

**ORDINANCE NO. 1849**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1712, THE ZONING ORDINANCE, TO REVISE ADMINISTRATIVE VARIANCES AND ADD HOME IMPROVEMENT EXCEPTIONS - SECTION 700; AMENDING ORDINANCE 1440, THE SUBDIVISION ORDINANCE, TO REVISE THE FLAG LOT DEFINITION AND PARTITIONING STANDARDS - SECTIONS 17.08 AND 17.32; AND TO ADOPT AN EMERGENCY CLAUSE TO ENACT THESE AMENDMENTS. (ZA- 98-01)**

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

**WHEREAS**, the Planning Commission held a public hearing for ZA-98-01 on October 13, 1998 and recommended approval of the changes to 1) Zoning Ordinance Sections 703 and 704 to reduce administrative variances from 25% to 10%, and to add Sections 707, 708, and 709 (Home Improvement Exceptions) to Section 700, as set forth in Exhibit 1; and 2) Subdivision Ordinance changes to Section 17.08.80 to revise the flag lot definition, and Section 17.32 to improve the partitioning standards for flag lots, as set forth in Exhibits 2 and 3 respectively; and

**WHEREAS**, the text changes for Zoning Ordinance Section 700 (Variances) and Subdivision Ordinance Sections 17.08 (Definitions) and 17.32 (Partitioning) were referred to the Department of Land Conservation and Development and Metro on September 18, 1998; and

**WHEREAS**, recent applications for flag lots and administrative variances have resulted in undermining the character of the existing residential neighborhoods and continuing this development pattern would be a serious detriment and threat to the livability of the City's neighborhoods,

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

Section 1. Findings. Findings of fact in support of these amendment(s) are as follows:

1. This zoning and subdivision text amendment has been made in compliance with the provisions of Zoning Ordinance Section 1003 and reviewed in accordance with Section 900 (Amendments) of the Milwaukie Zoning Ordinance. Specifically, this application satisfies the requirements for Zoning Text Amendments found in Section 904, and the Approval Criteria of Section 905.
2. The proposed text changes to Milwaukie Zoning Ordinance Section 700 and Subdivision Ordinance Sections 17.08 and 17.32 would improve the quality of infill development, specifically flag lots, while protecting and enhancing livability within the City. Additionally, the new provisions for Home Improvement Exceptions will provide relief to property owners who may wish to make minor improvements to their homes that do not

conform to the strict interpretations of the zoning code. These provisions will streamline processing and thus reduce costs to City homeowners.

3. The proposed text amendments will act to correct existing regulations which allow for the reduction of lot sizes to just above the size of the standards for the next dense zone without the extensive review process required for a Major Quasi-Judicial review. The proposed revisions will also clarify inconsistencies in the current code language and strengthen requirements that are weak or difficult to apply. Therefore, these amendments will conform with and improve the existing zoning and subdivision ordinance provisions.
4. The development of the proposed zoning and subdivision text changes was carried out in accordance with the policies related to Comprehensive Plan Objectives #2 and #3, Chapter 1 that encourage broadly based public participation and promote informed public participation in planning decisions. The members of the seven Neighborhood District Association Land Use Committees developed the proposed text over the course of nine meetings. The proposed text was also reviewed with the Planning Commission and interested members of the public at two joint worksessions.
5. The proposed text amendments will provide for quality infill development, which will not detract from the character of the existing neighborhoods and will allow for a streamlined process to improve and rehabilitate existing residential homes. These amendments, therefore, conform with the overriding Goal Statement for Chapter 4 – Residential Land Use and Housing Element, which provides for “the maintenance of existing housing and the rehabilitation of older housing and the development of sound adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.”
6. The amendments are in conformance with applicable Statewide Planning Goals. These text amendments to the Milwaukie zoning and subdivision ordinances will increase the quality of infill development in the City while maintaining the livability of the residential neighborhoods. The amendments will also encourage maintenance and rehabilitation of existing single family housing which will result in an improved housing stock and increased neighborhood stability. For these reasons, these text amendments are in conformance with and further Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 10 (Housing), and 13 (Energy Conservation). No other Statewide Planning Goals apply.
7. The amendments are in compliance with Metro’s Urban Growth Management Functional Plan. These amendments to the Milwaukie Zoning and Subdivision Ordinance support the City’s efforts towards implementing the Milwaukie Functional Plan Compliance Report, (submitted to Metro on August 19, 1998), that establishes the direction for compliance with the Title 1 requirements for Housing. The City has a committed to provide for a wider variety and better quality of infill development. The City also wishes to encourage improvements to the existing housing stock and aid in the stabilization of its residential neighborhoods. These amendments are the first steps in working with the

neighborhoods to achieve this goal and will further our collaborative efforts towards City implementation of the Metro 2040 Growth Concept. For these reasons, these text amendments comply with Metro's Functional Plan.

Section 2. Zoning Ordinance Text Changes to Section 700. The changes to text as contained in Exhibit 1 dated October 13, 1998, are adopted as part of the Milwaukie Zoning Ordinance # 1712.

Section 3. Subdivision Ordinance Text Changes to Section 17.08. The changes to text as contained in Exhibit 2 dated October 13, 1998, are adopted as part of the Milwaukie Subdivision Ordinance # 1440.

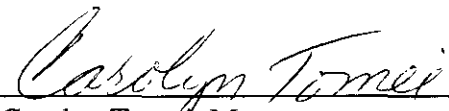
Section 4. Subdivision Ordinance Text Changes to Section 17.32. The changes to text as contained in Exhibit 3 dated October 13, 1998, are adopted as part of the Milwaukie Subdivision Ordinance # 1440.

Section 5. Emergency. The City Council finds that the provision of this ordinance is immediately necessary for the preservation of the quality of public peace, property, health, safety, morals and welfare of the citizens of Milwaukie, Oregon. Therefore, an emergency is declared to exist, and this Ordinance shall be in full force upon passage by the City Council.

Read the first time on ~~November~~ 17, and moved to second reading by ~~unanimous~~ vote of the City Council.


Read the second time and adopted by the City Council on ~~November~~ 17, 1998.

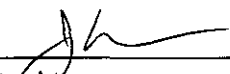
Signed by the Mayor on ~~November~~ 17, 1998.

  
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Carolyn Tomei, Mayor

ATTEST:

APPROVED AS TO FORM:  
O'DONNELL RAMIS CREW CORRIGAN &  
BACHRACH, LLP

  
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Pat DuVal, City Recorder

  
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City Attorney