

COUNCIL ORDINANCE No. 2161

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 14 SIGNS, TITLE 17 LAND DIVISION, AND TITLE 19 ZONING TO MAKE MINOR CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2018-001) AS AMENDED.

WHEREAS, the proposed amendments to Titles 14, 17, and 19 make changes and clarifications that will more effectively communicate and implement existing policy; and

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

WHEREAS, on May 8, 2018, the Milwaukie Planning Commission conducted a public hearing, as required by MMC 19.1008.5 and adopted a motion in support of the amendment; and

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

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

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

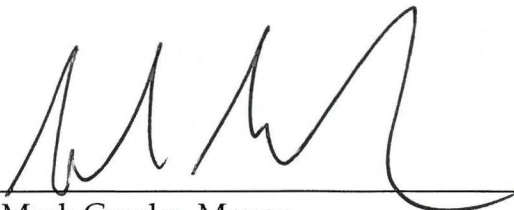
Section 2. Amendments. The Milwaukie Municipal Code is amended as described in Exhibit B (Titles 14 Signs, 17 Land Division, and 19 Zoning underline/strikeout version), and Exhibit C (Titles 14 Signs, 17 Land Division, and 19 Zoning clean version).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

Read the first time on 6/19/18, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 6/19/18.

Signed by the Mayor on 6/19/18.



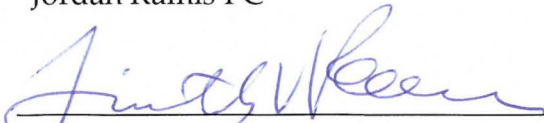
Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Scott Stauffer, City Recorder



City Attorney

Findings in Support of Approval
File #ZA-2018-001, Housekeeping Code Amendments

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

1. The applicant, the City of Milwaukie, proposes to amend various regulations that are contained in Title 14 Sign Ordinance, Title 17 Land Division, and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2018-001.
2. The purpose of the proposed code amendments is as a collection of “housekeeping” amendments – clarifications or minor tweaks – that are not intended to affect the meaning or intent of existing regulations; they are not intended to be a change in policy. The amendments are located in several titles of the municipal code:
 - Title 14 – Signs – clarify that neon signs are permitted downtown, and correct a reference error.
 - MMC 17.28.040.C – revise the language to include a variance regarding the limit on compound lot line segments
 - MMC 19.201 – Definitions – revise the definition of “senior and retirement housing” to eliminate a development standard
 - MMC 19.202.4.E – revise the density calculation language to reflect a recent code interpretation (CI-2017-001)
 - MMC 19.307.1 General Commercial Zone – Add Indoor Recreation to the list of permitted uses
 - MMC 19.402 Natural Resources – various minor clarification revisions
 - MMC 19.502.2.A.1 – provide a clarification to the development standards for residential accessory structures
 - MMC 19.505.1 Single-Family Design Standards – various clarifications
 - MMC 19.505.2 Garages and Carports – clarifications and reference corrections
 - MMC 19.505.3 Multifamily Housing—Table 19.505.3.D (Multifamily Design Guidelines and Standards) – various clarifications
 - MMC 19.600 – Off-Street parking – various clarifications and corrections
 - MMC 19.900 – Land Use Applications – various clarifications and reference corrections
 - MMC 19.1002 Preapplication Conference – clarification in the Applicability section
 - MMC 19.1200 Solar Access Protection – reference correction
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1000 Review Procedures

4. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing was held on May 8 and June 19, 2018, as required by law.

5. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on May 8, 2018. A public hearing before City Council was held on June 19, 2018. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

The proposed amendments have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code. The amendments are clarifying in nature and are not intended to affect policy.

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

Only the goals, objectives, and policies of Comprehensive Plan that are listed below are found to be relevant to the proposed text amendment.

- (i) The Goal statement of the Open Spaces, Scenic Areas, and Natural Resources Element reads as follows:

To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.

Objective #2 – Natural Resources states:

To preserve and maintain important natural habitats and vegetation by protecting and enhancing major drainageways, springs, existing wetlands, riparian areas, water bodies, and significant tree and vegetative cover while retaining their functions and values related to flood protection, sediment and erosion control, groundwater discharge and re-charge, aesthetics, education, recreation, vegetation, and wildlife habitat. Regulate development within designated water bodies, riparian areas, wetlands, uplands, and drainage areas.

The proposed amendments:

- *Corrects errors in code references.*
 - *Adds professional wetland scientist to the list of professionals able to submit reports for water quality resource area boundary verifications.*
- (ii) The Goal statement of the Economic Base and Industrial/Commercial Land Use Element reads as follows:

To continue to support and encourage the development of a broad industrial base in the City, and to encourage the expansion of service facilities in the community.

Objective #2 – Employment Opportunity states:

To continue to support a wide range of employment opportunities for Milwaukie citizens.

The proposed amendments:

- *Add indoor recreation to the list of permitted uses in the General Commercial Zone.*

Objective #6 – Commercial Land Use states:

To encourage new commercial uses to locate within designated commercial areas of the City, in order to take maximum advantage of existing access and public facilities serving these areas.

The proposed amendments:

- *Add indoor recreation as permitted uses to the General Commercial Zone.*
- (iii) Residential Land Use and Housing Element - Objective #5 – Housing Choice states:

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.

The intent of the proposed amendment to the definition of “senior and retirement housing” is to align the definition with the current market by providing flexibility in unit type and size. This revision will allow developments to meet the needs of the market and provide options for different household sizes and for different income levels.

- (c) 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 identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies.

- (d) 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 did not identify any inconsistencies with relevant State statutes or administrative rules.

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that the amendments are clarifying in nature and do not create the opportunity for any more vehicle trips than are currently allowed by other similar uses in each respective zone.

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

Relevant federal regulations are those that address land use, the environment, or development in the context of local government planning. Typically, regulations such as those set forth under the following acts may be relevant to a local government land use process: the Americans with Disabilities Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fair Housing Act, the National Environmental Policy Act, the Religious Land Use and Institutionalized Persons Act, and the Resource Conservation and Recovery Act. None of these acts include regulations that impact the subject proposal or that cannot be met through normal permitting procedures. Therefore, the proposal is found to be consistent with federal regulations that are relevant to local government planning.

- 6. MMC 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 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on March 12, 2018.

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

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

Opportunity for public comment and review has been provided. The City Council had a worksession on the proposed amendments on February 20, 2018. The Planning Commission had a worksession about the proposed amendments on April 10, 2018. The current version of the draft amendments has been posted on the City's website since

March 30, 2018. On March 30, 2018 staff emailed NDA leaders with information about the Planning Commission hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's May 8, 2018, hearing was posted as required on March 30, 2018. A notice of the City Council's June 19, 2018 hearing was posted as required on May 18, 2018.

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

The Planning Director has determined that the proposal affects a large geographic area. Notice to individual property owners and individual properties was not required.

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

Notice of the proposed amendments was sent to DLCD on April 2, 2018

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on March 22, 2018.

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

The proposed amendments generally do not further restrict the use of property. In general, the proposed amendments implement current interpretation or add flexibility and provide clarification.

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

The Planning Commission held a duly advertised public hearing on May 8, 2018 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on June 19, 2018 and approved the amendments.

Underline/Strikeout Amendments

TITLE 14 SIGN ORDINANCE

CHAPTER 14.16 SIGN DISTRICTS

14.04.030 DEFINITIONS

Sign, Neon. "Neon sign" means an electric sign lighted by long luminous gas-discharge tubes that contain rarefied neon or other gases. A neon sign is a lighting display made of glass tubes that have been filled with a gas and bent into the shape of letters or decorative designs.

Sign, Outdoor Advertising. "Outdoor advertising sign" means a sign that meets the definition of Oregon Revised Statute ORS 377.710(21).

14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DMU or OS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

H. Illumination

Illuminated signs may be permitted subject to the following:

6. Neon signs with exposed tubing are allowed provided that light levels comply with Subsection 14.24.020.A and Subsection 14.24.020.D.

6~~7~~. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:

- a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
 - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 20 ~~square~~ feet.
 - b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
 - c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
 - d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
 - e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.
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14.28.020 NONCONFORMING SIGN

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.43, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.

TITLE 17 LAND DIVISION

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.

C. Limits on Compound Lot Line Segments

Changes in direction ~~along side~~ alongside and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line ~~is prohibited~~ may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

TITLE 19 ZONING ORDINANCE

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Senior and retirement housing" means a multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium. ~~The dwelling units shall not have more than 1 bedroom per unit and shall not have more than 800 sq ft per dwelling unit.~~

19.202 MEASUREMENTS

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.

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~~ publicly-owned or open space owned in common by owners within the residential development.
- d. Naturally occurring ~~S~~slopes in excess of 25%.
- e. Man-made slopes (grades that are the result of human activity rather than natural causes) in excess of 25% with both a horizontal measure over 40 ft and an elevation change more than 10 ft over that horizontal distance.

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

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:

AB. Indoor recreation;

ACAB. Any other use similar to the above and not listed elsewhere.

19.402 NATURAL RESOURCES NR

19.402.14 Adjustments and Variances

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

C. Residential Cluster Development

3. Site Plan Requirements

The preliminary and final site plans for a residential cluster development shall include the following information, in addition to the items listed on the City's Site Plan Requirements:

- c. The calculations for the permitted number of dwelling units, derived pursuant to Subsection 19.402.14.C.21.

19.402.15 Boundary Verification and Map Administration

The NR Administrative Map shows the locations of WQRs and HCAs. For WQRs, the NR Administrative Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is determined according to the parameters established in Table 19.402.15. With respect to HCA locations, the NR Administrative Map is assumed to be correct unless demonstrated otherwise.

A. Boundary Verification

2. Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures, and are subject to Type II review per Section 19.1005.

a. Corrections to WQRs

(1) Submittal Requirements

To propose a correction to a WQR shown on the NR Administrative Map, the applicant shall submit the following information, depending on the type of water feature in question:

(a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant shall submit a ~~hydrology~~ report, prepared by a qualified scientist or professional engineer who specializes in hydrology, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant shall provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

B. Map Administration

1. Updates to the NR Administrative Map

When a boundary verification, conducted in accordance with the standards of Subsection 19.402.15.A, demonstrates an error in the location of a WQR or HCA shown on the NR Administrative Map, the City shall update the NR Administrative Map to incorporate the corrected information as soon as practicable. Changes to the NR Administrative Map are not considered amendments to the City's Comprehensive Plan, to Comprehensive Plan Map 5 (Natural Resources), or to the Zoning Map.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

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

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 Subsection 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 the exterior wall of any other structure on a site, excluding a fence or similar structure.

19.505 BUILDING DESIGN STANDARDS

19.505.1 Single-Family Dwellings and Duplexes

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.

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.

- o. Bay window at least 2 ft deep and 5 ft widelong.

5. Standards for Duplexes

In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.

- e. For duplexes ~~on~~ 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.

19.505.2 Garages and Carports

C. Standards

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 façades 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 façades.

The maximum allowed garage door 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.

19.505.3 Multifamily Housing

Table 19.505.3.D Multifamily Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
6. Building Façade Design	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. Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings. Windows should be used to provide articulation to the façade and visibility into the street. Building façades shall be compatible with adjacent building façades. Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.	a. Street-facing building façades 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: (1) Incorporating elements such as porches or decks into the wall plane. (2) Recessing the building a minimum of 2 ft deep x 6 ft long. (3) Extending an architectural bay at least 2 ft from the primary street-facing façade. b. Windows <u>and the glass portion(s) of doors with glazing</u> shall occupy a minimum of 25% of the total street-facing façade. 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. 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. 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. f. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.

Table 19.505.3.D
Multifamily Design Guidelines and Standards

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
13. Safety	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: • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	- 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. - 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. - Uses on the site shall be illuminated as follows: - Parking and loading areas: 0.5 footcandle minimum. - Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. - Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. - 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. <u>This standard applies to adjacent properties across a public right-of-way.</u> - Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.602 APPLICABILITY

19.602.5 Improvements to Existing Off-Street Parking and Loading Areas

C. Areas of Required Improvement

- New perimeter landscape buffers, islands, and medians, as applicable, per Subsection 19.606.2.E.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

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. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. 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.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 40th ~~42nd~~ Ave, King Rd, 44th ~~40th~~ Ave, and Jackson St.
- d. ~~Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.~~

19.606 PARKING AREA DESIGN AND LANDSCAPING

19.606.2 Landscaping

E. Other Parking Area Landscaping Provisions

5. Pedestrian walkways are allowed within perimeter and interior landscape buffers if the landscape buffer is at least 2 ft wider than required in Subsections 19.606.2.C.1 and 19.606.2.D.3.b.

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.

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.

- 1a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
- 2b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
- 3e. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is

entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Community Service Use	Section 19.904	I, II, III

¹ Level of review determined by City Attorney per Section 19.902.4.A.

² Level of review determined by City Attorney per Section 19.902.6.A.1.

19.904 COMMUNITY SERVICE USES

19.904.7 Specific Standards for Schools

Public, private or parochial, elementary, secondary, preschool, nursery schools, kindergartens, and day-care centers are included.

- D. Where Subsection 19.904.7.B is applicable, a sight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses.

19.905 CONDITIONAL USES

19.905.6 Conditional Use Permit

- D. A conditional use permit is not affected by a change in ownership of the use or the property containing the use. A conditional use permit is valid unless one of the following occurs:
1. There is a change in use.
 2. The permit is suspended per the procedures in Subsection 19.905.7~~6~~.
 3. The use is discontinued as described in Subsection 19.905.8.
- E. Compliance with the terms and conditions of the conditional use permit is required on an ongoing basis.
- F. The notice of decision, Planning Commission minutes, and other city records shall constitute the conditional use permit for conditional uses that were approved prior to the effective date of this ordinance.

19.905.7 Review of Existing Conditional Use Permits

- C. If the owner and/or operator of the conditional use cannot or does not resolve the issue in Subsection 19.905.7.B, the matter shall be heard by the Planning Commission to review the conditional use permit and to consider modification, suspension, or revocation of the conditional use permit. The review shall follow the procedures of Section 19.1006 Type III Review. The owner and/or operator shall not be charged a fee for this review.

The Planning Commission may take the following actions in consideration of the conditional use permit:

3. Modify the conditional use permit to address the circumstance(s) that gave rise to the issue. Modifications to the conditional use permit shall be based on factors relevant to the approval criteria for conditional uses in Subsection 19.905.4. The Planning Commission may opt to suspend the permit per Subsection 19.905.7.C.24 until compliance with the modified conditional use permit is achieved.

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

B. Type II Review

The following development proposals must submit a development review application and are subject to the requirements of this section. Type II development review does not apply to development proposals in the downtown zones as these zones have a separate design review process.

1. New development, or expansions or modifications to existing development, for which the applicant elects, where a choice is available, to have the proposal reviewed against discretionary criteria or standards.
2. New construction of over 1,000 sq ft, either: 1) in the Manufacturing Zone within 120 ft of areas zoned for residential uses, or 2) within any part of the Business Industrial Zone, or 3) within any part of the North Milwaukie Innovation Area.
3. New development or expansions, or modifications to existing development, where the Planning Director determines that the scale of development and/or the level of discretion required to evaluate applicable standards and criteria is not appropriate for a Type I development review.

C. Exemptions

The following development proposals are not required to submit a development review application and are exempt from the requirements of this section. Proposals that are exempt from this section must still comply with all applicable development and design standards. For proposals that require a development permit, compliance with standards will be reviewed during the permit review process.

3. Interior modifications to existing buildings that do not involve a change of primary use.

19.907 DOWNTOWN DESIGN REVIEW

19.907.3 Review Process

B. Review Types

To achieve the purpose of the downtown design standards, there are three downtown design review processes through which to apply for approval:

3. Type III

The discretionary review track provides for a Type III review process pursuant to Section 19.1006, through which the Design and Landmarks Committee and Planning Commission determine substantial consistency with the purpose statement of the relevant standard or standards and the Milwaukie Downtown Design Guidelines. It

generally applies to new development and renovation/remodeling projects, as listed in Subsection 19.907.2.D.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1002 PREAPPLICATION CONFERENCE

19.1002.2 Applicability

- A. For Type I applications, a preapplication conference is optional if MMC Chapter 19.700 is not applicable to the proposal as determined by MMC Section 19.702.
-

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

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 19.1203.36. 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.

Clean Amendments

TITLE 14 SIGN ORDINANCE

CHAPTER 14.16 SIGN DISTRICTS

14.04.030 DEFINITIONS

Sign, Neon. "Neon sign" means an electric sign lighted by long luminous gas-discharge tubes that contain rarefied neon or other gases. A neon sign is a lighting display made of glass tubes that have been filled with a gas and bent into the shape of letters or decorative designs.

Sign, Outdoor Advertising. "Outdoor advertising sign" means a sign that meets the definition of ORS 377.710(21).

14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DMU or OS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

H. Illumination

Illuminated signs may be permitted subject to the following:

6. Neon signs with exposed tubing are allowed provided that light levels comply with Subsection 14.24.020.A and Subsection 14.24.020.D.
 7. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:
 - a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
 - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 20 sq ft.
 - b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
 - c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
 - d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
 - e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.
-

14.28.020 NONCONFORMING SIGN

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.3, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.

TITLE 17 LAND DIVISION

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.

C. Limits on Compound Lot Line Segments

Changes in direction alongside and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 10% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

TITLE 19 ZONING ORDINANCE

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Senior and retirement housing" means a multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium.

19.202 MEASUREMENTS

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.

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 publicly-owned or open space owned in common by owners within the residential development.
- d. Naturally occurring slopes in excess of 25%.
- e. Man-made slopes (grades that are the result of human activity rather than natural causes) in excess of 25% with both a horizontal measure over 40 ft and an elevation change more than 10 ft over that horizontal distance.

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

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:

AB. Indoor recreation;

AC. Any other use similar to the above and not listed elsewhere.

19.402 NATURAL RESOURCES NR

19.402.14 Adjustments and Variances

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

C. Residential Cluster Development

3. Site Plan Requirements

The preliminary and final site plans for a residential cluster development shall include the following information, in addition to the items listed on the City's Site Plan Requirements:

- c. The calculations for the permitted number of dwelling units, derived pursuant to Subsection 19.402.14.C.1.

19.402.15 Boundary Verification and Map Administration

The NR Administrative Map shows the locations of WQRs and HCAs. For WQRs, the NR Administrative Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is determined according to the parameters established in Table 19.402.15. With respect to HCA locations, the NR Administrative Map is assumed to be correct unless demonstrated otherwise.

A. Boundary Verification

2. Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures, and are subject to Type II review per Section 19.1005.

a. Corrections to WQRs

(1) Submittal Requirements

To propose a correction to a WQR shown on the NR Administrative Map, the applicant shall submit the following information, depending on the type of water feature in question:

(a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant shall submit a report, prepared by a qualified scientist or professional engineer who specializes in hydrology, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant shall provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

B. Map Administration

1. Updates to the NR Administrative Map

When a boundary verification, conducted in accordance with the standards of Subsection 19.402.15.A, demonstrates an error in the location of a WQR or HCA shown on the NR Administrative Map, the City shall update the NR Administrative Map to incorporate the corrected information as soon as practicable. Changes to the NR Administrative Map are not considered amendments to the City's Comprehensive Plan, to Comprehensive Plan Map 5 (Natural Resources), or to the Zoning Map.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

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

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 Subsection 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 the exterior wall of any other structure on a site, excluding a fence or similar structure.

19.505 BUILDING DESIGN STANDARDS

19.505.1 Single-Family Dwellings and Duplexes

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.

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.

- o. Bay window at least 2 ft deep and 5 ft wide.

5. Standards for Duplexes

In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.

- e. For duplexes on 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.

19.505.2 Garages and Carports

C. Standards

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 façades 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 façades.

The maximum allowed garage door 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.

19.505.3 Multifamily Housing

Table 19.505.3.D Multifamily Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
6. Building Façade Design	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. Windows and doors should be designed to create depth and shadows and to emphasize wall thickness and give expression to residential buildings. Windows should be used to provide articulation to the façade and visibility into the street. Building façades shall be compatible with adjacent building façades. Garage doors shall be integrated into the design of the larger façade in terms of color, scale, materials, and building style.	a. Street-facing building façades 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: (1) Incorporating elements such as porches or decks into the wall plane. (2) Recessing the building a minimum of 2 ft deep x 6 ft long. (3) Extending an architectural bay at least 2 ft from the primary street-facing façade. b. Windows and the glass portion(s) of doors with glazing shall occupy a minimum of 25% of the total street-facing façade. 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. 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. 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. f. Garage doors shall be painted to match the color or color palette used on the rest of the buildings.

**Table 19.505.3.D
Multifamily Design Guidelines and Standards**

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
13. Safety	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: • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	- 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. - 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. - Uses on the site shall be illuminated as follows: - Parking and loading areas: 0.5 footcandle minimum. - Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. - Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. - 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. This standard applies to adjacent properties across a public right-of-way. - Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.602 APPLICABILITY

19.602.5 Improvements to Existing Off-Street Parking and Loading Areas

C. Areas of Required Improvement

- New perimeter landscape buffers, islands, and medians, as applicable, per Subsection 19.606.2.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

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. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. 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.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 40th Ave, King Rd, 44th Ave, and Jackson St.

19.606 PARKING AREA DESIGN AND LANDSCAPING

19.606.2 Landscaping

E. Other Parking Area Landscaping Provisions

5. Pedestrian walkways are allowed within perimeter and interior landscape buffers if the landscape buffer is at least 2 ft wider than required in Subsections 19.606.2.C.1 and 19.606.2.D.3.b.

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.

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.

1. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
2. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
3. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Community Service Use	Section 19.904	I, II, III

¹ Level of review determined by City Attorney per Section 19.902.4.A.

² Level of review determined by City Attorney per Section 19.902.6.A.1.

19.904 COMMUNITY SERVICE USES

19.904.7 Specific Standards for Schools

Public, private or parochial, elementary, secondary, preschool, nursery schools, kindergartens, and day-care centers are included.

- D. Where Subsection 19.904.7.B is applicable, a sight-obscuring fence of 4 to 6 ft in height shall be provided to separate the play area from adjacent residential uses.

19.905 CONDITIONAL USES

19.905.6 Conditional Use Permit

- D. A conditional use permit is not affected by a change in ownership of the use or the property containing the use. A conditional use permit is valid unless one of the following occurs:
1. There is a change in use.
 2. The permit is suspended per the procedures in Subsection 19.905.7.
 3. The use is discontinued as described in Subsection 19.905.8.
- E. Compliance with the terms and conditions of the conditional use permit is required on an ongoing basis.
- F. The notice of decision, Planning Commission minutes, and other city records shall constitute the conditional use permit for conditional uses that were approved prior to the effective date of this ordinance.

19.905.7 Review of Existing Conditional Use Permits

- C. If the owner and/or operator of the conditional use cannot or does not resolve the issue in Subsection 19.905.7.B, the matter shall be heard by the Planning Commission to review the conditional use permit and to consider modification, suspension, or revocation of the conditional use permit. The review shall follow the procedures of Section 19.1006 Type III Review. The owner and/or operator shall not be charged a fee for this review.

The Planning Commission may take the following actions in consideration of the conditional use permit:

3. Modify the conditional use permit to address the circumstance(s) that gave rise to the issue. Modifications to the conditional use permit shall be based on factors relevant to

the approval criteria for conditional uses in Subsection 19.905.4. The Planning Commission may opt to suspend the permit per Subsection 19.905.7.C.2 until compliance with the modified conditional use permit is achieved.

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

B. Type II Review

The following development proposals must submit a development review application and are subject to the requirements of this section. Type II development review does not apply to development proposals in the downtown zones as these zones have a separate design review process.

1. New development, or expansions or modifications to existing development, for which the applicant elects, where a choice is available, to have the proposal reviewed against discretionary criteria or standards.
2. New construction of over 1,000 sq ft, either: 1) in the Manufacturing Zone within 120 ft of areas zoned for residential uses, or 2) within any part of the Business Industrial Zone, or 3) within any part of the North Milwaukie Innovation Area.
3. New development or expansions, or modifications to existing development, where the Planning Director determines that the scale of development and/or the level of discretion required to evaluate applicable standards and criteria is not appropriate for a Type I development review.

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19.907 DOWNTOWN DESIGN REVIEW

19.907.3 Review Process

B. Review Types

To achieve the purpose of the downtown design standards, there are three downtown design review processes through which to apply for approval:

3. Type III

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CHAPTER 19.1000 REVIEW PROCEDURES

19.1002 PREAPPLICATION CONFERENCE

19.1002.2 Applicability

- A. For Type I applications, a preapplication conference is optional if MMC Chapter 19.700 is not applicable to the proposal as determined by MMC Section 19.702.
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CHAPTER 19.1200 SOLAR ACCESS PROTECTION

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 19.1203.3. 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.