19.504.8 Flag Lot Design and Development Standards

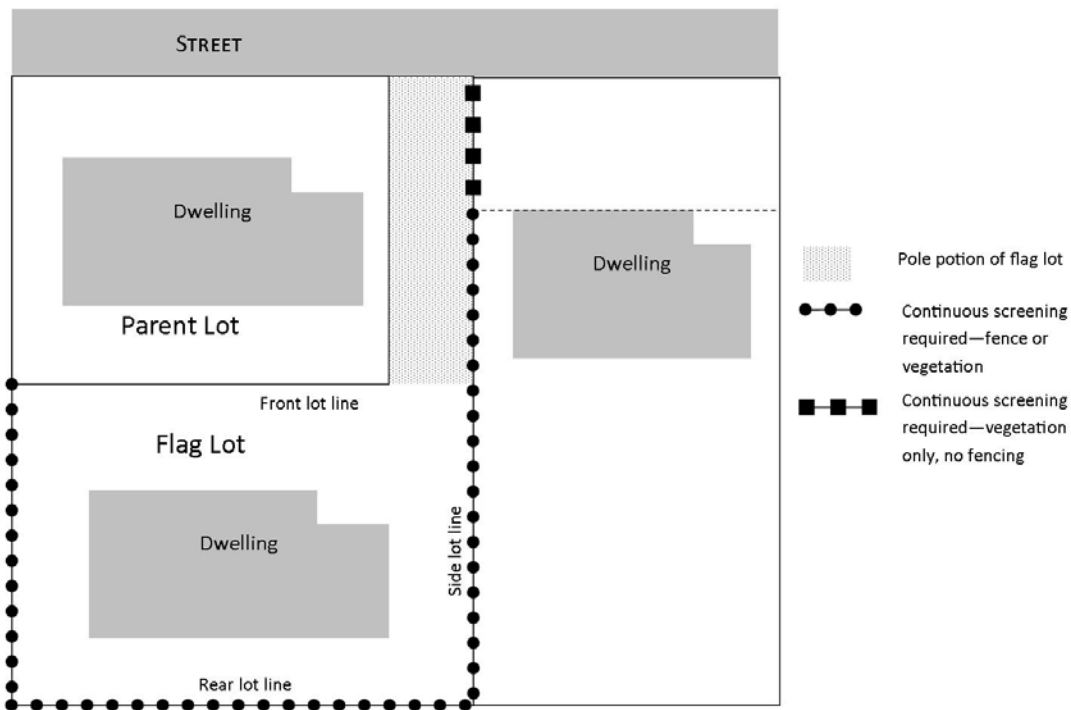
#### E. Protection of Adjoining Properties

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 Subsection 19.502.2.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 lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described below. See Figure 19.504.8.E.
  - 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 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.

**Figure 19.504.8.E  
Flag Lot Screening**



**19.504.9 On-Site Walkways and Circulation**

**A. Requirement**

All development subject to Chapter 19.700 (excluding single-family and multifamily 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 ft 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, shall be permeable for stormwater, and shall be no less than 5 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-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 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

**19.504.10 Setbacks Adjacent to Transit**

The following requirement applies to all new commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

When adjacent to a street served by transit, new commercial, office, or institutional development, including uses authorized under Section 19.904 Community Service Uses, shall be set back no more than 30 ft from the right-of-way that is providing transit service.

- A. An individual building may be set back more than 30 ft, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30-ft setback standard.
- B. 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 ft.
- C. 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.
- D. If the site abuts more than 1 street served by transit, then the maximum setback requirement need only apply to 1 street.

**19.505 BUILDING DESIGN STANDARDS**

**19.505.1 Design Standards for Single-Family Dwellings and Duplexes**

A. Purpose

The design standards for single-family dwellings and duplexes require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.
2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
  - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
  - b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
  - c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
    - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
    - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
    - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
  - d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
  - e. Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.

3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
  - a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
  - b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Standards

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

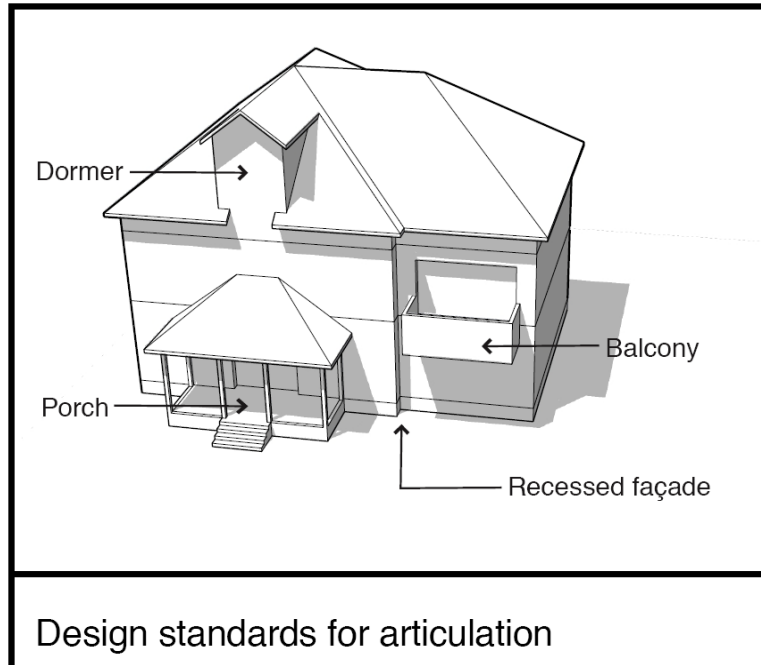
An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements shall be provided along the street-facing façades.
  - (1) A porch at least 5 ft deep.
  - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.
  - (3) A bay window that extends at least 2 ft wide.
  - (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
  - (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least one element in Subsection 19.505.1.C.1.a(1)-(4) above shall be provided for every 30 ft of street frontage. Elements shall be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.
- c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1  
Building Articulation**

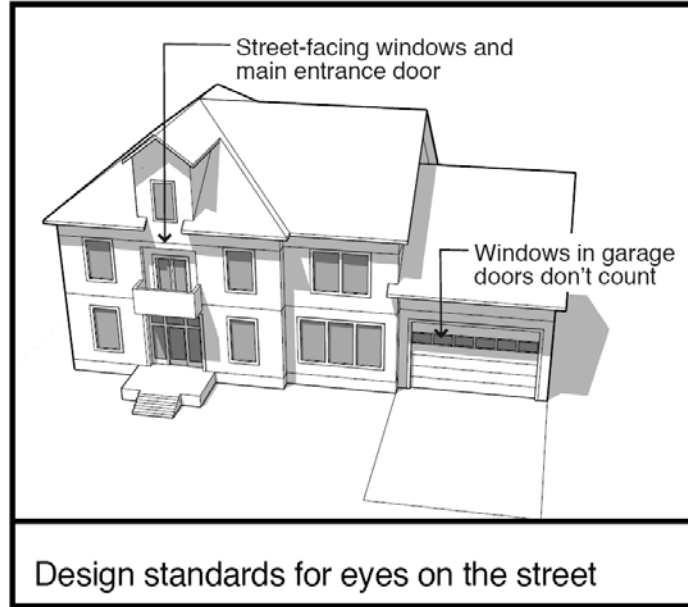


2. Eyes on the Street

At least 12% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.
- d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.
- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

**Figure 19.505.1.C.2  
Eyes on the Street**

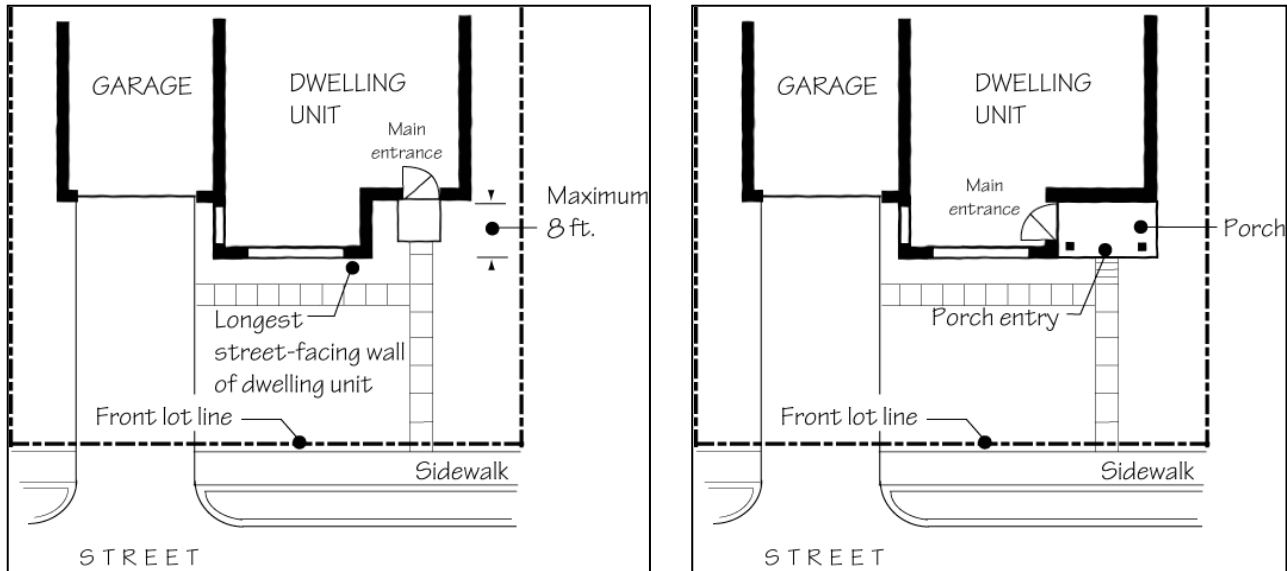


3. Main Entrance

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
  - (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
  - (2) Have at least 1 porch entry facing the street.
  - (3) Have a roof that is no more than 12 ft above the floor of the porch.
  - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3  
Main Entrances**



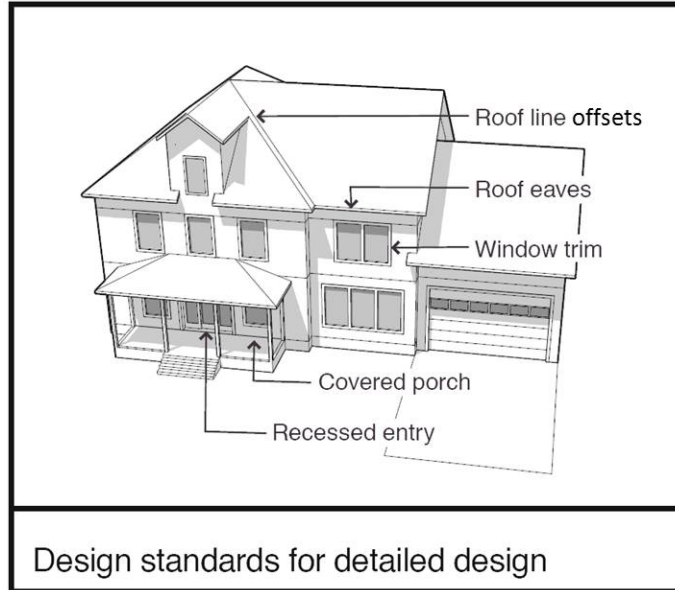
#### 4. Detailed Design

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

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.
- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long.

- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade.

**Figure 19.505.1.C.4  
Detailed Design Elements**



5. Standards for Duplexes

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

- a. The exterior finish of the structure must be the same for both units.
- b. The eaves must be uniform for the entire structure.
- c. The window and door trim must be the same in type, size, and location for the entire structure.
- d. Windows must match in proportion and orientation for the entire structure.
- e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.
- f. For duplexes facing 1 frontage, the following standards apply.
  - (1) Only 1 entrance is required to face the frontage.
  - (2) Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.c.3.
  - (3) A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.

**19.505.2 Garage and Carport Standards**

A. Purpose

## Proposed Code and Comp. Plan Amendments

These standards are intended to prevent garages from obscuring or dominating the street-facing facade of a dwelling and provide for a pleasant pedestrian environment in residential areas.

### B. Applicability

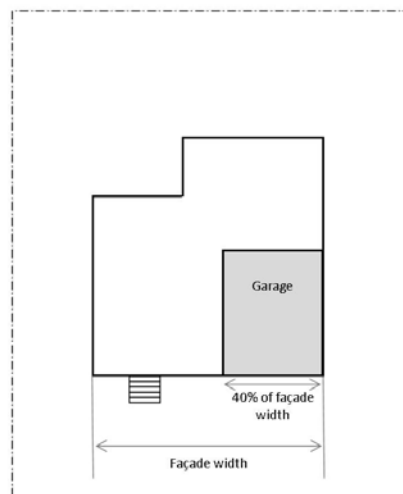
The standards in this subsection apply to all new attached garages and carports on properties with a single-family detached dwelling, residential home, or duplex when the street-facing façade of the garage, or columns of the carport, are located within 50 ft of the front property line. Standards for garages in rowhouse development are in Subsection 19.505.5.

### C. Standards

1. The front of a garage or carport can be no closer to the front lot line than the longest street-facing wall of the house that encloses living area. The following exceptions apply:
  - a. A garage or carport may extend up to 5 ft in front if there is a covered front porch and the garage or carport does not extend beyond the front of the porch.
  - b. A garage may extend up to 5 ft in front if the garage is part of a 2-story facade that has a window at least 12 sq ft in area on the second story that faces the street.
2. The width of a street-facing garage door(s), as measured between the inside of the garage door frame, may not exceed 40% of the total width of the street-facing facades on the same street frontage as the garage door. See Figure 19.505.2.C.2. Notwithstanding this limit, a dwelling is allowed 1 12-ft-wide garage door, regardless of the total width of street-facing facades.

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

**Figure 19.505.2.C.2  
Maximum Garage Width**



3. Garages may be side-oriented to the front lot line if the eyes on the street standard in Subsection 19.505.1.C.2 is met.

### 19.505.3 Design Standards for Multifamily Housing

#### A. Purpose

The purpose of these design standards is to facilitate the development of attractive multifamily housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multifamily development:

##### 1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

##### 2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

##### 3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multifamily development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

##### 4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

#### B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multifamily and congregate housing developments with 3 or more dwelling units on a single lot, except within the downtown zones of Section 19.304. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multifamily or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.
  - a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
  - b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
  - c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.
  - d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.

- e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
  - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
  - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
  - h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.
  - i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.
  - j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.
- 3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.
  - 4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

**C. Review Process**

Two possible review processes are available for review of multifamily or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

- 1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.
- 2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.
- 3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

**D. Design Guidelines and Standards**

Applicable guidelines and standards for multifamily and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

**Table 19.505.3.D  
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
1. Private Open Space	<p>The development should provide private open space for each dwelling unit. Private open space should have direct access from the dwelling unit and should be visually and/or physically separate from common areas.</p> <p>The development may provide common open space in lieu of private opens space if the common open space is well designed, adequately sized, and functionally similar to private open space.</p>	<p>Private open space (patios or balconies) shall be provided as follows:</p> <ol style="list-style-type: none"> <li>a. For each dwelling unit located on the ground floor, or within 5 ft of finished grade, a minimum of 96 sq ft of private open space, with a minimum dimension of 5 ft.</li> <li>b. For each dwelling unit located more than 5 ft above finished grade, a minimum of 48 sq ft of private open space.</li> <li>c. For each dwelling unit with private open space, the private open space shall be directly accessible from the interior of the dwelling unit.</li> <li>d. Private open space shall be separated from common open space and adjacent dwelling units through the use of landscaping, fencing, or a wall.</li> </ol>
2. Public Open Space	<p>The development should provide sufficient open space for the purpose of outdoor recreation, scenic amenity, or shared outdoor space for people to gather.</p>	<p>Common open space shall be provided as follows:</p> <ol style="list-style-type: none"> <li>a. For buildings with more than 5 dwelling units, a minimum of 10% of the gross site area, or 750 sq ft, whichever is greater, shall be designated as common open space.</li> <li>b. The minimum dimension for any common open space shall be 20 ft.</li> <li>c. Projects with 20 units or less shall provide at least 2 of the following common open space features. Projects with more than 20 units shall provide at least 4 of the features: recreation area, play fields, children’s play area, sport courts, gardens, permanent picnic tables, swimming pools, walking trails, pedestrian amenities, or similar items.</li> <li>d. If a development includes a children’s play area, the play area shall be located such that it is visible from at least 50% of the abutting units. Play areas shall not be located within required yards.</li> <li>e. User amenities—such as tables, benches, trees, shrubs, planter boxes, garden plots, drinking fountains, spas, or pool— may be placed in the outdoor area.</li> </ol>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

<b>Design Element</b>	<b>Design Guideline (Discretionary Process)</b>	<b>Design Standard (Objective Process)</b>
3. Pedestrian Circulation	Site design should promote safe, direct, and usable pedestrian facilities and connections throughout the development. Ground-floor units should provide a clear transition from the public realm to the private dwellings.	<p>The on-site pedestrian circulation system shall include the following:</p> <ul style="list-style-type: none"> <li>a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.</li> <li>b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.</li> <li>c. Pedestrian walkways shall be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.</li> <li>d. Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.</li> <li>e. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.</li> </ul>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
4. Vehicle and Bicycle Parking	Vehicle parking should be integrated into the site in a manner that does not detract from the design of the building, the street frontage, or the site. Bicycle parking should be secure, sheltered, and conveniently located.	Parking for the development shall comply with the following: <ol style="list-style-type: none"> <li>a. On-site surface parking areas, garages, and vehicle maneuvering areas shall not be located directly between the façade of a primary building(s) and an abutting street right-of-way.</li> <li>b. Parking located to the side of a dwelling structure shall be limited to 50% of the linear frontage of that side. Drive aisles without adjacent parking spaces do not count as parking areas for purposes of this standard.</li> <li>c. All garages that are part of the same structure that contains dwelling units shall be located at least 4 ft behind the front building façade.</li> <li>d. For developments with more than 20 units, the covered bicycle parking required by Subsection 19.609.2.B shall meet the following standards. These standards apply instead of, and not in addition to, the standards in Subsections 19.609.3 and 4.                             <ol style="list-style-type: none"> <li>(1) The parking area shall be inside a building or sheltered to provide complete, year-round protection from precipitation.</li> <li>(2) Entrance to the parking area shall be secured by lock so that only residents have access to the area.</li> <li>(3) The area shall have permanently mounted bicycle racks or hangers that allow the bicycle frame to be locked to the rack or hanger.</li> <li>(4) Spaces and aisles within the parking area shall allow for storage and movement of a bicycle width of 2.5 ft and length of 6.5 ft.</li> <li>(5) The parking area shall have an average illumination of at least 1.0 ft candles.</li> <li>(6) Parking areas not located within a dwelling structure or structured parking shall be located no further than 30 ft from the main entrance of a dwelling structure.</li> </ol> </li> </ol>
5. Building Orientation & Entrances	Buildings should be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances should be well-defined and protect people from the elements.	<ol style="list-style-type: none"> <li>a. The primary building entry, or entries, for ground-floor units shall face the street right-of-way or a central common open space. Secondary entries may face parking lots or other interior site areas.</li> <li>b. Building entrances shall be emphasized through the use of features or elements such as recesses, projections, corner entries, or landscape treatments.</li> <li>c. For sites not on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 10 ft from the required setback line.</li> <li>d. For sites on an arterial street, at least 50% of a site's street frontage, excluding driveways, shall be occupied by buildings that are located no further than 20 ft from the required setback line.</li> </ol>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

<b>Design Element</b>	<b>Design Guideline (Discretionary Process)</b>	<b>Design Standard (Objective Process)</b>
<p>6. Building Façade Design</p>	<p>Changes in wall planes, layering, horizontal datums, vertical datums, building materials, color, and/or fenestration shall be incorporated to create simple and visually interesting buildings.</p> <p>Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings.</p> <p>Windows should be used to provide articulation to the façade and visibility into the street.</p> <p>Building facades shall be compatible with adjacent building façades.</p> <p>Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.</p>	<p>a. Street-facing building facades shall be divided into wall planes. The wall plane on the exterior of each dwelling unit shall be articulated by doing one or more of the following:</p> <ul style="list-style-type: none"> <li>(1) Incorporating elements such as porches or decks into the wall plane.</li> <li>(2) Recessing the building a minimum of 2 ft deep x 6 ft long.</li> <li>(3) Extending an architectural bay at least 2 ft from the primary street-facing façade.</li> </ul> <p>b. Windows shall occupy a minimum of 25% of the total street-facing façade.</p> <p>c. Buildings shall have a distinct base and top. The base of the building (ground-floor level) shall be considered from grade to 12 ft above grade. The base shall be visually distinguished from the top of the building by any of the following physical transitions: a change in brick pattern, a change in surface or siding materials, a change in color, or a change in the size or orientation of window types.</p> <p>d. To avoid long, monotonous, uninterrupted walls, buildings shall incorporate exterior wall off-sets, projections and/or recesses. At least 1 ft of horizontal variation shall be used at intervals of 40 ft or less along the building's primary façade on the ground-floor level.</p> <p>e. Blank, windowless walls in excess of 750 sq ft are prohibited when facing a public street, unless required by the Building Code. In instances where a blank wall exceeds 750 sq ft, it shall be articulated or intensive landscaping shall be provided.</p> <p>f. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.</p>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
<p>7. Building Materials</p>	<p>Buildings should be constructed with architectural materials that provide a sense of permanence and high quality.</p> <p>Street-facing façades shall consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood siding, and wood shingles.</p> <p>A hierarchy of building materials shall be incorporated. The materials shall be durable and reflect a sense of permanence and quality of development.</p> <p>Split-faced block and gypsum reinforced fiber concrete (for trim elements) shall only be used in limited quantities.</p> <p>Fencing shall be durable, maintainable, and attractive.</p>	<p>a. The following building materials are prohibited on street-facing building facades and shall not collectively be used on more than 35% of any other building façade:</p> <ul style="list-style-type: none"> <li>(1) Vinyl PVC siding</li> <li>(2) T-111 Plywood</li> <li>(3) Exterior insulation finishing (EIFS)</li> <li>(4) Corrugated metal</li> <li>(5) Plain concrete or concrete block</li> <li>(6) Spandrel glass</li> <li>(7) Sheet pressboard</li> </ul> <p>b. The following fence materials are prohibited.</p> <ul style="list-style-type: none"> <li>(1) Plastic or vinyl</li> <li>(2) Chain link</li> </ul>
<p>8. Landscaping</p>	<p>Landscaping of multifamily developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible.</p> <p>Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management.</p>	<p>a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved.</p> <ul style="list-style-type: none"> <li>(1) New trees must be listed as native trees in the Milwaukie Native Plant List.</li> <li>(2) Preserved tree(s) must be at least 6 in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.</li> </ul> <p>b. Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</p> <p>c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</p> <p>d. For projects with more than 20 units:</p> <ul style="list-style-type: none"> <li>(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system.</li> <li>(2) To reduce the “heat island” effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.</li> </ul>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
9. Screening	Mechanical equipment, garbage collection areas, and other site equipment and utilities should be screened so they are not visible from the street and public or private open spaces. Screening should be visually compatible with other architectural elements in the development.	Mechanical and communication equipment and outdoor garbage and recycling areas shall be screened so they are not visible from streets and other ground-level private open space and common open spaces. a. Appropriate screening for rooftop equipment includes parapet walls or architecturally compatible fabricated enclosures such as panels and walls. (1) The Planning Director may require a review of rooftop equipment screening by requesting sight line studies. (2) Solar energy systems are exempt from this requirement. b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment shall be not be located within 5 ft of a front entrance and shall be screened with sight-obscuring materials.
10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.	A recycling area or recycling areas within a multifamily development shall meet the following standards. 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 by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
11. Sustainability	<p>Multifamily development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.</p>	<p>In order to promote more sustainable development, multifamily developments shall incorporate the following elements.</p> <ol style="list-style-type: none"> <li>a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.</li> <li>b. Windows that are operable by building occupants.</li> <li>c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.</li> <li>d. Projects with more than 20 units shall incorporate at least 2 of the following elements:               <ol style="list-style-type: none"> <li>(1) A vegetated ecoroof for a minimum of 30% of the total roof surface.</li> <li>(2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12.</li> <li>(3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface.</li> <li>(4) An integrated solar panel system for a minimum of 30% of the total roof or building surface.</li> <li>(5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof.</li> <li>(6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.</li> </ol> </li> </ol>
12. Privacy Considerations	<p>Multifamily development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.</p>	<p>In order to protect the privacy of adjacent properties, multifamily developments shall incorporate the following elements:</p> <ol style="list-style-type: none"> <li>a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties.</li> <li>b. Where windows on a multifamily development are within 30 ft of windows on adjacent residences, windows on the multifamily development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multifamily unit.</li> </ol>

**Table 19.505.3.D CONTINUED  
Multifamily Design Guidelines and Standards**

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

#### 19.505.4 Design Standards for Cottage Cluster Housing

A. Purpose

These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300. The standards apply to development of new cottage clusters and modifications to existing cottage clusters.

C. Land Division

1. A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.
2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.
3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.
4. Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.
5. Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.

D. Development Standards

The standards listed below are the applicable development and design standards for cottage cluster housing. The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.

Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.

1. Cottage Standards

a. Size

The total footprint of a cottage unit shall not exceed 700 sq ft, and the total floor area of each cottage unit shall not exceed 1,000 sq ft.

b. Height

The height for all structures shall not exceed 18 ft. Cottages or amenity buildings having pitched roofs with a minimum slope of 6/12 may extend up to 25 ft at the ridge of the roof.

c. Orientation

- (1) The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.
- (2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.

d. Required Yards

- (1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.
- (2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.
- (3) The required yard depth for all yards other than a front or rear yard is 5 ft.
- (4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections—such as eaves, overhangs, or chimneys—may project into this required separation by 18 in.
- (5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.

e. Cottage Design Standards

The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.

- (1) Cottages fronting a street shall avoid blank walls by including at least one of the following:
  - (a) Changes in exterior siding material.
  - (b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.
  - (c) Wall offsets of at least 1 ft deep.
- (2) Trim around windows and doors shall be at least 3 in wide and  $\frac{5}{8}$  in deep.
- (3) All roofs shall have a minimum roof pitch of 4/12.
- (4) Windows and doors shall account for at least 15% of the façade area for facades oriented toward a public street or common open space.
- (5) At least 60% of the siding material on each wall shall be either horizontal lap siding, between 3 to 7 in wide once installed, or shake siding.

f. Front Porches

Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semipublic area between the cottage and the open space.

- (1) The minimum porch depth shall be 6.5 ft.

- (2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.
- (3) The front door of the dwelling must open onto the porch.
- (4) The entire area of the front porch must be covered.
- (5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.

2. Site Design and Other Standards

a. Number of Cottages Allowed

The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4. A cottage cluster development shall include a minimum of 4 cottages and a maximum of 12 cottages.

b. Common Open Space

An adequately sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards.

- (1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.
- (2) The minimum dimension for the common open space is 20 ft on 1 side.

c. Private Open Space

Each cottage shall have a private open space on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on 1 side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.

d. Maximum Lot Coverage and Impervious Area

The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.

e. Internal Pedestrian Circulation

The cottage cluster development shall include continuous pedestrian paths for internal circulation on-site. The minimum width for pedestrian paths shall be 6 ft. Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within the development.

f. Perimeter Setback Areas

All structures within a cottage cluster development shall be located at least 15 ft from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed,

g. Off-Street Parking

- (1) There shall be at least 1 off-street parking space per dwelling unit. The parking space shall be located together with parking spaces for other cottages

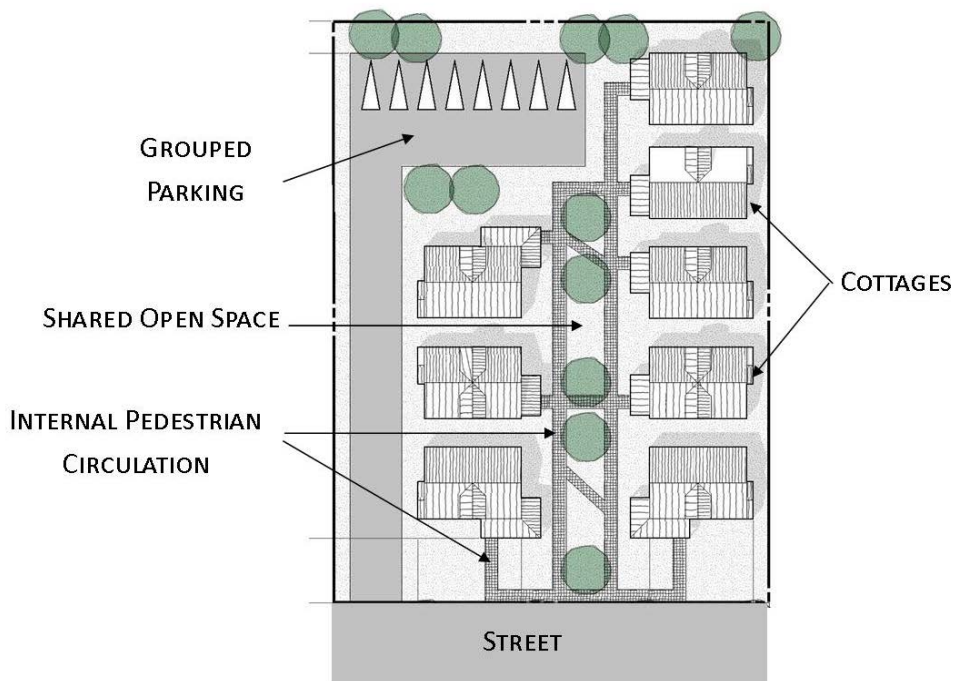
in a common area, and not located on the same lot as an individual cottage unit.

- (2) A cottage cluster parking area shall be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
- (3) If there are more than 8 units in a cottage cluster, there shall be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
- (4) Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high.
- (5) Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

h. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

**Figure 19.505.4  
Cottage Cluster Development**



**19.505.5 Standards for Rowhouses**

A. Purpose

Rowhouses provide a type of housing that includes the benefits of a single-family detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. The purpose of these standards is to allow rowhouses in medium to high density residential zones. Rowhouses are allowed at the same density as single-family detached and multifamily dwellings, and the general design requirements are very similar to the design requirements for single-family detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of rowhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single-family dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a rowhouse lot in both Section 19.302 and Subsection 19.505.5.E. Rowhouse development may take place on existing lots that meet the lot standards for rowhouse lots or on land that has been divided to create new rowhouse lots.
2. Development standards for rowhouses are in Subsection 19.302.4.
3. Design standards for single-family detached dwellings in Subsections 19.505.1-2 are also applicable to rowhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either duplexes or multifamily housing.

C. Rowhouse Design Standards

1. Rowhouses are subject to the design standards for single-family housing in Subsection 19.505.1.
2. Rowhouses shall include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
  - a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the the bottom step must be at least 5 ft from the front lot line.
  - b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it shall be at least 7 ft from the front lot line.

**D. Number of Rowhouses Allowed**

No more than 4 consecutive rowhouses that share a common wall(s) are allowed. A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.

**E. Rowhouse Lot Standards**

1. Rowhouse development is not allowed on lots with a lot width of more than 35 ft.
2. Rowhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.
3. Rowhouse development in the R-3 and R-2.5 Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1.
4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.4.

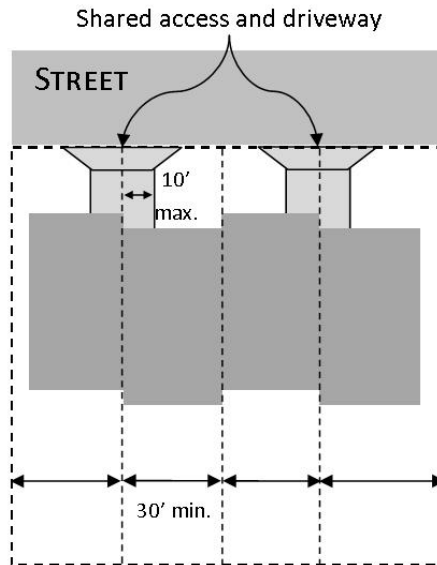
<b>Table 19.505.5.E.4 Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones</b>		
<b>Number of Rowhouses</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
2	7,500 sq ft	6,400 sq ft
3	10,000 sq ft	7,800 sq ft
4	12,500 sq ft	9,200 sq ft

**F. Driveway Access and Parking**

1. Garages on the front façade of a rowhouse, off-street parking areas in the front yard, and driveway accesses in front of a rowhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.
  - a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.
  - b. Development of 2 or 3 rowhouses has at least 1 shared access between the lots, and development of 4 rowhouses has 2 shared accesses.

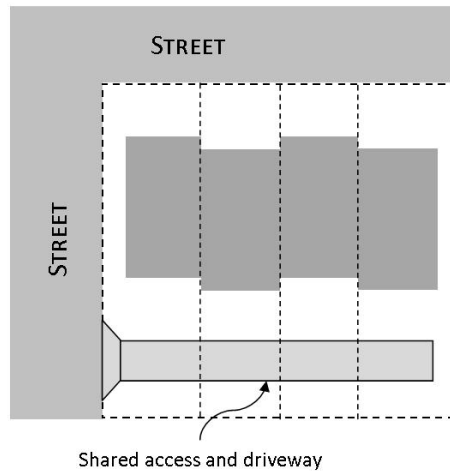
- c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
- d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

**Figure 19.505.5.F.1  
Rowhouse Development with Front Yard Parking**



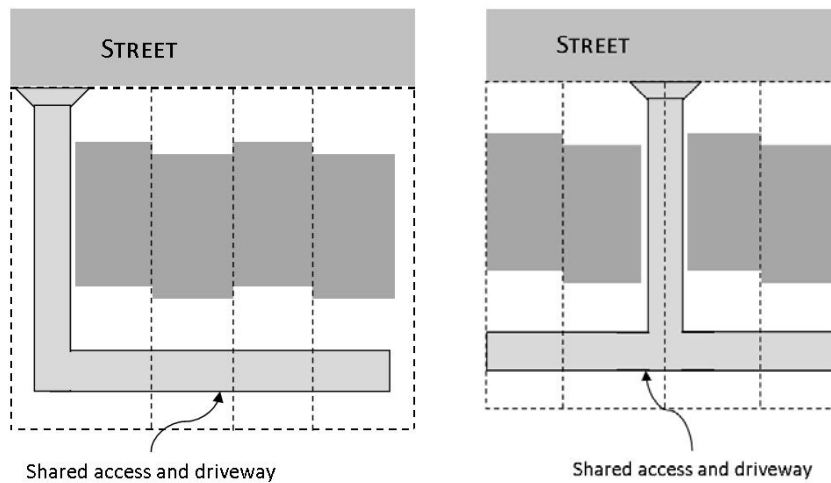
- 2. The following rules apply to driveways and parking areas for rowhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
  - a. Off-street parking areas shall be accessed on the back façade or located in the rear yard. No off-street parking shall be allowed in the front yard or side yard of a rowhouse.
  - b. Rowhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The Engineering Director may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

**Figure 19.505.5.F.2.b  
Rowhouse Development with Corner Lot Access**



- c. Rowhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front facade and front lot line of any of the rowhouses. See Figure 19.505.5.F.2.c.

**Figure 19.505.5.F.2.c**  
**Rowhouse Development with Consolidated Access**



- d. A rowhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

**G. Accessory Structure Setbacks**

On rowhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

**19.505.6 Building Orientation to Transit**

The following requirement applies to all new commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

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 1 entrance. If the development has frontage on more than 1 transit street, the primary building entrance may be oriented to either street or to the corner.

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**19.506 MANUFACTURED DWELLING SITING AND DESIGN STANDARDS**

**19.506.4 Siting Standards**

Manufactured homes are allowed outright in any zone that allows single-family detached dwellings outright. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

- A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 sq ft.
- B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in 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. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.
- D. The unit shall comply with the definition for manufactured home as identified in this section.
- E. The unit shall comply with single-family parking and paving standards as described in Chapter 19.600.

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

**19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

<b>Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements</b>		
<b>Use</b>	<b>Minimum Required</b>	<b>Maximum Allowed</b>
<b>A. Residential Uses</b>		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per dwelling unit.	No maximum.

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**19.605.3 Exemptions and By-Right Reductions to Quantity Requirements**

- B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

5. Bicycle Parking

The minimum amount of required parking for all non-single-family residential uses may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

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**19.606 PARKING AREA DESIGN AND LANDSCAPING**

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for cottage clusters, rowhouses, duplexes, single-family detached dwellings, and residential homes.

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**19.606.2 Landscaping**

B. General Provisions

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for cottage clusters, rowhouses, duplexes, and single-family detached dwellings. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.
2. Landscaped areas required by Subsection 19.606.2 shall count toward the minimum amount of landscaped area required in other portions of Title 19.
3. Parking areas with 10 or fewer spaces in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, are exempt from the requirements of Subsection 19.606.2.

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**19.606.3 Additional Design Standards**

D. Pedestrian Access and Circulation

Subsection 19.504.9 establishes standards that are applicable to an entire property for on-site walkways and circulation. The purpose of Subsection 19.606.3.D is to provide safe and convenient pedestrian access routes specifically through off-street parking areas. Walkways required by Subsection 19.606.3.D are considered part of the on-site walkway and circulation system required by Subsection 19.504.9.

1. Pedestrian access shall be provided for off-street parking areas so that no parking space is further than 100 ft away, measured along vehicle drive aisles, from a building entrance, or a walkway that meets the standards of Subsection 19.606.3.D.2.

2. Walkways through off-street parking areas must be continuous, must lead to a building entrance, and meet the design standards of Subsection 19.504.9.E.

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

### **19.607.1 Residential Driveways and Vehicle Parking Areas**

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

#### **A. Dimensions**

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

#### **B. Location**

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

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#### **C. Parking Surface Materials**

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

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#### **D. Parking Area Limitations**

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to rowhouses, which are subject to the standards in Subsection 19.505.5.

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### **19.607.2 Commercial Vehicle, Pleasure Craft, and Recreational Vehicle Parking**

Subsection 19.607.2 is intended to preserve residential neighborhood character by minimizing the impacts created by the parking and storing of commercial vehicles, pleasure crafts, and recreational vehicles. The standards of Subsection 19.607.2 apply to off-street parking areas for cottage clusters, rowhouses, duplexes , single-family detached dwellings, and residential homes in all zones.

- A. Commercial vehicles shall not be permitted to be parked or stored in the front yard or required street side yard on cottage cluster, rowhouse, duplex , single-family detached dwelling, or residential home properties. Commercial vehicles may be present anywhere on these properties for up to 12 hours in 1 day if the vehicle is engaged in loading or unloading materials for a residence(s).

- B. Recreational vehicles and pleasure crafts on cottage cluster, rowhouse, duplex , single-family detached, or residential home properties must comply with the following regulations:
1. On residential lots less than 1 acre, only 1 recreational vehicle or private pleasure craft that is not located in an enclosed structure such as a garage shall be allowed. Canoes and other crafts less than 12 ft long shall be exempt from this requirement. On lots larger than 1 acre, 1 additional recreational vehicle or private pleasure craft that is not located in an enclosed structure is allowed for each 1/2 acre of area over 1 acre.
  2. No vehicle or pleasure craft shall be lived in, have housekeeping maintained, or have hook-up to utilities while parked or stored on, or otherwise attached or moored to, a lot used for a cottage cluster, rowhouse, duplex , single-family detached dwelling, or residential home.

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**19.609 BICYCLE PARKING**

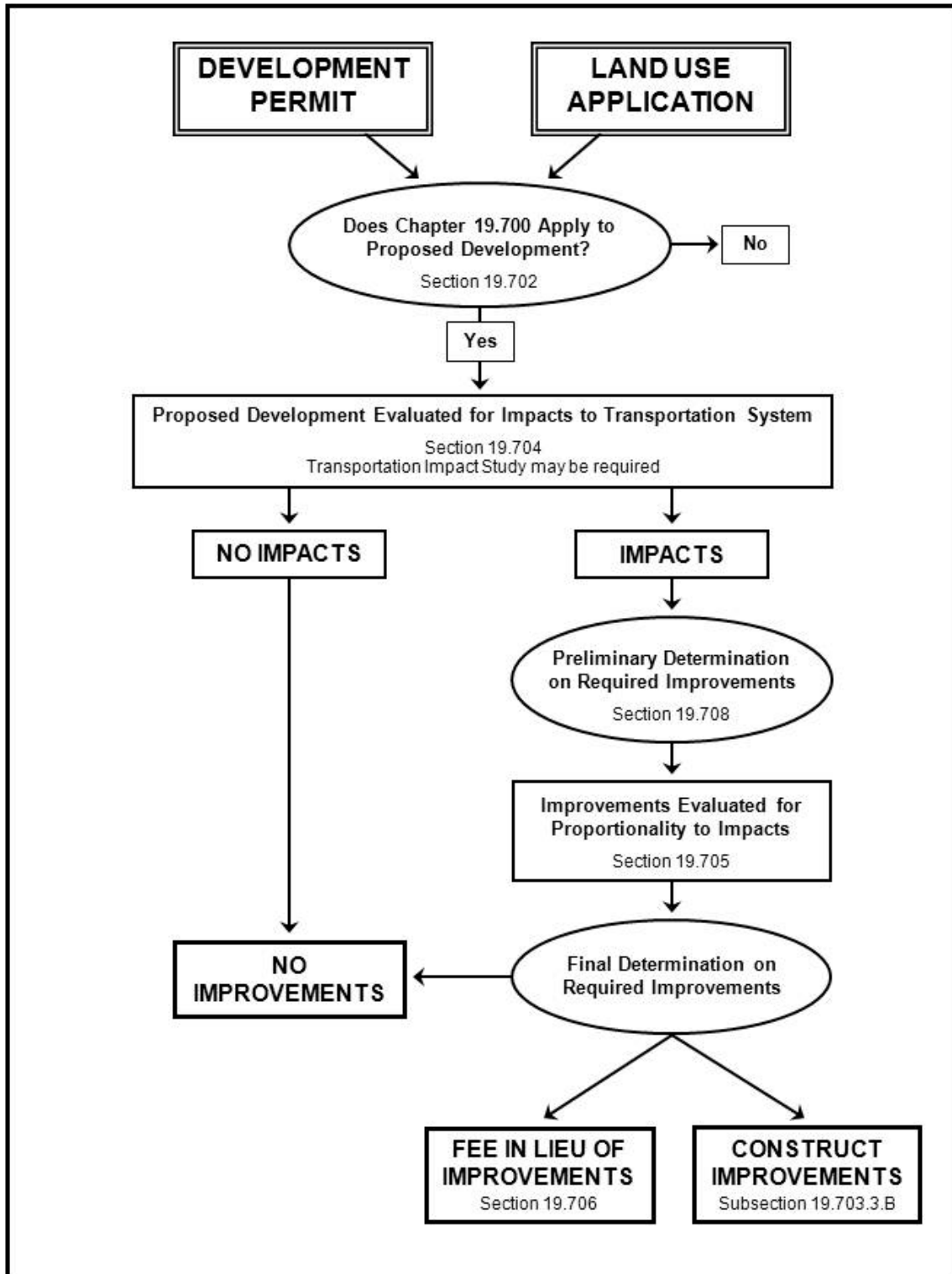
**19.609.2 Quantity of Spaces**

- A. The quantity of required bicycle parking spaces shall be as described in this subsection. In no case shall less than 2 spaces be provided.
1. Unless otherwise specified, the number of bicycle parking spaces shall be at least 10% of the minimum required vehicle parking for the use.
  2. The number of bicycle parking spaces at transit centers shall be provided at the ratio of at least 1 space per 100 daily boardings.
  3. Multifamily residential development with 4 or more units shall provide 1 space per unit.
- B. Covered or enclosed bicycle parking. A minimum of 50% of the bicycle spaces shall be covered and/or enclosed (in lockers or a secure room) in any of the following situations:
1. When 10% or more of vehicle parking is covered.
  2. If more than 10 bicycle parking spaces are required.
  3. Multifamily residential development with 4 or more units.

**CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS**

**19.703 REVIEW PROCESS**

**Figure 19.703.4  
Process for Determining Transportation Facility Improvements**



**19.708 TRANSPORTATION FACILITY REQUIREMENTS**

**19.708.1 General Street Requirements and Standards**

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 Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.304.5.

**CHAPTER 19.900 LAND USE APPLICATIONS**

**19.901 INTRODUCTION**

Uses or development that are regulated by Titles 14, 17, and 19 of the Milwaukie Municipal Code shall submit and obtain approval for all required land use applications prior to establishment or construction. Table 19.901 below contains a complete list of the City’s land use applications and the location of the provisions that govern their submittal, review, and approval. It also identifies the review type(s) associated with each application type. The review type determines who is given notice about land use and development proposals, when the City has to make a decision on a land use application, and who makes the final decision. Descriptions of the different review types and the procedures associated with them are located in Chapter 19.1000. Decision makers for each review type are listed in Table 19.1001.5.

<b>Table 19.901 Land Use Applications</b>		
<b>Application Type</b>	<b>Municipal Code Location</b>	<b>Review Types</b>
Amendments to Maps and Ordinances:	Section 19.902	
Comprehensive Plan Text Amendment	Subsection 19.902.3	V
Comprehensive Plan Map Amendment	Subsection 19.902.4	IV, V <sup>1</sup>
Zoning Text Amendment	Subsection 19.902.5	V
Zoning Map Amendment	Subsection 19.902.6	III, V <sup>2</sup>
Annexations and Boundary Changes:	Chapter 19.1100	
Boundary Change	Section 19.1103	NA
Expedited Annexation	Section 19.1104	NA
Nonexpedited Annexation	Section 19.1102	IV
Appeal	Section 19.1010	Varies
Code Interpretation	Section 19.903	I
Community Service Use	Section 19.904	I, III
Compensation for Reduction in Property Value (Measure 37)	Chapter 1.20	NA
Conditional Use	Section 19.905	I, III
Development Review	Section 19.906	I, II
Director Determination	Section 19.903	I
Downtown Design Review	Section 19.907	I, II, III

**Proposed Code and Comp. Plan Amendments**

Extension to Expiring Approval	Section 19.908	I, II
Historic Resource:	Section 19.403	
Alteration	Subsection 19.403.5	I, III
Demolition	Subsection 19.403.7	III
Status Designation	Subsection 19.403.4	IV
Status Deletion	Subsection 19.403.4	IV
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapter 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony	Subsection 19.503.1.D	III
Mixed Use Overlay Review	Section 19.404	III
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, IV
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
Accessory Dwelling Unit	Subsection 19.910.1	I,II
Duplex	Subsection 19.910.2	II
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

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

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

**19.904 COMMUNITY SERVICE USES**

**19.904.4 Approval Criteria**

An application for a community service use may be allowed if the following criteria are met:

- A. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the CSU, the standards of the underlying zone are met;
  - B. Specific standards for the proposed uses as found in Subsections 19.904.7-11 are met;
  - C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses;
  - D. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood; and
  - E. The location is appropriate for the type of use proposed.
- 

**19.905 CONDITIONAL USES**

**19.905.9 Standards Governing Conditional Uses**

A conditional use shall comply with the standards of the base zone, and any overlay zones or special areas, in which it is located, except as these standards have been modified by the Planning Commission when authorizing the conditional use and as otherwise modified by the standards in this subsection.

**F. Multifamily Dwellings**

In considering a conditional use application for multifamily dwellings, the Planning Commission shall consider the following:

- 1. Relationship to neighboring uses.
- 2. Street access.
- 3. Terrain of the site.

**G. Senior and Retirement Housing**

In considering a conditional use application for senior and retirement housing, the Planning Commission shall consider the following:

- 1. Pedestrian access to transit.
- 2. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.
- 3. Pedestrian access to banking, churches, hospitals, and restaurants.
- 4. Quality of project as a living environment for residents.
- 5. Minimizing impact on the surrounding area.

An applicant shall submit materials and the Planning Commission shall attach conditions that will ensure that the special nature of the housing, and the groups to be served, are clearly defined and maintained in perpetuity. A project is required to meet the definition for this type of housing in Section 19.201.

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## **19.907 DOWNTOWN DESIGN REVIEW**

### **19.907.2 Applicability**

All new construction and changes to buildings and/or properties in the downtown zones involving exterior maintenance and repair, minor exterior alterations, and major exterior alterations as defined in Subsection 19.304.6.B are subject to design review in accordance with the procedures as outlined below under Subsection 19.907.5.

### **19.907.3 Design Guidelines**

Design guidelines shall be established for the downtown zones and shall be considered as part of design review applications in accordance with the provisions of Section 19.304.

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### **19.907.5 Application Procedure**

Applications for design review shall be processed in accordance with Chapter 19.1000, Type I, Type II, and Type III procedures as indicated in this section, as follows:

#### **A. Exterior Maintenance and Repair**

Exterior maintenance and repair, as defined in Subsection 19.304.6.B.1, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. Exterior painting, repair, and refurbishing of existing building materials that does not require a building permit shall be exempt from Type I review.

#### **B. Minor Exterior Alterations**

Minor exterior alterations, as defined in Subsection 19.304.6.B.2, shall be processed as a Type I review in accordance with the procedures in Section 19.1004. The Planning Director may change a Type I review to a Type II review upon finding the following:

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#### **C. Major Exterior Alterations**

Major exterior alterations, as defined in Subsection 19.304.6.B.3, shall be evaluated through a Type III review in accordance with the procedures in Section 19.1006. Applications for major exterior alterations shall be reviewed at a public hearing and decided by the Planning Commission, except as follows:

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#### **D. Residential**

##### **1. "Stand-Alone" Residential Buildings**

"Stand-alone" residential buildings that do not include nonresidential uses are exempt from design review, but shall be subject to the clear and objective design standards under Subsection 19.304.6. Applicants may elect to process a stand-alone residential building design review.

##### **2. Mixed Use Buildings**

The residential portion of mixed use buildings shall be subject to the clear and objective standards under Subsection 19.304.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed use building through design review.

Any change in use of the residential portion of a mixed use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the Planning Commission.

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**19.907.9 Variances to Development Standards**

The Planning Commission may authorize variances to the development standards under Subsection 19.304.4 in accordance with procedures of Section 19.911.

**19.907.10 Modification of Design Standards**

The Planning Commission may authorize modification of the design standards under Subsection 19.304.6.C, in accordance with the following procedures.

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**19.907.11 Consideration of Prohibited Material or Design Features**

The Planning Commission may authorize the use of prohibited materials or design features specified in Subsection 19.304.6.C subject to the following criteria:

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**19.910 RESIDENTIAL DWELLINGS**

This section contains applications for types of residential dwellings that require land use approval.

**19.910.1 Accessory Dwelling Units**

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit shall be evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per the standards of Table 19.910.1.E.4.B.

Where a detached accessory dwelling unit is proposed that would undergo a Type I review, properties adjoining the site shall receive mailed notice of the proposed development. The notice shall include a site plan, building elevations, and a description of the standards and review process for the development. The notice shall be mailed within 7 days of the date that the application is deemed complete per Subsection 19.1003.3.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit reviewed through a Type I review shall be approved if the following standards are met.

- a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
  - b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.
  - c. One accessory dwelling unit per lot is allowed.
  - d. The development standards of Subsection 19.910.1.E are met.
  - e. The proposal complies with all other applicable standards of this title.
2. An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.
    - a. The standards in Subsection 19.910.1.D.1 are met.
    - b. The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.
    - c. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.
    - d. There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

The more restrictive provisions shall be applicable in the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property. An attached accessory dwelling unit shall be reviewed by a Type I review per Subsection 19.1004.

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit.

b. Design Standards

- (1) The façade of the structure that faces the front lot line shall have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

- (2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.
- (3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.
  - (a) The exterior finish on the addition shall match the exterior finish material of the primary dwelling unit in type, size, and placement.
  - (b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.
  - (c) Windows on street-facing facades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
  - (d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

**4. Standards for Detached Accessory Dwelling Units**

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

**a. Maximum Allowed Floor Area**

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

**b. Footprint, Height, and Required Yards**

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a Type I review require Type II review. Structures are not allowed to exceed any of the maximums associated with a Type II review without approval of a variance per Section 19.911.

<b>Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units</b>		
<b>Level of Review</b>	<b>Type I</b>	<b>Type II</b>
<b>Maximum Structure Footprint</b>	600 sq ft	800 sq ft
<b>Maximum Structure Height</b>	15', limited to 1 story	25', limited to 2 stories
<b>Required Side and Rear Yard</b>	Base zone requirement for side and rear yard	5'
<b>Required Front Yard</b>	10' behind front yard as defined in Section 19.201, unless located at least 40' from the front lot line.	
<b>Required Street Side Yard</b>	Base zone requirement for street side yard	

**c. Design Standards**

- (1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 standard.
  - (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
  - (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
  - (c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
  - (d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
  - (e) Window trim around all windows at least 3 in wide and 5/8 in deep.
- (2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II review, pursuant to Subsection 19.911.3.B.
- (3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.
- (4) A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.4.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards.

d. Privacy Standards

- (1) Privacy standards are required for detached accessory dwelling units processed through a Type I review. A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

  - (a) The wall is within 20 ft of a side or rear lot line.
  - (b) The wall is at an angle of 45 degrees or less to the lot line.
  - (c) The wall faces an adjacent residential property.
- (2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.
  - (a) All windows on a wall shall be placed in the upper third of the distance between a floor and ceiling
  - (b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft. high within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure established on or after October \_\_, 2012, the effective date of Ordinance # \_\_\_\_, is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established prior to October \_\_, 2012, the effective date of Ordinance # \_\_\_\_, is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. However, the conversion shall not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.

The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 the dwelling units.

2. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
3. Additional home occupations are allowed for a property with an accessory dwelling unit.

**19.910.2 Duplexes**

A. Purpose

This subsection is intended to allow duplexes in order to increase available housing in the city while maintaining the coherence of single-family residential neighborhoods.

B. Applicability

The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert, or add on to, an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.

C. Review Process

1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of, or addition to, an existing structure.
  - a. In Residential Zones R-5, R-3, R-2.5 R-2, R-1, R-1-B, and R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.

- b. A duplex in Residential Zone R-10 or R-7 is allowed outright, subject to the lot size requirements for the zone, in either of the following situations. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.
    - (1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.
    - (2) The property is a corner lot.
  - c. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b is allowed through a Type II review per Section 19.1005.
  - d. A duplex in the Limited Commercial Zone C-L is allowed through a Type II review per Section 19.1005.
2. For additions or modifications to an existing duplex, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.
- D. Approval Criteria
- 1. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use, under Subsection 19.910.2.C.1.b, must meet the following criteria.
    - a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings within the general vicinity of the site.
    - b. The design of the proposed duplex is generally consistent with the surrounding development.
    - c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.
  - 2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.
    - a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial Zone.
    - b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.

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## 19.911 VARIANCES

### 19.911.3 Review Process

#### B. Type II Variances

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

- 1. A variance of up to 40% to a side yard width standard.
- 2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.
4. A variance of up to 10% to lot width or depth standards.
5. A variance of up to 10% to a lot frontage standard.
6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

## **CHAPTER 19.1000 REVIEW PROCEDURES**

### **19.1001 GENERAL PROVISIONS**

#### **19.1001.6 Applications**

##### **C. Notice Requirements**

##### **3. Continued Hearing Notice**

If a hearing has been opened and is continued to a specific date and time, additional mailed notice and sign notice for the continuation is not required. If a date and time of the continuation is not specified, notice for the continuation shall be provided as specified per Sections 19.1005-19.1008.

##### **4. Department of Land Conservation and Development Notice**

##### **a. Notice of Proposed Change**

Applications that involve amendments described by Section 19.902 may require notice of the proposed change to the Oregon Department of Land Conservation and Development (DLCD). The notice shall meet the submittal requirements specified in OAR 660-018-0020. The notice shall be submitted to DLCD at least 35 days prior to the first evidentiary hearing on the application, unless the proposed change is exempt or eligible for a shorter notice period per OAR 660-018-0022.

##### **b. Notice of Adopted Change**

Following a final decision on an application described by Section 19.902 that results in a change to an acknowledged comprehensive plan or a land use regulation, notice of the adopted change shall be provided to the Oregon Department of Land Conservation and Development (DLCD). The notice shall meet the submittal requirements specified in OAR 660-018-0040. The notice shall be submitted to DLCD within 20 days of making the decision. The notice of adopted change is required regardless of whether a notice of proposed change was required.

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### **19.1003 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW**

#### **19.1003.2 Application Submittal Requirements**

All application information must be sufficiently detailed and specific to the development being proposed to allow for adequate public review. The application submittal must include all of the items listed below for the City to accept the application and initiate completeness review.

If the application requires sign notice, a sign posting and sign posting affidavit will be required per Subsection 19.1001.6.C.1. If the application requires a public hearing, additional items may be required per Subsections 19.1001.6.D prior to the public hearing.

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### **19.1004 TYPE I REVIEW**

#### **19.1004.3 Type I Public Notice**

Public notice is not required for Type I applications. Application referral to other agencies may be required per Section 19.707 prior to issuing a Type I decision.

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### **19.1005 TYPE II REVIEW**

#### **19.1005.3 Type II Public Notice**

##### **B. Mailed Notice**

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application and submit written comments concerning the application prior to issuance of the Type II decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

3. The City shall prepare an affidavit of mailing of notice for the file. The affidavit shall indicate the date that the public notice was mailed to the parties required by Subsection 19.1005.3.B.1.
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### **19.1006 TYPE III REVIEW**

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

##### **A. DLCD Notice**

For Zoning Map amendments, the City shall provide notification to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.a .

##### **D. Mailed Notice**

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type III decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to the first public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1006.3.D.3.
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##### **E. Sign Notice**

At least 14 days prior to the hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the

applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

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**19.1006.5 Type III Decision**

- D. In addition to the requirements of Subsections 19.1006.5.A, B, and C, the following requirements apply to Zoning Map amendments evaluated through a Type III review process.
4. The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.

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**19.1007 TYPE IV REVIEW**

**19.1007.3 Type IV Public Notice**

A. DLCD Notice

For Zoning Map or Comprehensive Plan map amendments, the City shall provide notification to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.a .

D. Mailed Notice

The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to review the application, submit written comments, and participate in the proceedings concerning the Type IV decision. The goal of this notice is to invite relevant parties of interest to participate in the process.

1. At least 20 days prior to each public hearing on the application, except for continuations as noted in Subsection 19.1001.6.C.3, public notice of the application shall be mailed to the parties listed below. Notice requirements specific to Zoning Map amendments are listed in Subsection 19.1007.3.D.3.

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E. Sign Notice

At least 14 days prior to each hearing, except for continuations as noted in Subsection 19.1001.6.C.3, notice of the application shall be posted on the subject property by the applicant and shall remain continuously posted until the hearing. Sign notice shall meet the requirements of Subsection 19.1001.6.C.1.b.

**19.1007.5 Type IV Decision**

- G. The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.
- H. The notice of decision shall include the following:
6. A statement that only persons who submitted comments or made an appearance of record at a public hearing on the application have standing to appeal the decision by filing a written appeal within the appeal period for the Land Use Board of Appeals.

**19.1008 TYPE V REVIEW**

**19.1008.3 Type V Public Notice**

A. General Public Notice

The purpose of general public notice for Type V applications is to allow the public, organizations, and other governmental agencies a meaningful opportunity to review and comment on legislative proposals.

2. At least 30 days prior to a public hearing on a Type V application, except for continuations as noted in Subsection 19.1001.6.C.3, the City shall provide notice of the hearing. At a minimum, the notice shall be available on the City web site and at City facilities that are open to the public and that customarily display public information. At a minimum, the notice shall include:

B. DLCD Notice

Notice of a Type V application shall be mailed to the Department of Land Conservation and Development as described in Subsection 19.1001.6.C.4.a .

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**19.1008.5 Type V Recommendation and Decision**

The following procedures apply to applications evaluated through a Type V review.

- A . The Planning Commission shall serve as the recommendation authority for Type V applications.
- B . The Planning Commission shall conduct an initial evidentiary hearing and provide a recommendation to the City Council within 180 days from the date that the application was deemed complete.
- C . The Planning Commission may recommend that the City Council approve or deny the application with or without changes. The Planning Commission shall provide a written justification for the recommendation.
- D . The City shall provide notice of the hearing before the City Council consistent with the public notice requirements in Subsection 19.1008.3.A.
- E . At the conclusion of the first public hearing before City Council, the City Council shall take one of the following actions:
  - 1 . Continue the matter to a date, time, and place certain.
  - 2 . Remand the matter back to the recommendation authority for additional deliberation.
  - 3 . Approve the proposal, with or without changes. City staff, with review from the City Attorney, shall prepare the ordinance with written findings that demonstrate how the proposal meets all applicable approval criteria.
  - 4 . Deny the proposal. This action is appealable.
  - 5 . Take no action on the proposal. This decision is not appealable.
- F . The City shall provide the required notice of adoption to the Department of Land Conservation and Development, as described in Subsection 19.1001.6.C.4.b.
- G . Within 7 days after the date on which one of the actions in Subsection 19.1008.5.E. 3 or 4 is taken, the City shall mail, or otherwise provide, notice to persons who testified orally or in

writing to the recommendation or review authority while the public record was open regarding the proposal. The notice shall include the following information:

- 1 . A brief summary of the decision.
- 2 . If adopted:
  - a. The date and number of the adopting ordinance.
  - b. Where and when the adopting ordinance and related findings may be reviewed.
- 3 . A summary of the requirements for appealing the decision to the Land Use Board of Appeals.

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## **19.1009 PUBLIC HEARINGS**

### **19.1009.12 Decision**

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

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## **19.1010 APPEALS**

### **19.1010.5 Specific Provisions for Appeal of a Type II Decision**

- B. At least 20 days prior to the appeal hearing, the City shall mail written notice of the appeal hearing to all parties who were entitled to Type II public notice per Subsection 19.1005.3.B.1, interested persons, and the appellant(s).

### **19.1010.6 Specific Provisions for Appeal of a Type III Decision**

- B. At least 20 days prior to the appeal hearing, the City shall mail written notice of the appeal hearing to all parties who were entitled to Type III public notice per Subsection 19.1006.3.D.1, interested persons, the appellant(s), Planning Commission, and Design and Landmarks Committee if they made a recommendation on the initial land use application.

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## **19.1011 DESIGN REVIEW MEETINGS**

### **19.1011.2 Design Review Meeting Notice Requirements**

- B. The mailed public notice shall meet the requirements of Subsection 19.1006.3.D.2 .

## CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

### 19.1102 ANNEXATIONS

#### 19.1102.2 The Petition

C. An annexation petition shall include the completed petition form and the following information.

5. Census forms or demographic information about the area to be annexed.

#### 19.1102.3 Approval Criteria

The City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

## CHAPTER 19.1200 SOLAR ACCESS PROTECTION

### SECTIONS:

19.1201 Purpose

19.1202 Definitions

19.1203 Solar Access for New Development

### 19.1201 PURPOSE

#### 19.1201.1 The purpose of this chapter is:

A. To orient new lots and parcels to allow utilization of solar energy;

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### 19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

#### 19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in single-family zones, except to the extent the Director finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

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#### 19.1203.6 Protection from Future Shade

The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in Subsection 19.1203.6. The City shall be made a party of any covenant or restriction created to enforce any provision of this subsection. The covenant or restriction shall not be amended without written City approval.

#### 19.1203.8 Process for Approval

Requirements for meeting this section shall be processed simultaneously with other application requirements as provided by this title.

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*Repeal Section 19.1204 Solar Balance Point.*

*Repeal Section 19.1205 Solar Access Permit.*