Regular Session RS

Milwaukie City Council

CITY OF MILWAUKIE

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2350th Meeting

REVISED AGENDA

JANUARY 18, 2022

(Revised January 14, 2022)

Council will hold this meeting by video conference and will take limited in-person testimony. The public is strongly encouraged to participate in this meeting by joining the Zoom webinar or watching live on the city's YouTube channel or Comcast Cable channel 30 in city limits. The public may come to City Hall to provide in-person comment only; all in-person audience member(s) will be asked to leave the building after they have made their comments.

To participate in this meeting by phone dial **1-669-900-9128** and enter Webinar ID **831 8669 0512** and Passcode **023745**. To raise your hand by phone dial *9.

Written comments may be submitted by email to ocr@milwaukieoregon.gov. Council will take limited verbal comments. **For Zoom webinar login information** visit https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-316.

Note: agenda item times are estimates and are subject to change. **Page #**

1. **CALL TO ORDER** (6:00 p.m.)
   - A. **Pledge of Allegiance**
   - B. **Native Lands Acknowledgment**

2. **ANNOUNCEMENTS** (6:01 p.m.) **2**

3. **PROCLAMATIONS AND AWARDS**
   - A. **Outstanding Milwaukie High School (MHS) Student – Award** (6:05 p.m.)
     Presenter: Carmen Gelman, MHS Principal
   - B. **MHS Update – Report** (6:25 p.m.)
     Presenter: Carmen Gelman, MHS Principal

4. **SPECIAL REPORTS**
   - A. **None Scheduled.**

5. **COMMUNITY COMMENTS** (6:35 p.m.)
   To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

6. CONSENT AGENDA (6:40 p.m.)

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

A.	**Approval of Council Meeting Minutes of:** **1. December 7, 2021, regular session,** **2. December 14, 2021, study session,** **3. December 21, 2021, work session, and** **4. December 21, 2021, regular session.**	**4**
B.	**Approval of the Council Committee Assignments for 2022 – Motion**	**19**
C.	**Authorization of a Contract for Technology Services - Resolution**	**26**
D.	**Authorization of a Contract for Permitting Software - Resolution**	**29**
E.	**Authorization of a Contract for the Home & Wood Project – Resolution**	**33**
F.	**Authorization of a Grant Agreement with the Coronavirus State Fiscal Recovery Fund – Resolution**	**37**
G.	**Authorization of a Revised Contract Amount for On-Call Engineering Public Engagement Services – Resolution**	**55**

7. BUSINESS ITEMS

~~A. Rent Relief Services Funding – Resolution~~ (removed from the agenda)

B. Natural Gas Ban – Resolution (6:50 p.m.) (resolution added) **59**
Presenter: Mark Gamba, Mayor

8. PUBLIC HEARINGS

A. Comprehensive Plan Implementation, Tree Code Amendments – Ordinance (7:00 p.m.) **62**
Staff: Natalie Rogers, Climate & Natural Resources Manager, and Vera Kolias, Senior Planner

9. COUNCIL REPORTS (9:00 p.m.)

10. ADJOURNMENT (9:05 p.m.)

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Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.

CITY OF MILWAUKIE

2350th Meeting

COUNCIL REGULAR SESSION

MINUTES

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

JANUARY 18, 2022

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present:
Joseph Briglio, Community Development Director
Kelly Brooks, Assistant City Manager
Justin Gericke, City Attorney
Brandon Gill, Information Technology (IT) Manager
Vera Kolias, Senior Planner
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate and Natural Resources Manager
Scott Stauffer, City Recorder
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 6:03 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced opportunities for the public to comment on the Milwaukie Redevelopment Commission's (MRC's) five-year urban renewal plan and nominate individuals for the annual volunteer of the year award and noted community events commemorating the 80th anniversary of the incarceration of Japanese Americans during World War II and a clean-up event at Spring Park and Elk Rock Island. **Councilor Batey** announced a watersheds workshop series sponsored by the North Clackamas Watershed Council (NCWC).

Mayor Gamba asked staff to provide a Zoom user overview during the community comment part of the agenda.

Ober reported that the Confederated Tribes of the Grand Ronde would be presenting a proposal for a First Fish Herons artwork at Milwaukie Bay Park during the January 19 Arts Committee meeting.

3. PROCLAMATIONS AND AWARDS

A. Outstanding Milwaukie High School (MHS) Student – Award

Carmen Gelman, MHS Principal, introduced outstanding student Jacob Cooper and Council congratulated them on their academic and extra-curricular activities.

B. MHS Update – Report

Gelman provided an update on school operations during the ongoing surge in COVID-19 cases, noting that drama performances had been delayed to later in the spring.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

The group reviewed how the public can participate in the Zoom meeting by video or phone. **Mayor Gamba** reviewed the public comment procedures. **Ober** reported that Mayor Gamba was in the process of responding to the January 4 community comments from the Island Station Neighborhood District Association (NDA) about the dissolution of the Kellogg Good Neighbor Committee (KGNC).

6. CONSENT AGENDA

It was moved by Councilor Batey and seconded by Council President Hyzy to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:
   1. **December 7, 2021, regular session,**
   2. **December 14, 2021, study session,**
   3. **December 21, 2021, work session, and**
   4. **December 21, 2021, regular session.**

B. A motion approving the 2022 Council committee assignments.

C. Resolution 6-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing execution of separate contracts with Bridgetech LLC, Ednetics, and Timmons Group for technology support services.

D. Resolution 7-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing execution of a contract with Online Solutions LLC for software as a service to support permitting, licensing, land use, and code enforcement.

E. Resolution 8-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for construction of the Safe Access for Everyone (SAFE) / Street Surface Maintenance Program (SSMP) Fiscal Year (FY) 2021 Improvements Project (CIP-2020-A12) to Kerr Contractors Oregon LLC.

F. Resolution 9-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a grant agreement with the Oregon Department of Administrative Services for community engagement, design, and development services for Balfour, Bowman-Brae, and Scott parks.

G. Resolution 10-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for on-call public information and engagement services.

Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

7. BUSINESS ITEMS

A. Rent Relief Services Funding – Resolution (removed from the agenda)

Ober explained that the topic had been removed as Council had previously directed staff to work with community partners to fund rent relief programs.

B. Natural Gas Ban – Resolution

Mayor Gamba explained that the resolution was meant to start a conversation about how to address the threat to humanity and the environment posed by methane gas use.

Mayor Gamba noted other cities had banned or limited the use of natural gas and clarified that Council would not vote on the resolution at the current meeting but would take comment and continue the conversation at a future meeting.

Mayor Gamba expressed support for a natural gas ban, citing the increase in natural disasters that had resulted from climate change.

Council President Hyzy clarified that the resolution was meant to ban natural gas in new construction, not in existing structures, and expressed support for Council further considering the resolution along with its other Climate Action Plan (CAP) work.

Mayor Gamba read the proposed resolution into the record:

> A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE CITY MANAGER TO BEGIN THE PROCESS TO REACH OUR GOAL OF BEING NET ZERO BUILDING ENERGY BY 2035.
>
> WHEREAS climate change is an existential crisis, posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds all other crises facing humanity and our earth; and
>
> WHEREAS the 11th United Nations Intergovernmental Panel on Climate Change ("IPCC") report from October 2018 states that we must cut greenhouse gas emissions in half by 2030 to limit devastating global warming and avoid a climate catastrophe; and
>
> WHEREAS the United States and other leading economies recently agreed to the Global Methane Pledge to reduce Methane emissions 30 percent by 2030; and
>
> WHEREAS the Milwaukie City Council has prioritized Climate Action as one of its two goals; and
>
> WHEREAS the Milwaukie Climate Action Plan (CAP) requires the city to achieve Net Zero Building Energy by 2035; and
>
> WHEREAS action regarding natural gas will be the biggest piece of that goal; and
>
> WHEREAS other cities in the Pacific Northwest are beginning to tackle this issue and there is strength in numbers; and
>
> WHEREAS thirteen years is a short timeline given all the work and investment required to meet this goal.
>
> Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city attorney is directed to coordinate with other cities engaged in this effort and then schedule work sessions to discuss a path forward to make changes to the city code that would require all newly constructed residential, commercial, and industrial buildings to be electric only by February 5, 2024.
>
> And be it Further Resolved that the Milwaukie City Council will amend its CAP to provide a roadmap for how the city can achieve decarbonization of existing residential, commercial, and industrial buildings by 2035 with consideration for how low income and historically marginalized households will be impacted, including strategies for existing rental housing stock.
>
> And be it Further Resolved that the City Council directs the city manager to ensure that all newly constructed city-owned buildings and major renovations of existing city buildings that receive $50,000 or more of city funding are all electric becoming effective July 2022.

Councilors Batey and Falconer agreed a natural gas ban was a complicated issue that had generated a lot of public comment and would require more Council discussion.

Kathryn Williams, NW Natural Gas Vice President for Public Affairs and Sustainability, provided an overview of NW Natural's work to meet its 2050 carbon neutral goals and suggested the public supported the continued use of natural gas. **Mayor Gamba** and **Williams** remarked on whether NW Natural would support proposed building standards legislation being considered by the state legislature.

Paul Lisac, owner of Lisac's Fireplace and Stoves shop, asked Council to remember the experience of living through the 2021 winter ice storm when many community members relied on natural gas lines to stay warm when the power was out.

Elijah Cetas and **Sofie Jokela**, Milwaukie residents, expressed support for the proposed natural gas ban, citing the environmental benefits of not using natural gas.

Nick Caleb, an attorney with the Breach Collective, remarked on the negative health effects of using natural gas.

Meredith Connolly, Oregon Director of Climate Solutions, expressed support for the proposed resolution banning the use of natural gas and remarked on the regional effort to encourage cities to ban natural gas and take other climate action steps.

Ann Turner, a physician, expressed support for the proposed natural gas ban to decarbonize and address socio-economic, environmental, health, and justice issues.

Melanie Plaut, a retired physician, suggested the claims of the natural gas industry regarding the safety and benefits of using natural gas were incorrect, and encouraged Council to adopt the proposed natural gas ban resolution.

Brad Reed, Milwaukie resident, expressed support for banning the use of natural gas.

Jonny Kocher, an Associate with the Rocky Mountain Institute (RMI), referenced reports on the benefits of not using natural gas and encouraged Council to adopt the proposed natural gas ban.

Dylan Plummer, Campaign Representative with the Sierra Club, expressed support for the natural gas ban and cited health and safety issues related to using natural gas.

Brian Stewart, founder of Electrify Now, expressed support for the proposed natural gas ban and promoting the use of electricity instead of fossil fuels.

Anthony Allen, Milwaukie resident, asked if existing buildings would be required to change energy systems. **Mayor Gamba** explained that the resolution called for city buildings to be net zero energy use and the resolution did not mandate any conversion of existing natural gas systems to electric systems.

Micah Meskel, unincorporated Clackamas County resident, supported the natural gas ban and suggested natural gas cost increases were hard for low-income residents.

Anne Pernicke, with the Safe Cities Team at Stand.Earth, explained their work to promote building electrification and encouraged Council to adopt the natural gas ban.

David Heslam, Executive Director of Green Advantage, explained their work of promoting energy efficient buildings and supported the proposed natural gas ban.

Jodi Parker, Laborers Insertional Union of North America Local 737 representative, commented on the union's interest in renewable energy and encouraged the community to work together for a solution.

Mayor Gamba thanked the speakers and Council for starting the conversation and suggested Council would have further discussions on the topic in the future.

Mayor Gamba recessed the meeting at 7:41 p.m. and reconvened at 7:53 p.m.

8. PUBLIC HEARING

A. Comprehensive Plan Implementation, Tree Code Amendments – Ordinance

Mayor Gamba announced that due to the time Council would not take public comment at the current hearing but would take comments at the February 1 hearing.

Councilor Batey encouraged Council to start the hearing at the current meeting but not finish it and adopt the ordinance until Council held in-person meetings.

Council President Hyzy and **Mayor Gamba** encouraged the public to email comments to ocr@milwaukieoregon.gov. **Gericke** noted that staff would provide additional information on the proposed tree code fee structure at the February 1 hearing.

Call to Order: **Mayor Gamba** called the public hearing on the proposed amendments to the code, file #ZA-2021-002, to order at 7:58 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to take public comment on the proposed tree code amendments.

Conflict of Interest: The group discussed whether Council could have conflicts of interest to declare for legislative actions such as the tree code. **Gericke** and **Councilor Falconer** explained that the script called for such statements so that Council members could declare any bias and recuse themselves from participating in the hearing.

Ober noted that Councilor Nicodemus had left the meeting during the recess and would not be returning.

Staff Presentation: **Kolias** provided an overview of how the tree code had been developed as part of the Comprehensive Plan update project, noting Council and Planning Commission discussions and hearings on the code. **Kolias** noted that separate housing and parking code packages, also from the Comprehensive Plan project would be presented to Council in hearings over the next several meetings. **Kolias** and **Councilor Batey** remarked on the public outreach effort for the code packages and the many comments that had been received.

Rogers introduced the residential tree code proposal, explaining how the code had been developed, where the 40% tree canopy goal came from, and why trees are important for cooling the planet.

Rogers reviewed the proposed removal processes for trees on residential non-development properties and asked for Council feedback on whether agricultural trees should be exempt from the code. **Council President Hyzy** encouraged staff to look at ways the code could recognize agricultural uses. **Councilor Batey**, **Rogers**, and **Passarelli** commented on the lack of a definition of agricultural trees and how the Tree Board had looked at the idea of an agricultural tree as a commercial operation. **Mayor Gamba** expressed support for leaving the definition of agricultural tree vague.

Rogers provided an overview of how the tree code would impact the removal of trees on new residential developments, explaining how tree canopy is measured. **Mayor Gamba** believed the definition of “crown” in the proposed code was confusing and **Rogers** noted staff would review that definition. **Councilor Batey** asked if there was a generally accepted standard for an ideal tree canopy. **Rogers** noted the guidance provided by Oregon State University (OSU) for trees in urban settings.

Rogers discussed tree preservation standards for residential developments and the fees developers would pay to mitigate the removal of trees. **Council President Hyzy** and **Rogers** commented on the complexities of developing a fee structure based on tree canopy percentages while also balancing the city's housing goals.

Rogers discussed tree canopy standards for new residential developments, explaining how trees would need to be planted to get a property to the minimum canopy coverage percentage. **Councilor Batey** and **Rogers** remarked on using a fixed number of years for maturity when determining canopy instead of the canopy at maturity standard.

Rogers reviewed the proposed tree code's protection and soil volume standards, mitigation standards for when a developer did not replace the required canopy percentage, and what actions could trigger the development tree code, and reported that the tree code would include a low-income assistance program.

Rogers noted next steps in the hearing process for the tree code and **Ober** asked for Council input on the hearing schedule and when a vote on the tree code would occur. **Gericke** suggested Council continue the hearing before talking about the schedule.

Continue Hearing: **It was moved by Councilor Batey and seconded by Councilor Falconer to continue the hearing on the Comprehensive Plan Code Amendments, file #ZA-2021-002, to a date certain of February 1, 2022. Motion passed with the following vote: Councilors Falconer, Batey, and Hyzy and Mayor Gamba voting "aye." [4:0]**

The group discussed the hearing schedule and when a final vote on the tree code package could occur. **Councilor Falconer** and **Council President Hyzy** supported voting on the tree code after the other packages had been presented, **Councilor Batey** believed the tree code should be voted on before the other packages, **Mayor Gamba** believed the earliest Council should vote on the tree code was February 15. **Ober** summarized that Council would not vote on the tree code on February 1.

Gericke suggested staff needed to revisit the hearing schedule and the group discussed when Council should deliberate on the tree code and when the housing and parking code hearings could begin. It was Council consensus to receive a staff report on the tree code fee schedule and reevaluate the hearing schedule on February 1.

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

It was moved by Councilor Falconer and seconded by Councilor Batey to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, and Hyzy and Mayor Gamba voting "aye." [4:0]

Mayor Gamba adjourned the meeting at 9:14 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

RS Agenda Item 2

Announcements







Mayor's Announcements – January 18, 2022

- **Redevelopment Area Five-Year Action Plan**
  - Weigh in on the improvements you would like to see in downtown and central Milwaukie
  - Join the conversation at engage.milwaukieoregon.gov

- **80 Years from Incarceration – Japanese American Story – Wed., Feb. 2 (6 PM)**
  - Join the first Ledding Library Lecture Series event of the year that commemorates the 80th anniversary of the incarceration of Japanese Americans before and during World War II and the aftermath.
  - Watch on Comcast Channel 30 or on the city's YouTube Channel.

- **2021 Volunteer of the Year – Nominations Accepted Until Mon., Feb. 14**
  - Nominate someone who has gone above and beyond in 2021
  - Submit a nomination at engage.milwaukieoregon.gov

- **Volunteer! Spring Park/Elk Rock Island Enhancement – Sat., Feb. 5 (9 AM – 12 PM)**
  - Volunteers will maintain trails, plant native plants, and place donated holiday trees for fish habitat.
  - Tools, gloves, and refreshments provided
  - Questions? Contact mjordan@ncprd.com or call 971-313-2031
  - Sign up today at ncprd.com/nature-volunteer-application

- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555**

RS2

RS Agenda Item 5

Community Comments

17:52:45 From Milwaukie IT to Hosts and panelists:

Hi Scott - This is Brandon. I don't know what my name says. But, if needed, here I am :)

17:52:58 From Scott Stauffer (he/him) City Recorder to Hosts and panelists:

Got it - thanks Brandon!

18:16:11 From Charles Bird to Everyone:

Hello everyone Good Evening. I have a couple of comments to share about the Tree Ordinance during its public hearing time. These comments are as a private citizen.

18:16:36 From Scott Stauffer (he/him) City Recorder to Hosts and panelists:

Hello Charles - thanks for letting us know.

18:35:30 From Ann Turner to Everyone:

Ann Turner. I would like to speak on the Natural Gas Ban resolution.

18:35:39 From Scott Stauffer (he/him) City Recorder to Hosts and panelists:

Hi Ann - we have you on the list!

18:41:42 From Paul Lisac to Everyone:

Can you read the resolution?

18:42:29 From Elijah Cetas to Hosts and panelists:

It's also in the packet for this meeting:
https://www.milwaukieoregon.gov/sites/default/files/2022-0118-rs_packet.pdf

18:42:58 From Dylan Plummer to Everyone:

The text is available here: https://www.milwaukieoregon.gov/sites/default/files/2022-0118-rs_packet.pdf

18:43:03 From Gary Klein to Hosts and panelists:

How much Eleritric power (PGE) s generated from Fossil Fuels?

18:45:50 From Dylan Plummer to Everyone:

Read about our work to transition Eugene to renewable electricity here:
https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/eugene-ore-lays-foundation-for-state-s-1st-ban-on-gas-use-in-new-buildings-67722144

18:50:56 From Nick Caleb to Hosts and panelists:

Here's a report that 64 organizations in the Pacific Northwest signed on to debunk many of the claims made by NW Natural: https://powerpastfrackedgas.org/wp-content/uploads/2021/08/Methane-Gas-Health-Safety-and-Decarbonization.pdf

18:53:39 From Dylan Plummer to Everyone:

Most gas appliances do not function without electricity.

18:54:20 From City of Milwaukie to Hosts and panelists:

Please remember whatever is typed into the chat becomes part of the meeting's public record.

18:54:39 From Nick Caleb to Hosts and panelists:

^^

18:55:17 From Melanie Plaut (she/her) to Hosts and panelists:

You cannot truly heat your home with a fireplace insert. It makes more sense to weatherize your home to have a warmer home if the electricity goes off.

18:59:57 From Elijah Cetas to Hosts and panelists:

10049 SE 36th Ave

19:03:24 From Council Pres. Kathy Hyzy (she/hers) to Hosts and panelists:

Thanks, Elijah! That was my mistake, not yours. :)

19:08:33 From Paul to Hosts and panelists:

Our water heater and fireplace insert worked fine during the ice storm. They kept us warm and clean.

19:10:27 From Nina Carlson, NW Natural to Everyone:

Hearing a lot about indoor air quality tonight, wanted to make sure folks have the access to the facts: www.nwnatural.com/safety/home-safety/indoor-air-quality

19:10:54 From Nina Carlson, NW Natural to Everyone:

And in regard to resiliency in power outage:

19:11:23 From Nina Carlson, NW Natural to Everyone:

www.nwnatural.com/natural-gas-in-a-power-outage

19:11:23 From Paul to Hosts and panelists:

Energy is a zero sum game. If Milwaukie uses more electricity (most likely hydro-electric) Then other states that buy hydro-electric energy from the Northwest won't be able to buy as much and will have turn to other sources (probably natural gas fired powerplants). This will only shift the problem from Milwaukie to another community.

19:16:18 From Paul Lisac to Everyone:

Every high efficiency gas fireplace, stove and insert we sell at Lisac's Fireplaces and stoves for emergency backup heating work without electricity.

19:16:59 From Dylan Plummer to Everyone:

NW Natural providing the "facts" about the safety of the fossil fuel that they are peddling. Laughable.

19:17:37 From Scott Ongley to Everyone:

Many mis speaks by speakers, Gas ranges work in power outages if you light a match to burner, gas fireplaces which are mostly direct vent technology are a completely sealed combustion system that do not leak into homes. There are many outdated gas appliances which do leak and should be replaced.

19:19:47 From Elijah Cetas to Hosts and panelists:

Thank you Paul for that info about appliances at Lisac. I appreciated your comments about the blackout and your work helping elders. I agree, all electricity without a backup for blackouts is a bad idea. Resilience is a complex problem we all need to be thinking about.

19:22:26 From Scott Ongley to Everyone:

Keep in mind that if you increase the Electric needs then you must create more electricity! More Hydro, More CoGen plants burning more Nat Gas and Hog fuel to create electricity than ever before! More electricity will create brownouts and overloads. The current infrastructure for electricity cannot handle the load coming if electrification comes about.

19:24:08 From Elijah Cetas to Hosts and panelists:

It’s good then that efficiency has improved every year. But agreed, consumption should go down! More conservation knowledge should be taught in our communities. We can walk an chew gum at the same time....

19:25:05 From Paul to Hosts and panelists:

So are the proponents of this ban in favor of nuclear power? There aren't many sources of electricity, hydro-electric, windmills, solar panels, nuclear, and fossil fuels. Solar and wind are expensive and unreliable and hydro-electric is maxed out. That leaves us with nuclear and fossil fuels.

19:25:58 From Meredith Connolly to Everyone:

PGE is already planning for increased load from building and transportation electrification and are ready for it, while meeting their 100% clean requirements. This is an active part of the utility planning that occurs in the Oregon PUC.

19:26:05 From City of Milwaukie to Hosts and panelists:

Just a reminder - all comments typed in the chat become part of this meeting's record - we strongly encourage all audience members to refrain from commenting in the chat. To make a comment please raise your hand.

19:30:05 From Paul to Hosts and panelists:

I am here for the tree ordinance. How long are you going to let these people read their prepared statements about something that you have already stated you are not going to vote on tonight and will have further discussions on at a later date?

19:30:14 From Scott Ongley to Everyone:

Bottom line to all of this is a well planned energy system based on multiple energy sources. Elimination of one over another is counter productive when the facts are there that one system only cannot and will not work to better everyone. NW Naturals numbers on customers that want their gas are not skewed. Many of tonights speakers are well educated and have there studies but the constituents and public by a margin of over 50% do not want to lose their choice of using Nat Gas. Choice is key to this conversation.

19:33:50 From Jodi Parker LiUNA L737 to Hosts and panelists:

Mr Stauffer, may I address the council, or get in line for that opportunity...

19:34:12 From City of Milwaukie to Hosts and panelists:

Yes. Please raise your hand if you want to address Council on the natural gas resolution.

19:35:30 From Scott Ongley to Everyone:

In conversations with Electric Utility workers off the record , They do not want to go to all Electric for many reasons and they are no where ready to handle the load nor are they able to provide the loads necessary. Studies and papers are just that. Just look at California and NewYork during hot summer months!! And remember it is these overloaded power lines that created a majority of the California wildfires. Yes Electric lines burned forests!!! And will continue to do so because you can not avoid it.

19:42:48 From Charles Bird to Everyone:

Do you have me on the list to speak during the tr.ee code hearing

19:43:58 From Scott Stauffer (he/him) City Recorder to Hosts and panelists:

Hi Charles - yes you are on the list to speak during the tree code hearing.

19:46:01 From Scott Stauffer (he/him) City Recorder to Hosts and panelists:

For the public hearing part of tonight's City Council meeting we will be turning off the chat function; we will turn it back on when it is time to take public comment for the purpose of communicating with those who would like to speak only. If you would like to submit comments to Council regarding the hearing subject please raise your hand to speak to Council during the comment time or email your comments ocr@milwaukieoregon.gov.

19:49:56 From Scott Stauffer (he/him) City Recorder to Everyone:

For the public hearing part of tonight's City Council meeting we will be turning off the chat function; we will turn it back on when it is time to take public comment for the purpose of communicating with those who would like to speak only. If you would like to submit comments

to Council regarding the hearing subject please raise your hand to speak to Council during the comment time or email your comments ocr@milwaukieoregon.gov.

19:50:11 From Scott Stauffer (he/him) City Recorder to Everyone:

Charles - to confirm, we do have you on the list to speak.

19:51:32 From Councilor Desi Nicodemus to Hosts and panelists:

i'm here

19:56:26 From Scott Stauffer (he/him) City Recorder to Gary Klein and all panelists:

Hi Gary - Council will likely not take comment on the tree code this year; do you have a comment or would you like to be on the speaker list for the next hearing?

19:57:11 From Council Pres. Kathy Hyzy (she/hers) to Hosts and panelists:

*this HEARING, not this YEAR. :)

RS Agenda Item 6

Consent Agenda

CITY OF MILWAUKIE

COUNCIL REGULAR SESSION

Zoom Video Conference
www.milwaukieoregon.gov

2347th Meeting

MINUTES

DECEMBER 7, 2021

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Steve Adams, City Engineer; Joseph Briglio, Community Development Director; Kelly Brooks, Assistant City Manager; Jennifer Garbely, Assistant City Engineer; Justin Gericke, City Attorney; Ann Ober, City Manager; Scott Stauffer, City Recorder; Samantha Vandagriff, Building Official

Mayor Gamba called the meeting to order at 6:01 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities, including the Christmas Ships sailing schedule, a poetry reading, a clean-up event at Minthorn Springs Natural Area, and the city's free leaf drop off event.

3. PROCLAMATIONS AND AWARDS

A. Pearl Harbor Remembrance Day – Proclamation

Stauffer introduced the proclamation and remarked on the significance of the day. **Mayor Gamba** proclaimed December 7 to be Pearl Harbor Remembrance Day.

4. SPECIAL REPORTS

A. City Manager Updates – Report

Mayor Gamba discussed the city's involvement in the Metro Mayors Consortium which had engaged a lobbying firm to represent metro area cities in the state legislature. **Gamba** explained that the annual fee for consortium would increase in 2022 and expressed support for the city continuing to financially support the lobbying work. **Ober** noted that the Council budget had enough funds to pay for the new fee.

The group discussed whether paying the increased fee would benefit the city. **Councilor Batey** and **Council President Hyzy** expressing support for paying the fee. **Ober** and **Mayor Gamba** observed there was Council support for paying the fee.

The group discussed the plan for Council to return to in-person meetings and it was the group consensus that Council would plan to return to in-person meetings beginning with the January 4, 2022, work and regular sessions.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the November 16 community comments. The group remarked that Council's plan to return to in-person meetings in January also meant that the city's board and committees (BCs) may also return to in-person meetings.

6. CONSENT AGENDA

It was moved by Council President Hyzy and seconded by Councilor Batey to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:
   1. **October 12, 2021, study session,**
   2. **October 19, 2021, regular session,**
   3. **November 2, 2021, work session, and**
   4. **November 2, 2021, regular session.**

B. Resolution 58-2021: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing an engineering services contract with AKS Engineering & Forestry in an amount not to exceed $799,948 for the Washington Street Area Improvements Project (CIP-2021-A13).

C. Resolution 59-2021: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing the contract amount with Peck, Rubanoff & Hatfield for human resources legal services not to exceed $125,000.

D. Resolution 60-2021: A resolution of the City Council of the City of Milwaukie, Oregon, amending the bylaws of the Board of the Ledding Library.

Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

7. BUSINESS ITEMS

A. Engineering Update – Report

Garbely provided an update on the city's Capital Improvement Plan (CIP) projects, including the Monroe Street Neighborhood Greenway. **Councilor Batey** and **Garbely** noted the status of the greenway project Segment E and the Oregon Department of Transportation's (ODOT) plans to upgrade the intersection of Hwy 224 and Oak Street.

Garbely continued to provide updates on CIP work, including the Linwood Avenue Safe Access for Everyone (SAFE) project. **Council President Hyzy** asked about plans to illuminate and distinguish the bicycle and pedestrian path from the roadway and **Garbely** explained what would be done to differentiate the road from the path.

Garbely provided an update on final steps to complete the Lake Road improvements project and the city's actions to keep the Meek Street North Phase project moving despite the Union Pacific Railroad's lack of cooperation. **Mayor Gamba** and **Garbely** remarked on the need for Council to pressure the railroad to cooperate.

Garbely provided an update on challenges related to the 42nd Avenue / 43rd Avenue SAFE improvements project, including a lack of cooperation by a law firm that owned a parcel along the project route. The group remarked on whether the project could be more flexible in building around existing trees and if Council could help encourage property owners to work with the city. Staff explained the city's efforts to work with property owners and the determination to not build any infrastructure on the property's side of the street right now. **Councilor Falconer** and **Council President Hyzy** expressed support for not building on the property right now. **Mayor Gamba** and **Councilor Batey** expressed interest in Council contacting the property owners.

Garbely reviewed plans for the Home Avenue and Wood Avenue SAFE and Street Surface Maintenance Program (SSMP) project. The group remarked on the city's

intention to use a full depth reclamation (FDR) treatment on the roadway and what infrastructure would be left in place or added to protect bicyclists and pedestrians.

Garbely provided an update on the Ardenwald North improvements project, which would pursue a shared road concept. **Mayor Gamba** and **Councilor Falconer** remarked on using landscaping to slow vehicle traffic on streets around the city.

Garbely reported on the Milwaukie El Puente SAFE project, which had been renamed the Washington Area Improvements project to better reflect the scope of work being done and would be a pilot project for how to use new technology to build around trees.

Garbely noted upcoming improvement projects on Harvey Street and across the city's wastewater system. **Mayor Gamba** and **Ober** remarked on the great project work done by the city's engineering staff over the last few years.

Councilor Batey asked about the culvert that would be part of the Washington Area project. **Garbely** and **Adams** explained that the old culvert had caused issues for the street and the city's public works department would be replacing it while the Washington Area project was happening. Council expressed support for replacing the culvert.

B. Floating Code Adoption – Ordinance

Mayor Gamba and **Ober** remarked that Council would not need to adopt the proposed ordinance at the current meeting. **Vandagriff** provided an update on the city's work to adopt a floating code, noting conversations with the Oregon State Marine Board (OSMB) regarding Council concerns about state rules requiring the use of Styrofoam and the regulation of moorages or piers.

Councilor Batey, regarding the regulation of piers, suggested the Milwaukie Municipal Code (MMC) should explain that other agencies regulated such things in addition to the city. **Gericke** suggested that seeking approval from other agencies should be mentioned in a pier application packet that the city could develop. **Vandagriff** added that to apply for a marina, upland property owners including the city also had to approve the Oregon Department of State Lands (DSL) application.

Councilor Batey noted that Council had received a letter from the North Clackamas Watersheds Council (NCWC) regarding the proposed floating code. **Vandagriff** explained how the suggestions made by NCWC had been addressed in the code, which included limits on dock size and placement, light penetration of docks, and a requirement that dock work be done only during certain parts of the year. **Mayor Gamba** and **Vandagriff** noted the need for OSMB to clarify the regulation that a dock should not exceed more than 10% of the width of the river versus a channel.

Mayor Gamba reported on a conversation with an OSMB staff member who wanted Milwaukie to ask the OSMB to clarify its rules to allow cities to adopt more stringent regulations on the use of Styrofoam. **Gamba** remarked on the pollution and damage caused by using Styrofoam on waterways and expressed a desire for the city to develop a model code that would require the use of non-Styrofoam floating devices.

Ober summarized that Council could submit a letter to the OSMB asking for regulation clarity and urged Mayor Gamba to work with staff to develop a model code. **Council President Hyzy** asked that Mayor Gamba and staff look at whether the code could address the use of friction-based anchors to capture trash at the point a dock structure is punctured and becomes trash. **Mayor Gamba**, **Hyzy**, and **Councilor Batey** remarked on the need to get dock owners to care for their damaged docks.

The group noted logistics of drafting and sending the letter which would ask the OSMB to give the city the ability to regulate the use of Styrofoam more stringently on the river.

Vandagriff noted the follow-up question staff would ask OSMB regarding river versus channel width and asked if that would address concerns about docks around Elk Rock Island. **Mayor Gamba** and **Councilor Batey** believed getting clarification would address concerns about docks around the island.

Mayor Gamba and **Councilor Batey** remarked on NCWC's request that docks not be allowed to be shaped in a way that would provide too much shade for predators. **Briglio** provided background information about the development of the current dock size limits. **Gamba** and **Vandagriff** noted that the dock size limitation did not affect houseboat size. The group agreed that staff would look at other city codes and OSMB rules related to dock size and whether size limits included walkways to private docks.

Councilor Falconer and **Mayor Gamba** wanted to know if dock size limited the type and size of vessels that could use a dock. **Vandagriff** noted that staff would look at dock size in relation to vessel usage to its list of research questions.

Ober noted that the OSMB would be presenting to Council at a study session in 2022.

C. Legislative & Regional Issues – Discussion

Brooks noted there would be a special session of the state legislature to address housing issues and that the OSMB would be holding a hearing on a rule related to river noise. **Councilor Batey** expressed support for Council sending a letter to OSMB in support of noise regulations on the river and offered to draft a letter. It was Council consensus that Councilor Batey would draft the letter for Council to review.

Council President Hyzy reported on what the Metro Joint Policy Advisory Committee on Transportation (JPACT) had heard about recently, including the new interstate bridge across the Columbia River, ODOT's equity work on tolling, and how the Oregon Transportation Commission would use new federal funding. The group discussed how and when the city should lobby for its priority projects to best receive federal funding.

Mayor Gamba reported that the Metro Mayors Consortium would advocate for the reach code bill during the 2022 legislative session.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

Mayor Gamba noted that following the regular session Council would convene as the Milwaukie Redevelopment Commission (MRC).

It was moved by Councilor Falconer and seconded by Councilor Batey to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the meeting at 8:21 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

CITY OF MILWAUKIE

COUNCIL STUDY SESSION

Zoom Video Conference
www.milwaukieoregon.gov

MINUTES

DECEMBER 14, 2021

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Ann Ober, City Manager
Peter Passarelli, Public Works Director
Scott Stauffer, City Recorder

Mayor Gamba called the meeting to order at 5:17 p.m.

1. Clackamas County Water Environment Services (WES) - Update

Greg Geist, WES Director, provided an update on WES operations, including facility upgrades and projects at the Kellogg Creek Water Resource Recovery Facility.

Ron Wierenga, WES Environment Services Manager, discussed WES' previous, ongoing, and planned work at the Three-Creeks Natural Area, which involved a multi-agency effort to restore the Phillips, Mt. Scott, and Dean creeks and was expected to be designed by 2023 and in construction by 2024. **Mayor Gamba** and **Wierenga** remarked on the plan to fill the existing creek beds with rock and logs to broaden the drainage area and the group commented on the impact of high-water events on the region.

Councilor Batey asked if the existing flood control infrastructure at the natural area had to be operated by WES staff to work. **Wierenga** explained that the flood gates were not manual but were monitored by WES staff. **Batey** and **Wierenga** noted that the restoration work would create a new wetland area.

Council President Hyzy and **Wierenga** observed that the creek filler material would need to be replenished periodically. They remarked on the to-be-developed plans to ensure that the public could access the natural area via paths and access points.

The group acknowledged the presence of, and concerns about, houseless individuals who passed through and lived at the natural area. **Wierenga**, WES Natural Resources Scientist **Gail Shaloum**, and **Ober** commented on the multi-agency response to monitoring and supporting the transient camper population on the site. They noted that other groups and schools had used the site with WES permission.

Mayor Gamba, **Councilor Batey**, and **Geist** commented on the possibility of the city's Arts Committee working with WES to commission a mural at the Kellogg Creek facility.

Chris Storey, WES Assistant Director, provided an overview of WES' plan to enhance regional partnerships to address inflow and infiltration (I&I) issues by developing new intergovernmental agreements (IGAs) that would provide grant funding to agencies, like the city, for I&I projects. **Ober** reported that the city had been in discussions with WES to develop such an IGA between WES and Milwaukie.

Councilor Batey asked if the city could use existing equipment to address I&I issues stemming from down spout connections. **Passarelli** reported that staff had not evaluated the use of equipment to address I&I issues yet but would do so as part of the wastewater master plan update process. **Storey** suggested that WES' grant program was designed to support cities' planning to get I&I projects funded and done.

Councilor Batey asked if there was anyway to tell which era of home construction used the best type of pipe. **Geist** believed there were ways to tell how well a pipe would hold up and that WES' grant program would save WES and cities money on maintaining infrastructure. **Passarelli** and **Geist** agreed that the older the pipe the worse condition it was likely to be in and **Storey** noted that a pipe replacement project would be eligible to receive WES I&I grant funding.

Ober and **Passarelli** suggested Council would see a proposed IGA with WES for the I&I grant program on a Council meeting agenda soon.

The group acknowledged that Storey would be leaving WES in 2022 and thanked him for his service to the region.

2. Adjourn

Mayor Gamba adjourned the meeting at 6:19 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

CITY OF MILWAUKIE

COUNCIL WORK SESSION

Zoom Video Conference
www.milwaukieoregon.gov

MINUTES

DECEMBER 21, 2021

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Joseph Briglio, Community Development Director
Justin Gericke, City Attorney
Vera Kolias, Senior Planner
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder
Laura Weigel, Planning Manager
Courtney Wilson, Urban Forester

Mayor Mark Gamba called the meeting to order at 4:01 p.m.

1. Comprehensive Plan Implementation - Update

Kolias provided an overview of the Comprehensive Plan implementation process, noting upcoming Council hearings on the proposed code changes, and the new Comprehensive Plan's housing, tree, and parking related mandates.

Kolias discussed the proposed housing code changes that sought to ensure that the code conformed to Oregon House Bill (HB) 2001 requirements through consolidated residential zones and an amended accessory dwelling unit (ADU) approval process. **Mayor Gamba** and **Kolias** noted what ADU approval requirements would not change with the code amendments and they discussed how the size of an ADU should be determined. They remarked on the system development charges (SDCs) for ADUs and the city's use of the term "ADU" for certain structures.

Councilor Batey asked if a property could have a triplex and an ADU on a lot and **Kolias** explained that an ADU was intended to go with a single dwelling unit.

Council President Hyzy asked about a state law that suggested there could be no income level restrictions on housing smaller than a quad-plex. **Councilor Falconer** believed the law was meant to incentivize affordable housing that were quadplexes or bigger. The group discussed whether state law allowed cities to incentivize new ADUs and it was noted that the city could not require income-level restrictions on ADUs.

Councilor Falconer asked if an existing home could become an ADU when another house is built on a property. **Kolias** didn't believe the code precluded a house from becoming an ADU. **Councilor Batey** wondered why a home becoming an ADU wouldn't be considered a detached duplex. **Kolias** would investigate the code more.

Council President Hyzy suggested the code changes would require new planning process guides to support the public doing more things on their property. **Mayor Gamba** wondered if there was a simpler way to allow the public to build housing on their property. **Kolias** replied that the size of a property would inform the type and size of housing that could be built. **Gamba** and **Kolias** remarked on development examples that could be built under the new code development standards.

Kolias presented and discussed proposed code changes related to development standards for lot size, setbacks, and side yard height plane. **Councilor Falconer** was concerned about maintaining different building heights and setbacks and wanted the

code to allow inter-generational housing which may require a third level. **Kolias** explained how the code and other cities defined and measured stories and building height, noting questions that could be explored during the Council hearing. **Mayor Gamba** supported changing the code to simplify height, massing, and setback calculation requirements. **Falconer** suggested such changes could help preserve trees.

Briglio observed that Council supported the code moving away from counting stories and instead used building height. Council agreed with Briglio's observation.

Kolias presented and discussed proposed design standard changes for one to four units of middle housing types. **Councilor Batey** and **Kolias** noted that the existing and proposed code would continue to allow a minimum 12-foot-wide garage door.

Kolias explained how the proposed code would change townhouse requirements. **Mayor Gamba** and **Kolias** remarked on the proposed limit of four townhouses on a site and noted there would be a variance process for property owners who wanted to build more than four townhouses. **Councilor Batey** and **Kolias** noted that a unit's townhouse status was determined by whether it was on its own lot or not.

Kolias and **Ober** noted the time and the remaining number of items to cover.

Kolias discussed how cottage clusters would be affected by the proposed code, noting HB 2001 requirements and that increased densities would be allowed. **Council President Hyzy**, **Councilor Batey**, and **Kolias** noted there was no minimum building footprint for cottage cluster units but there were maximum building sizes.

Kolias explained how the Planning Commission and county had approached flag and back lots. **Councilor Batey** and **Kolias** noted that the difference between flag and back lots was whether the lane was part of a lot or an easement with another property.

Kolias summarized how flag lots had been allowed and banned in Milwaukie over the years, noting that the proposed code aimed to encourage middle housing development.

Councilor Falconer was concerned that flag and back lot requirements would not allow for the preservation of trees and remarked that the difference between which house on a lot came first was arbitrary. **Falconer** and **Kolias** discussed current and proposed code language related to flag lot setbacks and desired distance between houses. **Falconer** and **Mayor Gamba** agreed that the code should be flexible and consistent while still incentivizing middle housing types.

Council President Hyzy commented on preserving middle housing incentives and balancing affordable housing, livability, trees, and parking. **Kolias**, **Hyzy**, and **Councilor Falconer** discussed height plane standards for side and front yard setbacks.

Ober observed the time and suggested Council could continue discussing the code changes at the end of the December 21, 2021, regular session. **Councilor Falconer** and **Ober** noted that Council needed to avoid deliberating on the changes during the current discussion item. **Kolias** and **Briglio** noted topics to be covered with Council and topics that had not been addressed in the process yet.

Councilor Batey believed additional Council discussion on the code changes would be necessary and observed that neither the Comprehensive Plan Implementation Committee (CPIC) or the Engage Milwaukie online open house had discussed setbacks. **Ober** suggested staff would ensure Council had adequate time to discuss setbacks and that the proper public notice would be posted.

Kolias reviewed the proposed code changes related to maximum lot coverage and asked for Council input on the proposed coverage increases. **Gamba** asked why the code would incentivize single-story developments. **Kolias** and **Council President Hyzy** remarked that in some cases single-story buildings can help mitigate the impact of a new development on neighboring homes. **Falconer** did not believe the code should incentivize bigger building footprints if a building could go taller and help preserve tree canopy and greenspace at the same time. **Kolias** remarked that there would be more Council and staff discussion on lot coverage.

Kolias discussed HB 2001 parking related requirements and how staff had applied those requirements to the proposed code which would have no minimum parking requirement per middle housing units except for cottage cluster developments. **Mayor Gamba** believed there was confusion about the proposed parking rules, explaining that a developer could add more than one parking space per unit and that the city was trying to plan for when there could be less of a demand for parking.

Councilor Batey believed Council was veering into deliberation of the proposed code.

Ober noted that Council would continue discussing housing code at the January 4, 2022, work session, and the tree code at the end of the December 21 regular session.

Council President Hyzy thanked the CPIC for their work on the code changes and pointed out where in the work session meeting packet the parking study was located. Kolias explained that the parking study included an inventory and occupancy analysis.

2. Adjourn

Mayor Gamba adjourned the meeting at 5:29 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

CITY OF MILWAUKIE

COUNCIL REGULAR SESSION

Zoom Video Conference
www.milwaukieoregon.gov

2348th Meeting

MINUTES

DECEMBER 21, 2021

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present:
Justin Gericke, City Attorney
Jon Hennington, Equity Program Manager
Brett Kelver, Associate Planner
Adam Moore, Parks Development Coordinator
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder
Luke Strait, Police Chief
Laura Weigel, Planning Manager
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 6:04 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities, including a public comment period for the city's urban renewal plan, the nomination process for the city's volunteer of the year award, and a poetry reading event. **Council President Hyzy** noted that individuals nominated previously for the volunteer of the year award could be renominated and **Councilor Batey** noted a Christmas tree recycling event.

3. PROCLAMATIONS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student – Award

Carmen Gelman, MHS Principal, introduced August Wygal and Council congratulated the student on their academic and extra-curricular achievements.

B. MHS Update – Report

Gelman briefly commented on the return of in-person student activities.

C. Christmas Ships – Proclamation

Dave Kaiser, Vice President of the Portland Christmas Ships, introduced the proclamation, and remarked on the Ships' 2021 season. **Mayor Gamba** proclaimed December 3 to 15, 2021, to be Christmas Ships Days in Milwaukie.

4. SPECIAL REPORTS

A. City Manager and In-Person Meetings – Update

The group discussed plans to return to in-person meetings, noting upcoming hearings where testimony should be taken in-person and the rise of the COVID-19 Omicron variant. It was the group consensus to monitor public health guidance and make decisions about in-person attendance as the first Council meetings of 2022 approached.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the December 7 community comments.

6. CONSENT AGENDA

It was moved by Councilor Falconer and seconded by Councilor Batey to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:
   1. **November 9, 2021, study session,**
   2. **November 16, 2021, work session, and**
   3. **November 16, 2021, regular session.**

B. Resolution 61-2021: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a grant agreement with the Oregon Department of Land Conservation and Development to develop a housing capacity analysis and housing production strategy.

Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

7. BUSINESS ITEMS

A. Annexation of 5880 Hector Street (A-2021-002) – Ordinance

Kelver reported that the property requesting to be annexed had made an emergency connection to the city's sewer system. **Councilor Batey** and **Kelver** confirmed that an emergency sewer connection indicated there had been a failing septic system and/or a sale of the property which required a quick annexation process.

Councilor Falconer wondered if the annexation process could be streamlined and asked if Council rejecting an annexation application would impact the sale of the property. **Kelver** and **Gericke** remarked on the property sale and annexation timelines and suggested Council rejecting an annexation was not likely to impact the sale. **Gericke** remarked that staff would need to review the annexation process in the code and state law to see what could be done to streamline the process. **Councilors Falconer** and **Batey** and **Mayor Gamba** expressed support for looking at ways to streamline the annexation process.

It was moved by Councilor Falconer and seconded by Councilor Batey for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as Tax Lot 1S2E30DD05600 and located at 5880 SE Hector St into the city limits of the City of Milwaukie (File #A-2021-002). Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Ober read the ordinance two times by title only.

Stauffer polled the Council with Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Ordinance 2211:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DD05600 AND LOCATED AT 5880 SE HECTOR ST INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-002).

B. Annexation of 5911 Willow Street (A-2021-005) – Ordinance

Kelver reported that the property requesting to annex had made an emergency connection to the city's sewer system.

It was moved by Councilor Falconer and seconded by Council President Hyzy for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as Tax Lot 1S2E30DA09702 and located at 5911 SE Willow St into the city limits of the City of Milwaukie (File #A-2021-005). Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Ober read the ordinance two times by title only.

Stauffer polled the Council with Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Ordinance 2212:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DA09702 AND LOCATED AT 5911 SE WILLOW ST INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-005).

C. Statistical Transparency of Policing (STOP) Data – Report

Strait introduced Oregon Criminal Justice Commission (CJC) Executive Director Ken Sanchagrin and Research Director Kelly Officer.

Sanchagrin reviewed CJC's work to report STOP data for all discretionary traffic and pedestrian stops by law enforcement officers, noting the impact of the COVID-19 pandemic on the data. **Councilor Batey** and **Sanchagrin** noted that CJC's definition of a successful search was a search that resulted in contraband being recovered.

Sanchagrin presented and discussed STOP data results for the Milwaukie Police Department (MPD) for stops made from 2019-2021, explaining how CJC's predicted disposition analysis is done. **Council President Hyzy** and **Sanchagrin** observed that overall, the MPD's stops had resulted in fewer citations being issues, searches conducts, and arrests made compared to other similar agencies.

Sanchagrin and **Councilor Batey** discussed the predicted and actual percentage of MPD stop results broken down by race.

Sanchagrin explained that the CJC was unable to conduct a Knowles, Persico, and Todd (KPT) Hit-Rate analysis of MPD stops because MPD officers had not conducted enough searches in the last two years. A KPT Hit-Rate analysis shows whether a successful police search differs across racial and ethnic groups.

Officer presented the CJC's veil of darkness modeling of MPD stop data which showed that in Milwaukie Black individuals were more likely to be stopped in the daytime versus the nighttime compared to White individuals. **Mayor Gamba** and **Officer** remarked on the difference in the number of stops conducted at different times of day and whether there was enough MPD data to provide significant results.

Councilor Nicodemus commented that the data was not surprising and underscored that need for continued implicit bias work and suggested that the veil of darkness model be renamed to something that didn't have negative implications for Black people.

Officer and **Sanchagrin** thanked Nicodemus for the suggestion. **Sanchagrin** remarked on the small size of Oregon's Black, Indigenous, and People of Color (BIPOC) populations, how those groups were reflected in the data, and expressed hope that work can be done to remedy the discrepancies shown in the STOP data. **Nicodemus** expressed frustration about the reality of Black people being pulled over more often than other groups and agreed there are things to be done to fix the discrepancies.

Strait thanked the CJC for the report, Councilor Nicodemus for the feedback, and the officers and staff of the MPD for their equity work. **Strait** acknowledged that implicit bias was an issue for the MPD, commented on how the data had and would inform how the department operated, and how the department would continue to work on implicit bias, equity, and transparency issues in the future. **Mayor Gamba** agreed with Strait's remarks and thanked the MPD and CJC for their work.

Ober noted the Equity Steering Committee (ESC) would hold its first meetings in 2022.

Ober commented that bias was an issue for everyone, and the city would continue to work on it. **Councilor Nicodemus** did not believe anyone at the MPD was a racist, agreed there was bias work to do, and thanked the MPD for their work. **Councilor Falconer** thanked Nicodemus for the remarks and the MPD for their work. **Ober** thanked the CJC for their work and **Sanchagrin** thanked the city for the partnership.

D. Goal Update: Equity, Justice, and Inclusion – Report

Hennington shared a graphic representation of the differences between inequality, equality, equity, and justice, and provided an update on the city's ongoing equity work, including MPD implicit bias training and unconscious bias training for non-MPD staff.

Councilor Falconer asked if equity training would be offered to the city's boards and committees (BCs). **Hennington** and **Ober** reported that the city would be sharing equity training resources with the BCs and the public in the future.

Hennington continued to provide an update on the city's equity work, including the formation and initial workload of the ESC which would include the development of an equity lens. **Council President Hyzy** asked if the equity lens would be available to use during the city's annual BC interviews in May. **Hennington** thought the lens may not be ready but there could be a conversation with the ESC about the interview process.

Hennington discussed the work to conduct an equity review of city policies, reporting that most policies were in good shape. **Councilor Batey**, **Hennington**, and **Ober** noted plans to review human resource (HR) and hiring policies in 2022. They commented on using video and non-written application programs for employees and BCs.

Hennington reported on staff work to develop a language access policy, noting how the policy defined interpretation and translation services and how the city would identify a language to translate documents for based on Milwaukie's population data. **Hennington** explained that because of the new policy staff would be working to have the February 2022 Pilot newsletter available in Spanish. **Councilor Batey** expressed support for the policy and suggested there may be a need in the future for city documents to be translated into Russian. **Batey** and **Hennington** noted that documents would be translated into certain languages based on population or need while more languages would be available for in-person interpretation needs.

Hennington commended Ober's equity work which had included serving on the initial board of the Oregon Latinos in Local Government Network, which the city had joined in 2021. **Ober** remarked on the network's work plan in 2022 and beyond.

Hennington discussed the Clackamas County Racial Justice Research Project, a two-year effort meant to encourage underrepresented and marginalized communities to develop strategies and solutions for the well-being of the community.

Council thanked Hennington for taking on the city's equity work and **Hennington** expressed appreciation for doing this work in Milwaukie.

Mayor Gamba recessed the meeting at 8:33 p.m. and reconvened at 8:43 p.m.

Comprehensive Plan Implementation - Update (added to the agenda, continued from the December 21, 2021, work session)

Rogers provided an overview of the draft tree code and the development of a residential tree code, noting permitting processes and preservation standards. **Councilor Batey** appreciated the code's use of percentages to determine how much of a site's tree canopy needed to be saved. **Rogers** remarked on how staff had come-up with the percentage approach. **Batey** and **Rogers** commented on whether tree removal percentages could be considered by staff with other land use approval requirements.

Rogers continued to review the draft tree code, discussing canopy standards and credit for future tree growth. **Councilor Batey**, **Rogers**, and **Passarelli** remarked on the challenges of guessing how big a tree would get at full maturity after many years and what factors the Tree Board considered when developing the canopy credit.

Mayor Gamba remarked on balancing tree planting to mix fast and slow growing trees for short- and long-term canopy growth. **Rogers** commented on how the draft code would encourage the planting of trees for canopy growth and noted how the city would be involved in advising public and private property owners about tree planting.

Rogers and **Passarelli** discussed the draft code's tree protection standards. The group commented on the proposed requirement that developers post a bond during construction to ensure that any costs to replace damaged trees would be covered.

Rogers reviewed the draft code's soil volume standards and residential development mitigation standards that were meant to preserve and promote canopy growth. **Rogers** presented a graphic showing the development process for trees and explained how the low-income assistance program would work.

Rogers and **Passarelli** asked for Council feedback on whether the physical size of an additional housing unit should trigger the tree development standards. **Mayor Gamba** suggested if the soil was disturbed to add housing then the standards should be triggered. The group commented on what development projects might result in significant enough soil and tree root disturbance to require the planting of new trees. **Council President Hyzy** and **Councilor Falconer** suggested that finishing a basement to add housing space did not necessarily mean tree standards should be applied.

Councilor Batey wondered if building a new sidewalk would trigger tree protections and cited existing regulations that allowed for some soil disturbance without mitigation.

Rogers and **Ober** summarized next steps and topics that staff would bring for discussion at the tree code hearing in 2022.

Councilor Batey asked if Council should consider adopting the tree code before the other Comprehensive Plan code amendments. **Ober** replied that staff would consider the idea and report back to Council.

Council President Hyzy asked for information about the City of Portland's water bill credit for planting trees and urged staff to think about how the tree code requirements could interact with development setback distances.

E. Milwaukie Bay Park and the North Clackamas Parks and Recreation District (NCPRD) – Update

Ober reported that NCPRD had informed the city that the original plan to present the park funding agreements to the NCPRD Board for approval had been wrong and that the District Advisory Committee (DAC) would need to vote to approve the agreements before the Board would consider them. **Ober** and **Passarelli** noted ongoing efforts by city staff and Council to monitor the situation and attend the DAC's January 12, 2022, meeting where the agreements would be presented.

The group noted that all Council members could attend the DAC meeting without concern about a quorum being present since it was not the Council's meeting and Council would not be discussing city business as a body or making any decisions.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

It was moved by Councilor Nicodemus and seconded by Councilor Falconer to Go [University of Michigan] Blue and Go [University of Cincinnati] Bearcats and to adjourn the regular session. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the meeting at 9:43 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
Audit Committee	The City of Milwaukie created an Audit Committee of the Milwaukie City Council to ensure that audits of the City's financial statements are completed annually in accordance with Oregon state law, to share oversight responsibility of the City's independent auditors with management, and to assist City management in the review and selection of the City's independent auditor (Res. No. 56-2012).	The Audit Committee is to consist of one member of the City Council and one member of the City Budget Committee each appointed by the Council for two-year staggered terms and two citizen members with an interest in City government financial operations, with preference first given to a Certified Public Accountant residing within City limits and second to a Certified Public Accountant with City affiliation, also for a two year term.	**Kathy Hyzy**	Bonnie Dennis	Yes	Meetings are held at least twice annually
Boards, Committees, and Commissions (BCC) Selection Committee	Purpose is to interview citizens who have applied to serve on citywide Boards, Committees, and Commissions.	Comprised of the Mayor, rotating Councilor, and Staff Liaison.	**Mayor: Mark Gamba** **Councilor: Rotating**	Scott Stauffer	Yes	Interviews are held as needed.
Budget Committee	The Budget Committee is established in accordance with the provisions of ORS 294.336 to review the annual city budget document as prepared by the city budget officer and to recommend an approved budget to the City Council for adoption.	The Committee includes five City Councilors plus an equal number of City residents who are registered voters. The Council appoints the citizen members for four-year terms. The Budget Committee meets as directed by City Council. Typically, the budget preparation meetings are held in the early spring, with additional meetings scheduled as needed and to review revenue and expenditure reports.	**Mayor and Council**	Bonnie Dennis	Yes	Meetings are held quarterly
Clackamas Cities Association (CCA)	12 cities in Clackamas County get together for dinner and speaker events to share ideas and to network.	City of Lake Oswego provides general coordination for cities.	**Mayor and Council**	Ann Ober, Kelly Brooks, Scott Stauffer	No	Dinners are held monthly. Typically, dinners are held on the third Thursday of the month.
Clackamas County Coordinating Committee (C-4)	C-4 was founded by the County to promote a partnership between the County, its Cities, Special Districts, Hamlets, Villages and Community Planning Organizations (CPOs).	Voting membership shall consist of one elected representative and an elected alternate appointed by the City Council	**Primary: Kathy Hyzy**	Ann Ober, Kelly Brooks	Yes	Meetings are held on the first Thursday of the month starting at 6:45 p.m. in the Public Services Building of Clackamas County.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
	C-4 provides Councilors with an opportunity to network and work on building consensus on regional issues.		**Alternate: Mark Gamba**			
Clackamas County Coordinating Committee (C-4) – Metro Sub-Committee	C-4 members who are within the Metro jurisdiction shall be a subcommittee of C-4 named Metro subcommittee to discuss JPACT and MPAC issues. This subcommittee shall at a minimum be the body which nominates and elects cities' representatives to: JPACT, MPAC, TPAC, MTAC, respectively.	Nominations and elections shall occur in November of each even numbered year in accordance with Metro Charter requirements.	**Primary: Kathy Hyzy** **Alternate: Mark Gamba**	Ann Ober, Kelly Brooks	Yes	Meetings are held on the third Wednesday of the month from
Clackamas County Fire District #1 District Board Subcommittee	Purpose is to discuss collaborative opportunities, long-term facility needs, emergency preparedness, impacts of compression, and other challenges facing communities being served.	Subcommittee consists of two Fire Board members and two Council Members appointed by respective jurisdiction.	**Lisa Batey** **Angel Falconer**	Ann Ober, Kelly Brooks	Yes	Development Services Building 150 Beavercreek Rd. Oregon City, OR 97045
Clackamas County Library District Advisory Committee	Purpose is to advise the Clackamas County Library Service District (Board of County Commissioners) to support two county libraries and ten city libraries.	Committee involves 10 members that are typically appointed by respective library board. The advisory committee was created after the 2008 District creation.	**(Recommendations for this Committee come from the Library Board.)**	Katie Newell	No	Meetings are held as needed.
Clackamas County Childcare for All Task Force	A group convened by Clackamas County and Clackamas Education Service District on ways to provide greater access to affordable childcare options.		**Angel Falconer** **Kathy Hyzy**			Meeting schedule under development.
Clackamas County Mayor and Chair	Broad topics that fall outside the scope of C4.	Ad hoc group – no formal appointment process.	**Mark Gamba**	Ann Ober	No	Oregon City Library
Community Action Board	Members are appointed by the Clackamas County Board of County Commissioners. The group advocates both locally and at the state level on issues related to people and households with low-incomes.	Board is run by Clackamas County. 8 members and one alternate.	**Mark Gamba**	Kelly Brooks	No	Meetings are held as needed.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
			Alternate: Yelena Voznyuk			
Homeless Solutions of Clackamas County (HSCC)	HSCC's purpose is to bring together citizens, agencies, governments, churches, businesses, and schools in the Oregon City region to create partnerships that reduce homelessness.	Steering committee made up of co-founders and representatives of agencies, governments, churches, businesses, and schools.	**Angel Falconer**		No	Meetings are held on the second Wednesday of the month from 2:00 p.m. to 3:30 p.m. at Providence Community Center in Oregon City. *Steering committee is expected to attend community meetings quarterly.
Kellogg for Coho	The project will remove the Kellogg Dam, address contaminated sediments, re-establish fish passage, and restore riparian habitat for endangered salmon and native wildlife.	Not a formal committee created by Council via Resolution	**Mark Gamba** **Lisa Batey**	Kelly Brooks, Peter Passarelli	No	Meetings are held as needed.
Kellogg Good Neighbor Committee	The Committee's purpose is to recommend to City Council how "good neighbor funds" should be spent. This fund was established through the Intergovernmental Agreement between the City of Milwaukie and Clackamas County Service District #1 for the provision of wastewater treatment services. CCSD deposits $1.00 per Edu of the city's connections.	The Committee is comprised of seven members with staff from Milwaukie and CCSD#1 providing assistance in ex officio positions: Two members from Island Station and Historic NDAs, 1 citizen at large, 1 downtown property owner or business, 1 City council member.	**Kathy Hyzy**	Peter Passarelli	Yes	Meetings are held every other month on the second Tuesday evening at 5:30 p.m. at the Kellogg Treatment Plant.
League of Oregon Cities	Legislative Committees (any councilor can participate)	LOC Energy Policy Committee Community Development Committee	**Kathy Hyzy** **Mark Gamba**	Kelly Brooks, Ann Ober	Yes	
Local Contract Review Board	Purpose is to review and adopt public contracting rules and findings as to amendments of professional services	Established via Resolution by Council.	**City Council**	Kelli Tucker	Yes	Meetings are held as needed.
Metro Joint Policy Advisory Committee on Transportation (JPACT)	Makes recommendations to Metro Council on transportation needs in the region.	Section 2.19.090(b) of the Metro Code and Article IV of the JPACT By-Laws establish the JPACT membership.	**Kathy Hyzy**		Yes	Meetings are held on the third Thursday of the month, from 7:30 a.m. to 9 a.m. in the Metro Council Chambers.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
	Recommends transportation priorities and develops transportation plans for the region. Metro Council must adopt recommendations before they become transportation policies.	Comprised of 17 members that serve as elected officials or representatives of transportation agencies across the region. Membership includes one city representative and one alternate from Clackamas County. Member and Alternate must be from different cities. Selection of Member and Alternate is by the cities within the county. Term of appointment is two years.	**(Representatives to this committee are appointed by C-4.)**			Meetings may be attended by the Council representative that serves on C4.
Metro Mayor's Consortium	Advocate at Metro and State on issues that affect all metro cities.	Membership limited to 20 local mayors of the Portland Metro Region.	**Mark Gamba** Executive Committee Energy and Climate (Chair) Transportation and Land Use housing and Homelessness Employer Benefits and General Government	Ann Ober, Kelly Brooks	Yes	Meetings are held monthly on Wednesdays during lunchtime.
Milwaukie Center/Community Advisory Board (C/CAB)	The Milwaukie Center/Community Advisory Board is the primary policy advisor to Milwaukie Center staff and the North Clackamas Parks District Advisory Board.	Positions are applied for by individuals and appointed by C/CAB and County Board of Commissioners			No	Meetings are held on the second Friday of every month at 9:30 a.m. at the Milwaukie Center.
Milwaukie Redevelopment Commission	Facilitate and support urban renewal efforts in targeted areas of the City of Milwaukie	MRC	**City Council**	Kelly Brooks, Executive Director	Yes	Meet as needed during Council work, study, and regular sessions
Milwaukie Redevelopment Commission Community Advisory Committee	Advise MRC on investment opportunities within the tax increment financing district.	MRC	**Kathy Hyzy**	Kelly Brooks, Executive Director	Yes	Meets as needed to develop recommendations for MRC.
Milwaukie Parks and Recreation Board (PARB)	Advises City Council on parks related issues.	Comprised of 8 members appointed by City Council.	**Desi Nicodemus (Council Liaison)**	Natalie Rogers	Yes	Meetings are held on the 4th Wednesday of every month at 4:30 at the Ledding Library.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
North Clackamas Chamber of Commerce and Public Policy Team	Purpose is to discuss policy issues in front of the Chamber for position consideration.	Representatives appointed by the Chamber Board.	**Suggest councilors rotate through, but always have a presence**	Leila Aman Vera Kolias Kelly Brooks Ann Ober	No	Meetings are held on the first Monday of the month from 12 p.m. to 1:15 p.m. at the Chamber Offices.
North Clackamas Parks and Recreation District Advisory Board (DAC)	Purpose is to make recommendations to the District Board of Directors on the design, planning and development of parks and the provision of recreational programs in the district.	Section E(2) of the May 1, 1990 Agreement between Clackamas County and the City provide for representation to the DAC. City Council appoints the DAC member.	**Desi Nicodemus** **Ben Johnson**	Natalie Rogers	No	DAB meets monthly on the second Wednesday of every month from 5:00 to 7:00 PM
North Clackamas Social Needs Roundtable	Purpose is to prevent the spread of homelessness and food insecurity in Clackamas County.	Ad Hoc Committee comprised of school district, county, city, nonprofit, and private sector officials.	**Angel Falconer**		No	Meetings are held as needed. Typically, two to three times per year at a Milwaukie Church.
North Clackamas Watershed Council	The North Clackamas Watershed Council's purpose is to advocate for the protection and enhancement of the watersheds' fish and wildlife habitat and improve water quality through partnership with public and private entities, habitat restoration projects, community education and outreach, and strategic planning.	The number of Council Representatives may vary between a minimum of four (4) and a maximum of thirty (30). A minimum of one position will be reserved for each of the following watersheds and sub-basin areas; Upper Kellogg, Lower Kellogg, Lower Mt Scott, Dean, Middle Mt Scott/Cedar, Phillips, Upper Mt Scott, Minthorn Spring, Boardman Creek, River Forest, and Rinearson Creek. The term of office for Council Representatives shall be three years.	**Lisa Batey**	Peter Passarelli	No	Meetings are held on the third Wednesday of the month from 6:00 p.m. to 8:00 p.m. at Oak Lodge Sanitary District.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
Oregon Mayors Association (OMA), Portland Metro Region Team	Purpose is to create a forum for discussing a wide variety of issues, and, most importantly, a unified voice in Salem. Established in 1972, the Oregon Mayors Association is a voluntary association of persons who hold the office of mayor. OMA is recognized as an affiliate organization in cooperation with the League of Oregon Cities. Over two-thirds of Oregon mayors are active members of OMA.	The leadership of the OMA is vested in a Board of ten directors which include a President, President-elect, Secretary-Treasurer, Immediate Past President and six members at-large. The Immediate Past President and the Secretary-Treasurer serve as ex-officio-Directors. The Secretary-Treasurer position is a nonvoting position held by the Executive Director of the League of Oregon Cities Board members are elected at the annual meeting of the OMA, held at the League of Oregon Cities' Annual Conference. The OMA constitution requires that consideration be given to geographic and size diversity on the Board.	**Mark Gamba**	Ann Ober, Kelly Brooks	Yes	Meetings are held as needed either by way of teleconference or at League of Oregon Cities' Meetings.
WES Advisory Committee	On Sept. 14, 2017, the Board of County Commissioners of Clackamas County (BCC) acting as the governing body of WES, created a standing advisory committee consisting of customers, stakeholders and city representatives referred to as the Water Environment Services Advisory Committee.	Clackamas County	**Angel Falconer**	Peter Passarelli	Yes	
Region 1 Area Commission on Transportation (R1ACT)	Provides input to the Oregon Transportation Commission on project and policy prioirites. Focused on ODOT Region 1 which includes Multnomah, Washington, Clackamas and Hood River counties	Oregon Transportation Commission	**Mark Gamba**	Kelly Brooks	Yes	Meetings are held bi-monthly on the first Monday.

2021 Local and Regional Committee Assignments

Committee	Focus	Governing Authority	2022 Appointee	Staff Resources	Elected Rep Required	Meeting Schedule
Regional Water Providers Consortium	The Regional Water Providers Consortium serves as a collaborative and coordinating organization to improve the planning and management of municipal water supplies in the greater Portland, Oregon metropolitan region. Primary focus is conservation and planning interties of water systems to address emergency needs.	Formed in 1997, the Consortium serves the Multnomah, Clackamas, and Washington counties and is made up of 21 water providers and the regional government Metro. Together, these entities provide about 95 percent of the Portland metropolitan area's drinking water Members of the Consortium are cities, water districts and a people's utility district throughout the Portland, Oregon metropolitan area. The regional government Metro is also a member. Participation in the Consortium is voluntary and is funded through membership dues.	**Lisa Batey**	Peter Passarelli	No	Meetings are held three times per year. Typically, from 6:00 p.m. to 8:30 p.m. at Metro. Usually in the Metro Chambers.
Transportation Policy Alternatives Committee (TPAC)	Staff-based committee that provides detailed technical support to the Joint Policy Advisory Committee on Transportation (JPACT).	TPAC's 21 members consist of technical staff from the same governments and agencies as JPACT, plus a representative from the Southwest Washington Regional Transportation Council, and six community members appointed by the Metro Council. In addition, the Federal Highway Administration and C-TRAN have each appointed an associate non-voting member to the committee.	**Representatives to this committee are appointed by JPACT.**	Jennifer Garbely	No	Meetings are held on the last Friday of the month, from 9:30 a.m. to 12:00 p.m. in the Metro Council Chambers. Staff attends these meetings as needed.

CITY OF MILWAUKIE

RS 6. C. 1/18/22

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COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Dec. 15, 2021

Reviewed: Bonnie Dennis, Finance Director, and
Kelli Tucker, Accounting & Contracts Specialist

From: Brandon Gill, IT Manager

Subject: **Contract Authorization for Technology Support Services**

ACTION REQUESTED

Council is asked to authorize the city manager to execute contracts with the following firms for technology support services:

1. BridgeTech LLC – daily technical support and helpdesk.
2. Ednetics – phone support and maintenance.
3. Ednetics – network support, monitoring, and maintenance.
4. Timmons Group – Geographic information system (GIS) project and professional services.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The city has historically self-supported all of its information technology (IT) needs without relying on a third-party vendor for assistance. As the technology environment grows and support requirements increase, the day-to-day needs of providing IT support to city staff has become growingly difficult. The IT department is challenged with balancing the needs of daily support while continuing the growth of a well-designed and continuously available technology environment.

Starting in August 2021, due to staff shortages, city staff contracted with BridgeTech LLC to support day-to-day helpdesk requests that consist of various needs through-out the city. BridgeTech is well known in the area and is highly recommended. The company has 12 people available to city staff for daily needs and their services have been well received by city staff.

In October 2021, a need for networking and phone services was identified to complete a complex portion of the city's supervisory control and data acquisition (SCADA) project, and in November 2021, staff issued a formal solicitation for technology support services.

ANALYSIS

In compliance with Public Contracting Rule 70.020(A), staff issued a formal competitive solicitation for technology support services to select one or more technology firms that could offer the necessary services and provide outstanding customer service in the areas of daily technical support, voice over internet protocol (VoIP) phone system support, network engineering and support, and GIS professional services, while also aligning with the city's values and increasing technology environment. The city received eight proposals, all of which were evaluated on firm and server team qualifications, service understanding and approach,

understanding and project management approach, category-specific technical personnel, and pricing.

There were two selection panels consisting of city staff – a panel for daily technical support, VoIP phone system support, and network engineering and support, and a second panel for GIS professional services. The panels evaluated and scored each proposal and selected three qualified firms to provided technology services in various categories. Each contract will be for an initial five-year term with an option to renew for one additional year.

BUDGET IMPACT
This will increase the IT budget by $150,000 annually for the initial five years of the contracts. Savings in the current biennium budget will cover the contracts for fiscal year 2021.

WORKLOAD IMPACT
Minimal impact on workload.

CLIMATE IMPACT
None.

COORDINATION, CONCURRENCE, OR DISSENT
The finance director and IT manager concur with this recommendation.

STAFF RECOMMENDATION
Staff recommends that Council authorize the city manager to sign a contract with BridgeTech LLC, Ednetics, and Timmons Group for an initial five-year term, including an option to renew for one additional year.

ALTERNATIVES
Council could decide to reject the proposed contract awards and direct staff to issue another formal solicitation or remain as-is in the department.

ATTACHMENTS
1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING EXECUTION OF SEPARATE CONTRACTS WITH BRIDGETECH LLC, EDNETICS, AND TIMMONS GROUP FOR TECHNOLOGY SUPPORT SERVICES.

WHEREAS the city requires technology support services for daily technical support, voice over internet protocol phone system support, network engineering and support, and geographic information system professional services to meet operational needs; and

WHEREAS the city has historically self-supported all information technology needs but as the technology environment grows and support requirements increase, staff has identified that contracted support is necessary; and

WHEREAS the IT department issued a formal competitive solicitation under Public Contracting Rule 70.020(A) for technology support services and selected BridgeTech LLC, Ednetics, and Timmons Group as the most qualified firms in the requested categories to provide services to the city.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee, is authorized to execute personal service contracts, including renewals and any subsequent documents, with BridgeTech LLC (for daily technical and helpdesk support), Ednetics (for phone and network support), and Timmons Group (for GIS project and professional services).

Introduced and adopted by the City Council on **January 18, 2022.**

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CITY OF MILWAUKIE

RS 6. D. 1/18/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 3, 2022

Reviewed: Bonnie Dennis, Finance Director, and
Kelli Tucker, Accounting & Contracts Specialist

From: Brandon Gill, IT Manager

Subject: **Contract Authorization for Permitting, Licensing, Land Use, and Code Enforcement**

ACTION REQUESTED

Council is asked to authorize the city manager to execute a contract with Online Solutions LLC to provide a software as a service (SaaS) solution for permitting, licensing, land use, and code enforcement.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

January 2012: The city went live with the state's permitting system, Accela. The city was a beta tester for the program. As such, the program interface was customized for Milwaukie to follow the city workflow.

January 2015: The state sent correspondence to the city that the customized program interface from Accela could not be supported and that staff would be migrated to the standard version. This change created a large and sustained inconvenience for staff, residents, and the business community. The workarounds caused additional workload that was not anticipated.

May 2019: Online Solutions LLC's CitizenServe product was selected as the business registration software solution. Due to the need at the time, staff followed an intermediate procurement process that limited the contract to $150,000. The current contract for CitizenServe is $13,000 per year; the finance department agreed to review other software programs to meet the need of consolidating systems for city-wide efficiencies.

November 2021: Based on the number of programs in need of a permitting system, city staff issued a formal solicitation with the intent to consolidate all permitting, licensing, and code enforcement tracking.

December 2021: City staff issued a request for proposal (RFP).

ANALYSIS

In compliance with Public Contracting Rule70.020(A), staff issued a formal, competitive solicitation for a software solution for permitting, licensing, land use, and code enforcement. An internal committee consisting of department staff members from building, engineering, finance, planning, police, and public works developed the solicitation, evaluated, received demonstrations, and made the recommendation of a firm that would meet the overall needs of the city.

The city received seven proposals, all of which were evaluated on service understanding, firm qualifications, understanding and project management approach, category-specific technical personnel, and pricing.

Of the seven proposals received, the city selection panel narrowed proposals to the top three firms to view and score a demo of their product in accordance with the RFP. The panels evaluated and scored each proposal and selected CitizenServe.

The proposed contract will be for an initial five-year term with an option to renew for three additional five-year terms. The first-year implementation cost includes a not to exceed amount of $250,000. Each year thereafter is estimated at $64,000 per year but could fluctuate based on the per user count change. Funding for the system will include 45%-50% of the costs from the city's building fund using the collected technology fee ($129,000) that started in 2019. The city's stormwater fund will capture costs related to the anticipated adoption of a tree code, which is approximately 13%-15%, and the remainder of the costs (35%) will come from general fund departments, including code enforcement, public works, planning, and the city manager's office. Ongoing maintenance costs will be allocated by user in the fund/department and function. Current savings in the general fund will cover the costs of the additional expense in each department.

The current work schedule includes development of the tree permit process, which will begin in February/March 2022. Once the tree code is implemented the building department will be the next priority and other departments will follow. It is expected that all systems will be operating by winter 2023.

BUDGET IMPACT

Implementation costs in the first year includes a not to exceed amount of $250,000. The building fund will pay approximately 45%-50% of the costs and the remainder will be allocated to the other departments based on function, fund, and department. Annual fees will be charged to each department based on user count, which is currently estimated at $64,000 per year but may fluctuate based on expanded use or user count change. A supplemental budget will be initiated in February to move funds to cover the implementation costs in the associated departments.

WORKLOAD IMPACT

Normal schedules within each department will be impacted by the implementation phase, which will require approximately10-20 hours per week. Additional workload may be required for staff to develop new processes to match the system including creating new merchant service accounts and connecting general ledger coding and testing.

CLIMATE IMPACT

The contract and resulting software will allow a streamlined permitting process for tree permits. This work supports the climate goals and urban forest goals of the city by reducing barriers to compliance for tree preservation and removal permits.

COORDINATION, CONCURRENCE, OR DISSENT

The building official, planning manager, code compliance coordinator, climate and natural resources manager, assistant finance director, and IT manager concur with this recommendation. The city manager and department heads have agreed to the additional expenditures from the department budgets.

STAFF RECOMMENDATION

Staff recommends that Council authorize the city manager to sign a contract with Online Solutions LLC for an initial five-year term for the CitizenServe software solution, including options to renew.

ALTERNATIVES

Council could decide to reject the proposed contract award and direct staff to issue another formal solicitation or remain as-is.

ATTACHMENTS

1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING EXECUTION OF A CONTRACT WITH ONLINE SOLUTIONS LLC FOR SOFTWARE AS A SERVICE TO SUPPORT PERMITTING, LICENSING, LAND USE, AND CODE ENFORCEMENT.

WHEREAS the city requires software for daily building permits, licensing, land use, and code enforcement to meet residential and customer needs; and

WHEREAS the city has historically used the State of Oregon's shared system, Accela, for building and engineering permits; however, with state system changes over the years staff have not been successful with its continued use; and

WHEREAS staff identified the need for a consolidated permitting system for multiple city programs, including building permits, tree code, land use, and code enforcement; and

WHEREAS the city issued a formal competitive solicitation under Public Contracting Rule 70.020(A) for a permitting, license, land use, and code enforcement software solution and selected Online Solutions LLC as the most qualified firm in the requested categories to provide services to the city.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee, is authorized to execute a software as a service contract, including renewals and any subsequent documents, with Online Solutions LLC for their CitizenServe software solution.

Introduced and adopted by the City Council on **January 18, 2022.**

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CITY OF MILWAUKIE

RS 6. E. 1/18/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Dec. 2, 2021

Reviewed: Jennifer Garbely, PE, Assistant City Engineer

From: Beth Britell, PE, Project Manager

Subject: **SAFE/SSMP Improvements Construction Contract (CIP-2020-A12)**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a contract with Kerr Contractors Oregon LLC for the Safe Access for Everyone (SAFE)/Street Surface Maintenance Program (SSMP) Fiscal Year (FY) 2021 Improvements project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The SAFE/SSMP FY21 Improvement project was identified in the city's 2021-2026 Capital Improvement Plan (CIP). The project is budgeted in the adopted FY 2021-2022 biennium budget from the SAFE, SSMP, stormwater, transportation, and wastewater funds.

ANALYSIS

The SAFE/SSMP FY21 Improvement project contains the following elements:

- Sidewalk on the west side of Home Avenue from Railroad Avenue to King Road.
- Americans with Disabilities Act (ADA) upgrades on the east side of Home Avenue from Railroad Avenue to King Road and on Wood Avenue at Appenine Way.
- Road reconstruction on Home Avenue from Railroad Avenue to King Road and on Wood Avenue from Railroad Avenue to Park Street.
- Sanitary sewer main replacement on Harrison Street from 47th Avenue to Home Avenue and on Home Avenue from Harrison Street to Monroe Street.
- Stormwater water quality facilities on Home Avenue and Wood Avenue.
- Mindful preservation of existing trees and planting of new street trees.

Staff completed a competitive bidding process under Chapter 40 of the city's Public Contracting Rules. Six bids were received by the solicitation deadline and are summarized below:

	CONTRACTOR	TOTAL BID AMOUNT
1	Kerr Contractors Oregon LLC	$2,996,962.60
2	Moore Excavation Inc	$3,171,741.00
3	Emery & Sons Construction Group LLC	$3,294,323.00
4	Pacific Excavation Inc	$3,549,000.00
5	Kodiak Pacific Construction	$3,832,000.00
6	Nutter Corporation	$4,080,884.22
	Engineer's Estimate	$3,395,590.00

Kerr Contractors Oregon LLC submitted the low bid of $2,996,962.60. Change Order 000, including additional erosion control measures required by the Oregon Department of Environmental Quality and correcting a quantity error in the bid schedule, revises the project total to $2,998,838.20. A total project authorization of $3,198,839.00 is requested, which includes a $200,000.80 contingency based on project risks, potential deviations in quantities, anticipated work, and to cover unforeseen circumstances.

BUDGET IMPACT

This project is funded by the city's transportation, SSMP, SAFE, wastewater, water, and stormwater funds. The cost of the contract with contingency exceeds the budgeted amount ($1,996,000) for this project by $1,202,839.60. The increased cost of the contract was anticipated in the engineer's estimate due to the several scope changes during the design of the project. The project was originally budgeted as a grind and inlay of the existing roadway asphalt, but the existing roadway is predominantly two inches of asphalt over native soil with no existing road crown. Pavement inlay was not feasible. Both Home Avenue and Wood Avenue will be full depth reclamation overlain with four inches of new asphalt. Full depth reclamation requires the installation of stormwater water quality treatment facilities. In addition, the cost of the 20 feet deep sewer replacement on Home Avenue and Harrison Street increased by approximately $200-300 per linear foot due to increases in pipe costs.

The additional SSMP, wastewater, water, and stormwater funds needed to award the contract will be transferred from the Harvey Street improvement project. Additional stormwater and wastewater funding is available for the city's American Rescue Plan Act (ARPA) funds. Expending ARPA funds on SAFE SSMP FY21 stormwater and wastewater expenses is an eligible use and consistent with the framework presented in spring of 2021, which proposed dedicating $1.6 million of the city's ARPA funds towards capital improvement projects and ongoing emergency expenses.

Staff expects no impact to the Harvey Street improvement project schedule or scope because the project is currently in-design and will not be constructed until FY 2023. Prior to awarding the

Harvey Street improvement construction project, staff plans to restore the project funds in the 2022-2023 budget biennium with the issuance of the next CIP.

WORKLOAD IMPACT

The city's engineering team will oversee the construction process. Staffing levels have been budgeted for FY 2021 and FY 2022 and no additional staff impacts are anticipated. Inspections will be performed by city staff and the city's on-call inspection consulting firm as needed. Additional consultant-provided construction management services are available if needed.

CLIMATE IMPACT

Construction activity has a significant impact on the environment due to emissions from transport of materials, heavy equipment use, and the manufacturing of materials such as asphalt and concrete. This project intends to limit impacts by preserving trees to the extent practicable, planting a new street tree for every tree removed from the project, and installing vegetated stormwater facilities to improve water quality. Reconstruction of the roadway base through full depth reclamation recycles the existing asphalt and base rock in place to create the new road base, eliminating the need to excavate and haul away the existing road, and import crushed rock for a new road. The new asphalt will be warm mix asphalt with a minimum 30% recycled content.

COORDINATION, CONCURRENCE, OR DISSENT

Managers from engineering, public works, planning, and finance reviewed and approved the project scope and budget.

STAFF RECOMMENDATION

Staff recommend that Council award the SAFE/SSMP FY21 Improvement project contract to Kerr Contractors Oregon LLC with a project budget authorization of $3,198,839.00.

ALTERNATIVES

Council could choose to:

1. Award the project as presented,
2. Reject all bids in the public interest and direct staff to revise and rebid the project during a more favorable period, or
3. Reject all bids in the public interest.

ATTACHMENTS

1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING A CONTRACT FOR CONSTRUCTION OF THE SAFE ACCESS FOR EVERYONE (SAFE)/STREET SURFACE MAINTENANCE PROGRAM (SSMP) FISCAL YER (FY) 2021 IMPROVEMENTS PROJECT (CIP-2020-A12) TO KERR CONTRACTORS OREGON LLC.

WHEREAS the city's fiscal year 2021-2026 Capital Improvement Plan identified the Safe Access for Everyone (SAFE)/Street Surface Maintenance Program (SSMP) FY21 Improvements project as priorities to improve pavement infrastructure, sanitary sewer infrastructure, and pedestrian access facilities; and

WHEREAS resources to construct these improvements were identified within the city's 2021-2022 biennium budget; and

WHEREAS a formal competitive bid process following Public Contracting Rule 40 was completed; and

WHEREAS Kerr Contractors Oregon LLC was the lowest responsive and responsible bidder.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to execute a contract with Kerr Contractors Oregon LLC for construction of the SAFE/SSMP FY21 Improvements project, to waive any irregularities, and the city engineer or assistant city engineer is authorized to administer the project in accordance with the project specifications with a project authorization of $3,198,839.00.

Introduced and adopted by the City Council on **January 18, 2022.**

This resolution is effective immediately

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CITY OF MILWAUKIE

RS 6. F. 1/18/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 3, 2022

Reviewed: Jennifer Lee (as to form), Administrative Specialist II

From: Peter Passarelli, Public Works Director, and
Adam Moore, Parks Development Coordinator

Subject: **Coronavirus State Fiscal Recovery Fund Grant Agreement #8102**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a grant agreement with the state to receive Coronavirus State Fiscal Recovery Fund dollars for park community engagement, design, and development services at Balfour, Bowman-Brae, and Scott Parks.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Balfour & Bowman-Brae Parks

- August 11, 2015: The Planning Commission recommended adoption by Council of the park master plans for Balfour, Bowman-Brae, and Robert Kronberg parks.
- October 20, 2015: Following a public hearing, the park master plans were adopted by Council but were not implemented due to lack of funding.

Scott Park

- November 6, 1990: Council adopted the Scott Park Master Plan, which has not been fully implemented.
- May 1, 2018: Council repealed the Scott Park Master Plan after a public hearing. Repeal of the plan was recommended by the Planning Commission after a separate public hearing.

Park Development Project

- September 14, 2021: The park development project was presented by staff and discussed by Council during a study session.
- January 4, 2022: The park development project was presented by staff and discussed by Council during a study session.

ANALYSIS

Project History

The State of Oregon Department of Administrative Services (DAS) awarded Milwaukie Coronavirus State Fiscal Recovery Funding (CSFRF) to complete the design and construction of the city's remaining neighborhood parks. This will include the refinement of existing plans for Balfour and Bowman-Brae parks, and the creation of a new master plan for Scott Park. Awarded funding totaled $2,250,000 with an anticipated allocation of $1,000,000 for Balfour, $700,000 for Bowman-Brae, and $550,000 for Scott. Scott Park was also allocated $60,000 in city

general fund dollars. This project is primarily paid for with Federal American Recovery Plan Act (ARPA) funds received through Oregon's CSFRF. Funding for Balfour Park was provided through Oregon House Bill (HB) 5006, which designated funds for use in Oregon House of Representatives District 41 as requested by Representative Karin Power. Funding for Scott & Bowman-Brae Parks was included in HB 5006 for use in Oregon Senate District 21 as requested by Senator Kathleen Taylor.

Staff received the grant agreement on December 22, 2021, and due to the size of the grant, will need Council authorization to execute the agreement. The grant agreement sets a completion deadline of June 30, 2024, and an expiration date of October 1, 2024. This deadline will require an expedited community engagement process. Staff are currently working with the identified project consultants to develop a project timeline to fit these grant deadlines. Due to the limited information available prior to receiving the grant agreement, staff believed that construction of the project could continue into the fall of 2024 and that December 2024 was an obligation deadline, not a reporting deadline. After a follow up discussion with Representative Power and DAS, DAS has confirmed that they are willing to work with ARPA grant recipients on a case-by-case basis to amend grant agreements and the deadline to expend funds if necessary.

In 2020, Council adopted a new goal focusing on equity, inclusion, and justice. The city has spent a significant amount of time this year honing our outreach efforts to assure engagement with the Black, Indigenous, and People of Color (BIPOC) community. The city will be working with the newly created Equity Steering Committee (ESC) and the BIPOC community throughout the design process to assure these voices and the voices of our changing community are heard prior to development.

CLIMATE IMPACTS

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and sidewalks to existing city parkland. New park amenities have the potential to limit automotive trips as residents living in the Ardenwald, Lake Road, and Historic Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help with meeting the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products whenever possible.

BUDGET IMPACTS

This project is primarily paid for with ARPA funds received through the state. Staff will work on a budget amendment to account for any revenue and expenses in the current fiscal year. All project expenses since March 2020 will be eligible for reimbursement.

WORKLOAD IMPACTS

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. A full-time parks development coordinator has been hired that will act as project manager and oversee the project consulting team. Under the direction of the public works director, the parks development coordinator will collaborate with North Clackamas Parks and Recreation District (NCPRD) staff, and staff in the city manager's office and the planning and engineering departments. In addition to Council, other public boards and commissions, such as the ESC, the city's Park and Recreation Board (PARB), and the Planning Commission will all be engaged, particularly as park master plans are created and refined. NCPRD's District Advisory Committee) and the Clackamas County Board of County Commissioners, which acts as the NCPRD Board, will also be informed of the city's progress on the project. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

COORDINATION, CONCURRENCE, OR DISSENT

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public. Continued partnership with NCPRD and Clackamas County will be sought to help ensure successful completion of this important project.

STAFF RECOMMENDATION

Staff recommends that Council adopt a resolution authorizing the city manager to sign the grant agreement with the state for CSFRF funding.

ALTERNATIVES

None.

ATTACHMENTS

1. Resolution
2. Grant Agreement with DAS

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A GRANT AGREEMENT WITH THE OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES FOR COMMUNITY ENGAGEMENT, DESIGN, AND DEVELOPMENT SERVICES FOR BALFOUR, BOWMAN-BRAE, AND SCOTT PARKS.

WHEREAS the City Council has prioritized the development of Milwaukie's undeveloped parks; and

WHEREAS the identified park development projects meet Coronavirus State Fiscal Recovery Fund Grant requirements; and

WHEREAS the City of Milwaukie was provided funding through Oregon House Bill (HB) 5006 for community engagement, design, and development services for Balfour Park, Bowman-Brae Park, and Scott Park.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee is authorized to sign a grant agreement with the State of Oregon Department of Administrative Services to accept funds for community engagement, design, and development services for Balfour Park, Bowman-Brae Park, and Scott Park.

Introduced and adopted by the City Council on **January 18, 2022**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CORONAVIRUS STATE FISCAL RECOVERY FUND
GRANT AGREEMENT

Contract Number: 8102

This grant agreement ("Contract"), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Oregon Department of Administrative Services ("DAS"), and City of Milwaukie ("Recipient"). This Contract becomes effective only when fully signed and approved as required by applicable law ("Effective Date"). Unless extended or terminated earlier in accordance with its terms, this Contract shall expire **October 1, 2024**.

This Contract includes Exhibit A - Contact Information, Use of Funds/Project Description and Reporting Requirements, Exhibit B - Insurance Requirements and Exhibit C - Federal Award Identification.

Pursuant to Oregon Laws 2021, chapter 669, section 74, DAS is authorized to distribute grant funds from funds received by the State of Oregon under the federal American Rescue Plan Act Coronavirus State Fiscal Recovery Fund (codified as 42 U.S.C. 802) for the purpose of the City of Milwaukie Neighborhood Park Development as more particularly described in Exhibit A.

SECTION 1 - KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Grant Amount: $2,250,000.00.

Completion Deadline: June 30, 2024.

SECTION 2 - FINANCIAL ASSISTANCE

DAS shall provide Recipient, and Recipient shall accept from DAS, a grant (the "Grant") in an aggregate amount not to exceed the Grant Amount.

DAS's obligations are subject to the receipt of the following items, in form and substance satisfactory to DAS and its Counsel:

(1) This Contract duly signed by an authorized officer of Recipient; and

(2) Such other certificates, documents, opinions and information as DAS may reasonably require.

SECTION 3 - DISBURSEMENT

A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, DAS shall disburse the full Grant to Recipient.

B. Financing Availability. DAS's obligation to make, and Recipient's right to request disbursement under this Contract terminate on the Completion Deadline.

C. Conditions to Disbursements. DAS has no obligation to disburse Grant funds unless:

(1) DAS has sufficient funds currently available for this Contract; and

(2) DAS has received appropriations, limitations, allotments or other expenditure authority sufficient to allow DAS, in the exercise of its reasonable administrative discretion, to make payment, and notwithstanding anything in the Contract, occurrence of such contingency does not constitute a default.

SECTION 4 - USE OF GRANT

As more particularly described in Exhibit A, Recipient will use the Grant to City of Milwaukie Neighborhood Park Development (the "Project"). Recipient may only use Grant funds to cover Project costs incurred during the period beginning March 3, 2021, and ending on the Completion Deadline ("Eligible Costs"). Recipient must disburse the entire Grant Amount on Eligible Costs no later than the Completion Deadline.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to DAS as follows:

A. Organization and Authority.

(1) Recipient is a local government, as that term is defined in ORS 174.116, validly organized and existing under the laws of the State of Oregon.

(2) Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to execute and deliver this Contract and incur and perform its obligations under this Contract.

(3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.

(4) This Contract has been duly executed by Recipient, and when executed by DAS, is legal, valid and binding, and enforceable in accordance with their terms.

B. Compliance with Coronavirus State Fiscal Recovery Fund. Recipient will comply with the terms, conditions and requirements of the federal Coronavirus State Fiscal Recovery Fund (codified at 42 U.S.C. 802) from which the Grant is funded, including all implementing regulations (31 CFR 35.1 *et seq.*) and other guidance promulgated by the U.S. Department of the Treasury (collectively, the "CSFRF").

C. Full Disclosure. Recipient has disclosed in writing to DAS all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.

D. Pending Litigation. Recipient has disclosed in writing to DAS all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Grant or the ability of Recipient to perform all obligations required by this Contract.

SECTION 6 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

A. Notice of Adverse Change. Recipient shall promptly notify DAS of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Contract.

B. Compliance with Laws.

(1) Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.

(2) Recipient is responsible for all federal or state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant.

C. Federal Audit Requirements. The Grant is federal financial assistance, and the associated Assistance Listings number is 21.027. Recipient is a subrecipient.

(1) If Recipient receives federal funds in excess of $750,000 in Recipient's fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to DAS a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to DAS the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.

(2) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Recipient did not expend $750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.

(3) Recipient shall save, protect and hold harmless DAS from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.

(4) Recipient is authorized to use the Grant to pay itself for those administrative costs that are eligible costs under the CSFRF to implement the Project. DAS's approval of Recipient's administrative costs does not preclude the State of Oregon from later recovering costs from Recipient if the U.S. Department of the Treasury disallows certain costs after an audit.

D. System for Award Management. Recipient must comply with applicable requirements regarding the federal System for Award Management (SAM), currently accessible at https://www.sam.gov. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM.

E. Employee Whistleblower Protection. Recipient must comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Recipient must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

F. Compliance with 2 CFR Part 200. Recipient must comply with all applicable provision of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including the Cost Principles and Single Audit Act requirements.

G. Federal Funds. DAS's payments to Recipient under this Grant will be paid by funds received by DAS from the United States Federal Government. Recipient, by signing this Grant certifies neither it nor its employees, contractors, subcontractors or subrecipients who will administer this Contract are currently employed by an agency or department of the federal government.

H. Insurance. Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers, insuring against liability, in the coverages and amounts described in Exhibit B.

I. Return of Undisbursed Grant Funds. Recipient must return to DAS any Grant funds not disbursed by the Completion Deadline.

J. Financial Records. Recipient will cooperate with DAS to provide all necessary financial information and records to comply with CSFRF reporting requirements, as well as provide DAS the reporting required in Exhibit A. Recipient will keep proper books of account and records on all activities associated with the Grant, including, but not limited to, invoices, cancelled checks, payroll records, instruments, agreements and other supporting financial records documenting the use of the Grant. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records until five years after the Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved, whichever is later.

K. Inspection. Recipient shall permit DAS, and any party designated by DAS, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the administration of this Contract. Recipient shall supply any Contract-related information as DAS may reasonably require.

L. Notice of Event of Default. Recipient shall give DAS prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.

M. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless DAS and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors, that is related to this Contract; however, the provisions of this section are not to be construed as a waiver by DAS of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.

N. Representations and Covenants Regarding Prevailing Wage.

(1) The prevailing wage rate requirements that may apply to the Project are set forth in ORS 279C.800 through 279C.870, the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) and Oregon Laws 2021, chapter 678, section 17 (collectively, state "PWR"), or, if applicable, 40 U.S.C. 3141 et seq. (federal "Davis-Bacon Act"). If applicable, Recipient shall:

a) comply with PWR, require its contractors and subcontractors to pay the applicable PWR or Davis-Bacon Act rates, as applicable, and to comply with all other Oregon Bureau of Labor and Industries ("BOLI") requirements pursuant to the PWR, including on all contracts and subcontracts and in filing separate public works bonds with the Construction Contractors Board;

b) pay to BOLI, within the required timeframe and in the appropriate amount, the project fee required by OAR 839-025-0200 to 839-025-0230, including any additional fee that may be owed upon completion of the Project; and

c) unless exempt under Section 17(2) of Oregon Laws 2021, chapter 678, if Recipient is a "public body" and the Project is a "qualified project," as those terms are defined in Section 17(3) of Oregon Laws 2021, chapter 678, Recipient shall require each contactor in a contract with an estimated cost of $200,000 or greater to:

i. Enter into a project labor agreement that, at a minimum, provides for payment of wages at or above the prevailing rate of wage;

ii. Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the contract, in a manner consistent with the apprentices' respective apprenticeship training programs;

iii. Establish and execute a plan for outreach, recruitment and retention of women, minority individuals and veterans to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups; and

iv. Require any subcontractor engaged by the contractor to abide by the requirements set forth in subparagraphs (i), (ii) and (iii) above, if the work to be performed under the subcontract has an estimated cost of $200,000 or greater.

(2) Recipient represents and warrants that it is not on the BOLI current List of Contractors Ineligible to Receive Public Works Contracts and that it will not contract with any contractor on this list.

(3) Pursuant to ORS 279C.817, Recipient may request that the Commissioner of BOLI make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840.

SECTION 7 - DEFAULT

A. Recipient Default. Any of the following constitutes an "Event of Default" of Recipient:

(1) Misleading Statement. Any materially false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant.

(2) Failure to Perform. Recipient fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract, other than those referred to in subsection A of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by DAS. DAS may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

B. DAS Default. DAS will be in default under this Contract if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract.

SECTION 8 - REMEDIES

A. DAS Remedies. Upon the occurrence of an Event of Default, DAS may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of DAS's obligations to make the Grant or further disbursements, return of all or a portion of the Grant Amount, payment of interest earned on the Grant Amount, and declaration of ineligibility for the receipt of future awards from DAS. If, as a result of an Event of Default, DAS demands return of all or a portion of the Grant Amount or payment of interest earned on the Grant Amount, Recipient shall pay the amount upon DAS's demand. DAS may also recover all or a portion of any amount due from Recipient by deducting that amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. DAS reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.

B. Recipient Remedies. In the event of default by DAS, Recipient's sole remedy will be for disbursement of Grant funds for Eligible Costs of the Project, not to exceed the total Grant Amount, less any claims DAS has against Recipient.

SECTION 9 - TERMINATION

In addition to terminating this Contract upon an Event of Default as provided in Section 8, DAS may terminate this Contract with notice to Recipient under any of the following circumstances:

A. If DAS anticipates a shortfall in applicable revenues or DAS fails to receive sufficient funding, appropriations or other expenditure authorizations to allow DAS, in its reasonable discretion, to continue making payments under this Contract.

B. There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

A. No Implied Waiver. No failure or delay on the part of DAS to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

B. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or DAS at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.

E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.

F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of DAS, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of DAS.

G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

H. Integration. This Contract (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

I. No Third-Party Beneficiaries. DAS and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

J. Survival. The following provisions, including this one, survive expiration or termination of this Contract: Sections 6 (excepting 6.H, Insurance), 7, 8, 10.B, 10.C, 10.L and 10.M.

K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.

L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to DAS by its attorneys.

M. Public Records. DAS's obligations under this Contract are subject to the Oregon Public Records Laws.

Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

STATE OF OREGON
acting by and through its
Department of Administrative Services

By: _____
DAS Authorized Representative

George Naughton
DAS Chief Financial Officer

Date: _____

CITY OF MILWAUKIE

By: _____
Authorized Representative Signature

_____
Authorized Representative Name and Title

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

s/ Samuel B. Zeigler 12/16/2021
Samuel B. Zeigler, Senior Assistant Attorney General

EXHIBIT A
CONTACT INFORMATION, USE OF FUNDS/ PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Contact Information:

DAS	**Recipient**
State of Oregon, acting by and through its Department of Administrative Services 155 Cottage St. NE Salem, OR 97301-3966	City of Milwaukie 10722 SE Main St. Milwaukie, OR 97222
Contract Administrator: Stephanie Tyrer	**Contact:** Peter Passarelli
Telephone: 971-374-3308	**Telephone:** 503-786-7614
Email: statefiscal.recoveryfund@das.oregon.gov	**Email:** passarellip@milwaukieoregon.gov

Use of Funds/ Project Description:

Recipient shall complete the design and construction of the City's remaining neighborhood parks including design refinement and construction of Balfour Park and Bowman Brea Park, and completion of Scott Park Master Plan. For all three locations, the Recipient shall hire project consultants, engage with the community, revise existing master plans, and implement the new master plans through hiring of contractors to purchase and construct the park improvements.

Reporting Requirements:

Schedule

Report Name	Frequency	Due Dates
Project Performance Plan	One-Time	January 15, 2022
Quarterly Report	Quarterly	April 15th, July 15th, October 15th, January 15th
Annual Report	Annually	January 15, 2022; July 15th annually thereafter

Project Performance Plan

Recipient shall submit to DAS, using a template and instructions provided by DAS, the following information in the Project Performance Plan:

1. Problem Statement
2. Goal
3. Rationales
4. Assumptions
5. Resources
6. Activities
7. Outputs

8. Short-Term Outcomes
9. Intermediate Outcomes
10. Long-Term Outcomes

Quarterly Reports

Recipient shall submit Quarterly Reports to DAS which shall include such information as is necessary for DAS to comply with the reporting requirements established by 42 U.S.C. 802, guidance issued by the U.S. Treasury, and 2 CFR Part 200 (known as the "Super Circular"). The reports shall be submitted using a template provided by DAS that includes the following information:

1. Expenditure Report
    a) Quarterly Obligation Amount
    b) Quarterly Expenditure Amount
    c) Projects
    d) Primary Location of Project Performance
    e) Detailed Expenditures (categories to be provided by DAS)
2. Project Status Update
    a) Status of project: not started, completed less than 50 percent, completed 50 percent or more, completed.
    b) Progress since last update including project outputs and achieved outcomes.
    c) Identify barriers/risks to outcomes and describe actions taken to mitigate delays/risks to the overall project goal.
    d) Optional: Share with DAS community outreach/engagement or other positive local news stories.

Annual Reports

Recipient shall submit to DAS a report annually on the following, as applicable, using a template provided by DAS:

1. How the Project is Promoting Equitable Outcomes, if applicable
2. How the Project is Engaging with the Community, if applicable

Administrative Costs

Recipient shall also deliver to DAS no later than July 15, 2024, an accounting of all of its direct administrative costs paid by this Grant accompanied by a certification statement that all such costs comply with the CSFRF. Grant funds may not be used to pay for any costs incurred after the Completion Deadline. For any unexpended Grant funds that were allocated for administrative costs as provided in the not-to-exceed amount above, DAS will direct Recipient on how to return or expend any such funds.

EXHIBIT B – INSURANCE REQUIREMENTS

Recipient shall obtain at Recipient's expense the insurance specified in this Exhibit B before performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Recipient shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Recipient shall pay for all deductibles, self-insured retention and self-insurance, if any. Recipient shall require and ensure that each of its subcontractors complies with these requirements and maintains insurance policies with responsible insurers, insuring against liability, in the coverages and amounts identified below.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY
All employers, including Recipient, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements. If Recipient is a subject employer, as defined in ORS 656.023, Recipient shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If Recipient is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Recipient shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than $5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

COMMERCIAL GENERAL LIABILITY:
☒ **Required** ☐ **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit shall not be less than $2,000,000.

AUTOMOBILE LIABILITY INSURANCE:
☒ **Required** ☐ **Not required**

Automobile Liability Insurance covering Recipient's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

A. Automobile Liability Broadened Pollution Liability Coverage Endorsement
If Recipient is transporting any type of **hazardous materials** to implement the Project, then endorsements CA 99 48 or equivalent and MSC-90 (if Recipient is a regulated motor carrier) are required on the Automobile Liability insurance coverage.

PROFESSIONAL LIABILITY:
☒ **Required** ☐ **Not required**

Professional Liability covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by Recipient and Recipient's subcontractors, agents, officers or employees in an amount not less than $1,000,000 per claim. Annual aggregate limit shall not be less than $2,000,000. If coverage is on a claims-made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or Recipient shall provide continuous claims made coverage as stated below.

POLLUTION LIABILITY:
☒ **Required** ☐ **Not required**

Pollution Liability Insurance covering Recipient's or appropriate subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Recipient, all arising out of the Project (including transportation risk) performed under this Contract is required. Combined single limit per occurrence shall not be less than $1,000,000. Annual aggregate limit shall not be less than $2,000,000.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Recipient's or subcontractor' liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by Recipient that arise from the Project (including transportation risk) performed by Recipient under this Contract is also acceptable.

EXCESS/UMBRELLA INSURANCE:
Umbrella insurance coverage in the sum of $2,000,000 shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, and Employers' Liability coverage. The amounts of insurance for the insurance required under this Contract, including this Excess/Umbrella insurance requirement, may be met by the Contractor obtaining coverage for the limits specified under each type of required insurance or by any combination of underlying, excess and umbrella limits so long as the total amount of insurance is not less than the limits specified for each type of required insurance added to the limit for this excess/umbrella insurance requirement.

ADDITIONAL INSURED:
All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Recipient's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:
Recipient shall waive rights of subrogation which Recipient or any insurer of Recipient may acquire against the DAS or State of Oregon by virtue of the payment of any loss. Recipient will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the DAS has received a waiver of subrogation endorsement from Recipient or Recipient's insurer(s).

CONTINUOUS CLAIMS MADE COVERAGE:
If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Recipient shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Grant Agreement, for a minimum of 24 months following the later of:

(i) Recipient ’s completion and DAS’s acceptance of all Services required under the Contract, or
(i) DAS or Recipient termination of this Contract, or
(ii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:
Upon request, Recipient shall provide to DAS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance DAS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:
Recipient or its insurer must provide at least 30 days’ written notice to DAS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:
Recipient agrees to periodic review of insurance requirements by DAS under this Contract and to provide updated requirements as mutually agreed upon by Recipient and DAS.

STATE ACCEPTANCE:
All insurance providers are subject to DAS acceptance. If requested by DAS, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to DAS’s representatives responsible for verification of the insurance coverages required under this Exhibit B.

EXHIBIT C
FEDERAL AWARD IDENTIFICATION
(REQUIRED BY 2 CFR 200.332(A)(1))

(i)	Subrecipient* Name: *(must match name associated with UEI)*	City of Milwaukie
(ii)	Subrecipient's Unique Entity Identifier (UEI):	002005155 (DUNS)
(iii)	Federal Award Identification Number (FAIN):	SLFRP4454
(iv)	Federal award date: *(date of award to DAS by federal agency)*	July 23, 2021
(v)	Grant period of performance start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vi)	Grant budget period start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vii)	Amount of federal funds obligated by this Grant:	$2,250,000.00
(viii)	Total amount of federal funds obligated to Subrecipient by pass-through entity, including this Grant:	$
(ix)	Total amount of the federal award committed to Subrecipient by pass-through entity**: *(amount of federal funds from this FAIN committed to Recipient)*	$2,250,000.00
(x)	Federal award project description:	Coronavirus State Fiscal Recovery Fund
(xi)	a. Federal awarding agency:	U.S. Department of the Treasury
	b. Name of pass-through entity:	Oregon Department of Administrative Services
	c. Contact information for awarding official of pass-through entity:	Stephanie Tyrer, COVID Fiscal Relief Mgr. statefiscal.recoveryfund@das.oregon.gov
(xii)	Assistance listings number, title and amount:	Number: 21.027 Title: Coronavirus State and Local Fiscal Recovery Funds Amount: $2,648,024,988.20
(xiii)	Is award research and development?	Yes ☐ No ☒
(xiv)	a. Indirect cost rate for the federal award:	
	b. Is the 10% de minimis rate being used per 2 CFR § 200.414?	Yes ☒ No ☐

* For the purposes of this Exhibit C, "Subrecipient" refers to Recipient and "pass-through entity" refers to DAS.

** The total amount of federal funds obligated to the Subrecipient by the pass-through entity is the total amount of federal funds obligated to the Subrecipient by the pass-through entity during the current state fiscal year.

CITY OF MILWAUKIE

RS 6. G. 1/18/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 11, 2021

Reviewed: Kelly Brooks, Assistant City Manger

From: Jennifer Garbely, Assistant City Engineer, and
Beth Britell, Civil Engineer

Subject: **On-Call Public Information and Engagement Services**

ACTION REQUESTED

Council is asked to adopt a resolution with a corrected contract amount authorizing the city manager to sign a contract with JLA Public Involvement (JLA) for on-call public information and engagement services.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

August 21, 2018: Council adopted Resolution 69-2018 awarding the contract for the Safe Access for Everyone (SAFE) program public information and engagement to JLA at cost of $193,683. JLA supported public engagement during the design and construction of the following SAFE projects: Sellwood Street, Ardenwald Elementary School, 22nd Avenue and River Road, Kronberg Park Multi-Use Trail, Linwood Avenue, 43rd and 42nd Avenues, and Home Avenue. The six-month contract extension with JLA expires December 30, 2021.

January 4, 2022: Council adopted Resolution 4-2022 approving a contract with JLA with an incorrect contract amount noted.

ANALYSIS

Capital Improvement Plan (CIP) projects that do not include SAFE funding also have the potential for significant impacts to pedestrians, bicyclists and drivers and may require resources that are beyond the capacity of current city staff. The city's Public Engagement Guide indicates that consultant public information and engagement support may be needed for projects or programs with budgets that exceed $100,000, projects or programs that require extensive public outreach both in person and digitally for more than one year, and projects that require the expansion of right-of-way onto private property. All engineering department led projects in the 2021-2026 CIP meet at least one of the criteria listed above.

The services to be provided would be on an on-call, as-needed basis. Individual task orders will be issued upon written approval by the city and consultant engineer prior to delivering services. Each task order will include work limits, scope, timeline, and fee to complete.

Staff completed a request for qualifications (RFQ) process under Chapter 70 of the city's Public Contracting Rule. Four proposals were received by the solicitation deadline and are summarized below:

	CONSULANT	TOTAL (MAX 500 PTS)	RANKING
1	JLA Public Involvement	447	1
2	Barney & Worth	428	2
3	EnviroIssues	411	3
4	Goodsides LLC	244	4

The contract resulting from this RFQ will begin in 2022 for a period of five years.

On January 4 Council approved a resolution authorizing a contract with JLA for the noted services, however the resolution listed an incorrect contract amount of $350,000. To correct this error, staff asks that Council approve a new resolution with the correct contract amount of $250,000 listed.

BUDGET IMPACT
This contract is funded by the individual project budgets included in the fiscal year (FY) 2021-22 budget and in 2021–2026 CIP.

WORKLOAD IMPACT
Additional time from the engineering team is required to oversee the on-call contract but provides additional resources to the staff.

CLIMATE IMPACT
Some additional climate impact should be expected due to longer driving distances for consultant staff.

COORDINATION, CONCURRENCE, OR DISSENT
Managers from engineering and finance reviewed and approved the project scope and budget.

STAFF RECOMMENDATION
Staff recommends that Council award the on-call public information and engagement services contract to JLA Public Involvement with a project budget authorization of $250,000.

ALTERNATIVES
Council could choose to:

1. Award the project as presented,
2. Reject all bids in the public interest and direct staff to revise and rebid the project during a more favorable period, or
3. Reject all bids in the public interest.

ATTACHMENTS
1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING THE AWARD OF A CONTRACT FOR ON-CALL PUBLIC INFORMATION AND ENGAGEMENT SERVICES.

WHEREAS staff established the need for a robust public information and engagement in development and construction of the city's fiscal year (FY) 2021-2026 Capital Improvement Plan (CIP) identified construction projects; and

WHEREAS City Council Goal 2: Equity, Justice, and Inclusion identifies supporting the implementation of policies, procedures, and practices that will lead to a city that is more responsive to, more trusted by, and more reflective of the community we serve; and

WHEREAS to help city staff ensure that city CIP projects are responsive, trusted, and reflective of the community, a procurement process was undertaken to select a vendor that can provide public engagement activities for CIP projects; and

WHEREAS a procurement process was undertaken that resulted in the staff recommendation that a contract with JLA Public Involvement be executed for public engagement activities related to CIP projects; and

WHEREAS Council previously approved a resolution approving the proposed contract for an incorrect contract amount and therefore needs to adopt a new resolution with the correct contract amount.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to execute a contract with JLA Public Involvement for $250,000 and for on-call public information and engagement services, and the city engineer or designee is authorized to administer the project in accordance with the project specifications, and Resolution 4-2022, adopted on January 4, 2022, is rescinded.

Introduced and adopted by the City Council on **January 18, 2022.**

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

RS Agenda Item 7

Business Items

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE CITY MANAGER TO BEGIN THE PROCESS TO REACH OUR GOAL OF BEING NET ZERO BUILDING ENERGY BY 2035.

WHEREAS climate change is an existential crisis, posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds all other crises facing humanity and our earth; and

WHEREAS the 11th United Nations Intergovernmental Panel on Climate Change ("IPCC") report from October 2018 states that we must cut greenhouse gas emissions in half by 2030 to limit devastating global warming and avoid a climate catastrophe; and

WHEREAS the United States and other leading economies recently agreed to the Global Methane Pledge to reduce Methane emissions 30 percent by 2030; and

WHEREAS the Milwaukie City Council has prioritized Climate Action as one of its two goals; and

WHEREAS the Milwaukie Climate Action Plan (CAP) requires the city to achieve Net Zero Building Energy by 2035; and

WHEREAS action regarding natural gas will be the biggest piece of that goal; and

WHEREAS other cities in the Pacific Northwest are beginning to tackle this issue and there is strength in numbers; and

WHEREAS thirteen years is a short timeline given all the work and investment required to meet this goal.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city attorney is directed to coordinate with other cities engaged in this effort and then schedule work sessions to discuss a path forward to make changes to the city code that would require all newly constructed residential, commercial, and industrial buildings to be electric only by February 5, 2024.

And be it Further Resolved that the Milwaukie City Council will amend its CAP to provide a roadmap for how the city can achieve decarbonization of existing residential, commercial, and industrial buildings by 2035 with consideration for how low income and historically marginalized households will be impacted, including strategies for existing rental housing stock.

And be it Further Resolved that the City Council directs the city manager to ensure that all newly constructed city-owned buildings and major renovations of existing city buildings that receive $50,000 or more of city funding are all electric becoming effective July 2022.

Introduced and adopted by the City Council on **January 18, 2022**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

Re: Written Testimony for **Agenda 7 B, Natural Gas Ban Resolution** and Agenda 8 A, Regular Session, January 18, 2021

Hello: Mayor Gamba, Council President Hyzy, and Councilors Batey, Nicodemus, Falconer; City Manager Ober and Natural Resources Manager Rogers

Please do not pass this Natural Gas Ban resolution, taking away a critical means of heating homes.

On March 8th, 2021, Mayor Gamba wrote me an e-mail in which he says at one point:

"I'm working with NWN to move towards green hydrogen, so we are not stopping natural gas infrastructure installation in new construction like other cities are doing."

I include this e-mail written to me (on the second page here-in).

This e-mail from the Mayor is prompted by written testimony I had submitted to Council after the City of Milwaukie like much of Clackamas experiences an Ice Storm knocking out power to many Milwaukie Homes, last February 2021. I wrote that maintaining **fuel diversity is of utmost importance, as without energy for space heating people can literally freeze to death and pipes freeze.**

The importance of fuel diversity for energy reliability is showing up most impactful in western Europe in the last year as western Europe experiences shortages of power and now the European Commission is considering qualifying conventional natural gas fuel power generation as part of meeting climate goals (New York Times, January 22, 2022).

Natural gas "fireplace" inserts (battery back-up ignition) were very helpful for keeping several of my neighbors warm in last February's Ice and snowstorm when their power is out. Natural gas is cleaner burning than wood in a wood stove, and the latter can cause serious particulate pollution when Milwaukie has inversions and air stagnates outdoors.

The operating cost of natural gas space heating is as much as 50% lower than the cost of electric resistance furnace space heating. The installation cost of natural gas furnaces is more than that of electric furnaces, but the payback for the lower operating cost natural gas furnaces is 5 years or less.

This resolution does not provide clarity as to whether natural gas stove top cooking and natural gas fireplace inserts are to be banned in new construction and dissuaded in existing homes after the year 2035.

I believe this Resolution is potentially very costly to Milwaukie Residents, and reflective not of free choice but socialistic planning. Even now, the oil and natural gas industries are researching ways to separate hydrogen from oil in oilfields, leaving in ground CO 2 and other greenhouse gases while drawing out hydrogen fuel. Prescribing one method only for obtaining perceived environmental benefits – like this Resolution intends – squashes innovative ways to achieve the intended environmental benefits while unnecessarily increasing the costs of operating a home and compromising peoples' ability to survive electric power blackouts. Additionally, it will leave Milwaukie families dependent on one utility (PGE) instead of two competing utilities (PGE & Northwest Natural) for home energy services.

p.s I have no financial interest in natural gas utilities, but just am wanting to have continued availability to the low cost of natural gas for heating my home.

Sincerely,
Elvis Clark
Ardenwald neighborhood
Milwaukie 97222

E-Mail full text from Mayor Gamba to me:

On Monday**, March 8, 2021, 10:18:54 AM PST, Mark Gamba <gambam@milwaukieoregon.gov> wrote**:

"Hi Elvis, you keep talking about walking and biking infrastructure as something we should focus on instead of other climate work. You must not be familiar with the SAFE program. Milwaukie is in the third year of major bike ped infrastructure investments that will take place over 9 years or so. When we are done with that project list, we will have the most bikeable and walkable city in Oregon. So - for all intents and purposes - what you are asking for is done at the council level.

I'm working with NWN to move towards green hydrogen, so we are not stopping natural gas infrastructure installation in new construction like other cities are doing. Taking the cities funds out of fossil fuel stocks has nothing to do with whether homes in Milwaukie will have another energy source. By the way, lots of people with NG furnaces were cold during the power outage because the fans that push that heat out are electric. We need to harden the electric system for the coming storms, not move everything to NG which only works a little with no electricity.

I would think you would be more interested in the municipal bank concept that would save the city millions in interest rates on our infrastructure bonds and loans. "

Sincerely,
Mark Gamba
Mayor of Milwaukie
971-

_____

I now move onto Agenda 8 A

Agenda 8 A, Tree Code. I Oppose the 6 inch threshold as too narrow.

I continue to believe the 6 inch diameter (DBH) threshold should be raised to 12 inches, in the case of private property not planned for development. Enforcement of such a narrow threshold will be much more half-hazard, highly dependent on uncordial neighbors turning on each other ("ratting out your neighbor").

6 inch threshold like so much of our governance these days seems based on idealism rather than realism/practicality.

Scott Stauffer

From: Elvis Clark <eclarkmilwor@yahoo.com>
Sent: Tuesday, January 18, 2022 12:15 PM
To: Scott Stauffer
Subject: Re: written testimony submission for this Tuesday's (1/18/21) Regular Session of Milwaukie City Council

This Message originated outside your organization.

Hi, Scott.

I would like to add the following to my written testimony with this e-mail and as follows:

"Even if you believe in the most extreme climate outcome of the IPCC, based on hard wired assumption driven Climate Models I would add, as the Mayor is fixated on; It still makes little sense to ban natural gas in new construction.

Using Natural gas for home space heating is one of its most energy efficient uses, with new gas furnaces sporting energy efficiency ratings of 95%.

Oregon's electricity production per the Energy Information Administration is about one-third from natural gas burned in natural gas power plants with efficiencies between 33% and 50%.

This means that the electricity that would displace natural gas has an embedded efficiency of 1 minus the product of (1-0.33) *0.33; or a net electric efficiency of 78%. Or at the higher gas power plant efficiency the net electric efficiency is1 minus the product of (1-0.50) * 0.33; or 85% efficiency.

What I am saying is that the **Mayor's natural gas ban is likely to result in more natural gas related greenhouse emissions, not less.**

It will be difficult for the electric grid to get much below 20% sourced natural gas, as electric reliability requires natural gas power plant backup. The more efficient natural gas power plants are for around the clock type generation. Less efficient natural gas power plants are for just backing up the system, when the wind don't blow and when the sunlight is dimmed to night."

Sincerely,

Elvis Clark
Ardenwald neighborhood
retired Senior Economist for the Oregon Public Utility Commission
and retired Energy Economist for the Bonneville Power Administration

Sent from Yahoo Mail. Get the app

On Tuesday, January 18, 2022, 08:12:18 AM PST, Scott Stauffer <stauffers@milwaukieoregon.gov> wrote:

Good Morning Mr. Clark,

We have received your correspondence and have shared it with all of Council and staff; it will be included in the record of the January 18, 2022, City Council regular session meeting under both items you referenced.

If we may be of further assistance please let us know.

SCOTT STAUFFER, CMC

City Recorder

he • him • his

City of Milwaukie

p: 503.786.7502

From: Elvis Clark <eclarkmilwor@yahoo.com>
Sent: Sunday, January 16, 2022 11:07 AM
To: OCR <OCR@milwaukieoregon.gov>
Cc: Lisa Batey <BateyL@milwaukieoregon.gov>; Kathy Hyzy <HyzyK@milwaukieoregon.gov>; Desi Nicodemus <NicodemusD@milwaukieoregon.gov>; Angel Falconer <FalconerA@milwaukieoregon.gov>
Subject: written testimony submission for this Tuesday's (1/18/21) Regular Session of Milwaukie City Council

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Hello, Scott.

I submit for the record my written testimony, especially for Agenda item 7, natural gas ban resolution; for Council consideration.

Seeing how tomorrow is Martin Luther King holiday, I cc the Councilors here in hopes they read before the Tuesday Evening sessions.

Thank you,

Elvis Clark

Ardnewald Neighborhood

Sent from Yahoo Mail. Get the app

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Scott Stauffer

From: Elvis Clark <eclarkmilwor@yahoo.com>
Sent: Tuesday, January 18, 2022 1:29 PM
To: Scott Stauffer
Subject: Re: written testimony submission for this Tuesday's (1/18/21) Regular Session of Milwaukie City Council

This Message originated outside your organization.

Sorry, Scott.

But I have one more correction to my last e-mail.

"The Green House emissions embedded in the electricity displacing natural gas space heating is not too much different in total than that of natural gas used in home space heating.

Emissions are not really improved very much by banning natural gas space heating in new construction, as the electric grid is likely to retain a significant portion of natural gas generation, just for reliability purposes.

But energy efficiency in home space heating (per the calculations in the previous e-mail) is reduced by the proposed natural gas ban - most likely."

Elvis
Ardenwald

Sent from Yahoo Mail. Get the app

On Tuesday, January 18, 2022, 01:06:10 PM PST, Scott Stauffer <stauffers@milwaukieoregon.gov> wrote:

Hello Mr. Clark,

We've received your additional correspondence and will add it to you previously submitted comments with the January 18, 2022, City Council regular session meeting.

If we may be of further assistance please let us know.

SCOTT STAUFFER, CMC

City Recorder

he • him • his

City of Milwaukie

p: 503.786.7502

From: Elvis Clark <eclarkmilwor@yahoo.com>
Sent: Tuesday, January 18, 2022 12:15 PM
To: Scott Stauffer <StaufferS@milwaukieoregon.gov>
Subject: Re: written testimony submission for this Tuesday's (1/18/21) Regular Session of Milwaukie City Council

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Sincerely,

Elvis Clark

Ardenwald neighborhood

retired Senior Economist for the Oregon Public Utility Commission

and retired Energy Economist for the Bonneville Power Administration

Sent from Yahoo Mail. Get the app

On Tuesday, January 18, 2022, 08:12:18 AM PST, Scott Stauffer <stauffers@milwaukieoregon.gov> wrote:

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We have received your correspondence and have shared it with all of Council and staff; it will be included in the record of the January 18, 2022, City Council regular session meeting under both items you referenced.

If we may be of further assistance please let us know.

SCOTT STAUFFER, CMC

City Recorder

he • him • his

City of Milwaukie

p: 503.786.7502

From: Elvis Clark <eclarkmilwor@yahoo.com>
Sent: Sunday, January 16, 2022 11:07 AM
To: OCR <OCR@milwaukieoregon.gov>
Cc: Lisa Batey <BateyL@milwaukieoregon.gov>; Kathy Hyzy <HyzyK@milwaukieoregon.gov>; Desi Nicodemus <NicodemusD@milwaukieoregon.gov>; Angel Falconer <FalconerA@milwaukieoregon.gov>
Subject: written testimony submission for this Tuesday's (1/18/21) Regular Session of Milwaukie City Council

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Hello, Scott.

I submit for the record my written testimony, especially for Agenda item 7, natural gas ban resolution; for Council consideration.

Seeing how tomorrow is Martin Luther King holiday, I cc the Councilors here in hopes they read before the Tuesday Evening sessions.

Thank you,

Elvis Clark

Ardnewald Neighborhood

Sent from Yahoo Mail. Get the app

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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**.

Scott Stauffer

From: Mark Gamba
Sent: Monday, January 17, 2022 10:02 AM
To: Nathan Stokes
Cc: _City Council
Subject: Re: Concerned Operating Engineers

Great note Nate, I'd love to sit down with you soon and talk about a lot of what you have communicated. I've cc'd the whole council so that this becomes part of testimony on Tuesday. At this point I've decided against trying to move this resolution at this meeting, and am instead, introducing it to begin the very conversations you reference. I agree with many of your points and look for trustworthy partners like you to help, as we consider future energy needs for our community and society at large.

Please let me know some times when you would be available for a conversation.

Thank you.

Sincerely,
Mark Gamba
Mayor of Milwaukie
971-404-5274

Working to make Milwaukie entirely equitable, delightfully livable, and completely sustainable.

From: Nathan Stokes <nathan@IUOE701.com>
Sent: Monday, January 17, 2022 8:57 AM
To: Mark Gamba <GambaM@milwaukieoregon.gov>
Subject: Concerned Operating Engineers

Mayor Gamba,

My name is Nate Stokes and I'm the Assistant Business Manager for the Operating Engineers Local 701. I don't know if you recall, but we worked together on the Metro Transportation Funding Task Force back in 2019 to ensure that the proposed transportation bond properly addressed and met local needs, especially regarding the climate. I was proud of the work that we accomplished in that group, and was frequently surprised at how well we were able to bring different perspectives and groups together to solve a common problem. I hope that we can work together again on the climate and jobs issues facing our community now, and that you carefully read and consider my comments below, as you did on the taskforce. I'm not sure if I will have the opportunity to speak on Tuesday, so I wanted to send my thoughts as soon as possible.

We understand you will be considering a resolution tonight that has some concerning language and ideas in it—and on behalf of our members**, I'm encouraging you to pause to do more work before adopting the resolution entitled:** "A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE CITY MANAGER TO BEGIN THE PROCESS TO REACH OUR GOAL OF BEING NET ZERO BUILDING ENERGY BY 2035."

As a reminder, an Operating Engineer is a person who helps build, dig, burry, hoist, and move just about anything on wind farms to solar farms—and, we are working on some of the biggest pumped water projects in the region. While we help develop renewables on the electric side, we also dig the trenches and help place the pipe in the ground for anything that moves through it, including new renewables in the gas system-like RNG and in the coming years, renewable hydrogen.

- It's exciting to think that as of this year in Oregon—renewables are flowing both in the electric system and the gas system. We are a leader in the nation.

So, when you think about renewables, I encourage you not to think about them in the abstract but instead, consider the hands and minds of the people who are actually delivering on that renewable future in their daily work.

We have been hearing misinformation throughout our region encouraging elected officials to stifle innovation in renewables across all energy systems. The language in this resolution that assumes that going "electric only" is the best (or even a viable) way to decarbonize our buildings is yet another example. Electrification does not equal decarbonization.

- From our perspective, Oregon can be a hotbed of innovation because of a willingness to collaborate and *test* new ideas—not suppress them.
- We are all at the forefront of the carbon transition – Each day, our Members are preparing for unprecedented innovation in the renewables sector—in fact, new technology and evolution of existing technology is the rule, not the exception.
- **Our Members believe in *resiliency-based* carbon reduction**—where all forms of renewable energy are needed for a balanced, low-carbon future. Because like my grandpa told me "too much of one thing isn't good, Nate" or "don't put all your eggs in one basket, Nate". That's why we appreciate when elected officials and others take on acknowledging and examining the complexity of the energy transition we collectively need to do alongside us:
    - First, we recommend that the Council take more time for community and stakeholder input as there has been no public process around a major policy decision like forcing future homes and businesses in Milwaukie to rely on a singular energy system.
    - We recommend that that the City and the Council underscore for future work on carbon reductions that reliability, resiliency, and cost are examined as key factor in thinking through the carbon transition with regard to buildings.
    - We recommend that language around "electric only" and "all electric" be removed from this resolution or any future resolution and instead language around "net-zero", "fossil-free" and "renewables" be explored.
- In addition to rigorous analysis, as you continue to deliberate on the City's climate action plan work ahead, we encourage you to put technological and human innovation at the forefront of the next steps in your decision making too.

Finally, we encourage partnership. Our Union and our members are part of an all-hands-on-deck approach to the carbon transition—Thank you for considering our perspective.

Thank You in Solidarity,

Nate Stokes
Assistant Business Manager

555 E First St
Gladstone OR 97027
Office (503) 650-7701
Cell (503)724-8147
"Have a Safe Day"

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Scott Stauffer

From: Mark Gamba
Sent: Monday, January 17, 2022 10:07 AM
To: Scott Stauffer
Subject: Fw: Banning Natural Gas

add to testimony

Sincerely,
Mark Gamba
Mayor of Milwaukie
971-404-5274

Working to make Milwaukie entirely equitable, delightfully livable, and completely sustainable.

From: Charles Olsen <gammeldanske55@icloud.com>
Sent: Sunday, January 16, 2022 8:45 PM
To: Mark Gamba <GambaM@milwaukieoregon.gov>
Subject: Banning Natural Gas

Your honor,

I heard you are proposing an initiative to ban natural gas in new homes in Milwaukie.

Have you considered the subsequent need to upgrade the power grid to accommodate electric-only homes? Yes, heat pumps are more efficient than they used to be, but they still require energy that gas might provide.

Have you also factored in the increased demand from electric cars as more people switch to them?

Who will pay for the upgrade to the power grid? I would advocate for people buying gas-free houses to pick up the tab. I'm not terribly interested in doing it.

I've lived in Milwaukie for only a couple of months, but I'm an old geezer so I feel qualified to spout off. The power has failed twice in those two months, which leads me to believe the grid here is already somewhat fragile. I lived in Portland for almost 40 years and can count the number of power failures there on one hand. I'll leave it to you to to the math.

Best regards,

Charles Olsen
13013 SE Sprout Lane

503-233-5901

Scott Stauffer

From: Tawnya Dettmer <tldettmer@gmail.com>
Sent: Monday, January 17, 2022 10:39 AM
To: OCR
Subject: No vote for Proposed Ban on Natural Gas use for new construction

This Message originated outside your organization.

Please don't ban the ability for homes to be built or remodeled with natural gas.
Growing up in an area that had many power outages - especially during the winter -
if not for natural gas - we wouldn't have had heat - let alone a way to cook or have hot water.
As we experience more super storms, summer time fire dangers, etc. Homes will need a way to have these basic services that won't be available get that through our electric power grid or sometimes even
solar (ice storms).
Thank you,
Resident of Milwaukie,

--
Tawnya Dettmer

Scott Stauffer

From: Jodi Guetzloe Parker <jparker@local737.org>
Sent: Monday, January 17, 2022 3:28 PM
To: Mark Gamba; Kathy Hyzy; Angel Falconer; Lisa Batey; Desi Nicodemus; OCR
Cc: Zack Culver
Subject: 1/18/22 RS 7.B

This Message originated outside your organization.

Good afternoon Mayor Gamba, Council President Hyzy, and Councilmembers,

Thank you for your attention to climate changes and the varied approaches to solutions. As Laborers International Union of North America (LiUNA), we represent over 3000 working men and women in the state of Oregon. Among the important work our members do, we are heavily invested in the renewable energy fields. We help build wind towers, solar projects and battery storage sites to name just a few in the energy sector.

We are writing today to request that you delay voting on the aforementioned resolution, and do a thorough look at the impact this resolution would have on all members of the community of Milwaukie, as well as business. Please look at the bigger picture of a true response to helping create an effective approach to climate change. We all want to be a part of the continuing solution, and not leave anyone out of the process.

Thank you for your consideration,

Sincerely,

Jodi Guetzloe Parker
Representative
17230 NE Sacramento St
Portland OR 97230
she/her/hers
cell: 971-269-4180

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Scott Stauffer

From: kelly@naioporegon.org
Sent: Monday, January 17, 2022 3:43 PM
To: Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Cc: Ann Ober; Scott Stauffer; Hannah Wells
Subject: Letter Opposing Resolution Banning Natural Gas
Attachments: We sent you safe versions of your files; 1-17-22 NAIOP Letter to Milwaukie City Council re Natural Gas Ban.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Mayor Gamba and Councilors,

Please find attached a letter from our organization expressing grave concerns about the resolution on your agenda for tomorrow's meeting that would ban the use of natural gas in all new construction by 2024 and decarbonization of all existing buildings by 2035.

While we wholeheartedly agree with the goal of reducing carbon emissions, switching from natural gas to electricity is a very complex matter and will have huge—indeed, potentially crippling—cost impacts. It should not be done in a casual manner without careful consideration and research, especially when an estimated 40% of all electricity currently generated is through the use of natural gas.

We urge you to refrain from adopting this resolution and to work with our industry and others in construction and related industries to develop a more well-reasoned approach.

Thank you for your consideration,

Kelly Ross

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
OREGON CHAPTER

Kelly Ross, Executive Director
700 N. Hayden Island Drive, Suite 160
Portland OR 97217
(503) 223-1766
(503) 380-1316 Mobile

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
OREGON CHAPTER

Officers

President, Evan Bernstein
Pacific NW Properties

Pres.-Elect, Lauren Jones
Capstone Partners

Treasurer, Paul Delsman
Howard S. Wright Construction

Secretary, Travis Drilling
Urban Renaissance Group

Past-Pres., Eddie La Berge
Turner Construction

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Jake Bigby
PacTrust

Patrick Christopher
Port of Portland

Sean Colletta
Prologis

Louis Fontenot
Trammell Crow

Gabriela Frask
Mackenzie

Patrick Gilligan
Lincoln Property Co.

Jason Green
CBRE

Emily Matza
Harsch Investment Properties

Dr. Gerard Mildner
Portland State University

Brad Miller
Brix Law

Allison Reynolds
Stoel Rives

Sam Rodriguez
Mill Creek Residential

Paddy Ryan
Gantry

Michelle Schulz
GBD Architects

Stuart Skaug
CBRE

Brad Stern
Pacific NW Properties

Executive Director

Kelly Ross

January 17, 2022

The Hon. Mark Gamba
Milwaukie City Council
10722 SE Main Street
Milwaukie, OR

RE: Natural Gas Ban Resolution

Dear Mayor Gamba and Councilors:

NAIOP, the Commercial Real Estate Development Association, is one of the leading organizations for developers, investors, owners & operators, brokers, and related professionals in office, industrial and mixed-use real estate throughout the United States, Canada, and Mexico. The Oregon Chapter's members represent a broad and diverse range of companies involved with commercial real estate activities in the Portland metropolitan area, including developers, owners, brokers, and managers, along with other professionals providing legal, finance, title, engineering, architectural, construction, and other services.

We write today to express our strong concern about the resolution on tomorrow's meeting agenda that would ban the use of natural gas in all new construction beginning in 2024 and decarbonization of all existing buildings by 2035.

While we wholeheartedly agree with the goal of reducing carbon emissions, switching from natural gas to electricity is a very complex matter and will have huge—indeed, potentially crippling—cost impacts. It should not be done in a casual manner without careful consideration and research, especially when an estimated 40% of all electricity generated is through the use of natural gas.

The City of Milwaukie should be able to address some key issues before making any decisions, such as:

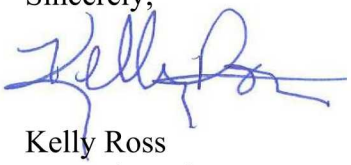
- What will be used to generate this electricity?
- Can the electric system handle all this energy?
- How much will this cost compared to other ways to meet our climate goals?
- Will this action actually cause a reduction in greenhouse gasses?
- Diversification of our energy system is important for a host of reasons. No energy system is perfect – neither the gas side nor the electric side – which is why we need to leverage the strengths of each and build solutions collaboratively where there are challenges.

700 N. Hayden Island Drive, Suite 160 Portland, OR 97217 Tel: (503) 223-1766 Fax: (503) 597-3668

- Do we really want to put all our eggs in one basket with electrification? We'll reach our climate goals faster and more affordably by working together on a diversified, resilient energy system that drives down costs through innovation.
- We appreciate the work that the city, NW Natural and others have done for climate action, particularly in the realm of renewable energy. We encourage you to envision more investment in renewables across our entire energy system – both the gas and electric grid. We need more possibilities for how we create energy systems that are reliable, affordable and reduce emissions at the same time.

We urge you to refrain from adopting this resolution and to work with our industry and others in the construction and energy industries to develop a more well-reasoned approach.

Sincerely,



Kelly Ross
Executive Director

Scott Stauffer

From: Carla Pletka <carla@glorygal912.com>
Sent: Monday, January 17, 2022 6:16 PM
To: OCR
Subject: Banning Gas

This Message originated outside your organization.

To The Milwaukie City Council,

Regarding banning natural gas in Milwaukie I am extremely opposed to this idea.

This is a far over reaching resolution taking choice away from the citizens and consumers of Milwaukie.
People like to cook with gas heat. It is incredibly different and nuanced in comparison to electric.
Gas heat also feels different than electric heat. Electric is much more expensive than gas. This
will only hurt our low income people even more,
People have the choice to either use gas or electric and that choice should be left to them.

Also note that California is already asking people
to reduce using their electric car use as there is too much demand on the supply.

Also encouraging the use of electricity puts demand on solar which uses precious metals and
wind turbines that kill birds, affect the views and cannot be recycled. They're buried.
It takes more energy to make these maintain and build these types of technology than they produce.

This is an idea that cannot be sustained.

Also note that we are blessed with huge forests in Oregon to offset CO2. Only 4% of the land in Oregon
is populated and that includes all buildings and roads. Oregon is not suffering and we offset ourselves.

There are many areas that need this attention like dealing with crime and homelessness in Milwaukie.
Improving the business atmosphere for business owners and customers.

Please vote no on this resolution.

Thank You,
Carla Pletka

Scott Stauffer

From: SCOTT ONGLEY <SHO12GA@msn.com>
Sent: Monday, January 17, 2022 7:36 PM
To: OCR
Cc: Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Subject: ***Thoughts on Milwaukie Electrification - Things to Consider for Your Constituents *****
Attachments: Scott H Ongley.vcf

This Message originated outside your organization.

Dear Mayor Gamba and City Council Members,

Our Milwaukie Family business opened in 1922 and the Lisac family has been serving the Milwaukie community, for 100 years this year! We are now third generation running the business and working with the great people of Milwaukie. Lisacs served them Groceries from 1922 to 1978. In the energy crisis of 1978 the Lisac family chose to serve the people of Milwaukie and Portland area by selling alternative heat sources such as wood, gas and pellet stoves, for when the (Electric) power goes out or utility costs get so high they cannot afford to heat their homes!! This is and has not been a common occurrence though the years nor will it in future years.

Last year alone just look at the power outages that struck the Milwaukie community. We were swamped with service and sales calls for weeks to either get their gas stoves and inserts up and running or for those with ALL Electric homes to have an alternative heat source put in so they do not freeze to death!!

You would be amazed at the volume of calls we receive every year from home owners who do not have a heat source other than a Natural Gas stove or insert or fireplace. When there gas or electric furnace broke down they found they could heat their house effectively and cheaper with a alternative heat source that Lisac's was able to supply them.

Lisac's has employed 17-20 people for years now , serving the Milwaukie public keeping them warm when Electricity is unavailable!!!

We are truly surprised and disappointed to see Agenda #7 coming before you on Tuesday, January 18th. The language in the resolution specifying " electric only " construction for all homes and businesses at some future date is either a mistake or is deeply misinformed. Your constituents need and request the reliability and resiliency of a diversified energy system for their community and especially for their homes. Gas fireplaces and stoves and inserts literally save hundreds and thousands of lives each year. This has been proven year after year! Customers called by the hundreds last year after February's storm that left them heatless had it not been for their Natural Gas Life Saving appliance! Many fixed income home owners, elderly single person homes all express their gratitude for having a backup heat source.

We are also concerned that there has been no public discussion of this resolution and that the expertise and knowledge that we have as a local business serving the community was not even considered. The resolution may be intended to be forward looking and inspirational but there still needs to be good public process. Please take the time to engage your constituents and your businesses, learn from them, and make informed , well-crafted decisions.

We respectfully request immediate language change in the resolution and a delay on the vote until it is corrected.

Thank You,
Scott Ongley Owner – Lisac's Fireplaces and Stoves Inc.
Paul Lisac Owner – Lisac's Fireplaces and Stoves Inc.

Scott H. Ongley
Lisacs Fireplaces and Stoves
Owner
(503) 261-1000 Work
(360) 606-6731 Mobile
sho12ga@msn.com
12518 NE Airportway Ste 155
Portland, Or. 97230
Lisacsfireplacesandstoves.com

Scott Stauffer

From: SCOTT ONGLEY <SHO12GA@msn.com>
Sent: Tuesday, January 18, 2022 10:46 AM
To: OCR
Cc: Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy
Subject: Correction to Last sentence of first paragraph of Previous Email - From Scott Ongley
Attachments: Scott H Ongley.vcf

This Message originated outside your organization.

The last sentence should read as follows:

" This is and has been a common occurrence through the years and will continue into future years. "



Scott Stauffer

From: info@lisacsfireplaces.com
Sent: Tuesday, January 18, 2022 11:18 AM
To: OCR; Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Subject: FW: Corrected Sentence Version ***Thoughts on Milwaukie Electrification - Things to Consider for Your Constituents *****
Attachments: Scott H Ongley.vcf

This Message originated outside your organization.

The email sent last night had a sentence that was stated incorrectly. Please see revision below in RED. My apologies and thank you for your consideration in this matter.

I am sending this letter through our Business email in case my previous personal emails went to spam.

From: SCOTT ONGLEY
Sent: Monday, January 17, 2022 7:36 PM
To: ocr@milwaukieoregon.gov
Cc: falconera@milwaukieoregon.gov; bateyl@milwaukieoregon.gov; nicodemusd@milwaukieoregon.gov; hyzyk@milwaukieoregon.gov; gambam@milwaukieoregon.gov
Subject: ***Thoughts on Milwaukie Electrification - Things to Consider for Your Constituents *****

Dear Mayor Gamba and City Council Members,

Our Milwaukie Family business opened in 1922 and the Lisac family has been serving the Milwaukie community, for 100 years this year! We are now third generation running the business and working with the great people of Milwaukie. Lisacs served them Groceries from 1922 to 1978. In the energy crisis of 1978 the Lisac family chose to serve the people of Milwaukie and Portland area by selling alternative heat sources such as wood, gas and pellet stoves, for when the (Electric) power goes out or utility costs get so high they cannot afford to heat their homes!! This is and has been a common occurrence through the years and will continue into future years.

Last year alone just look at the power outages that struck the Milwaukie community. We were swamped with service and sales calls for weeks to either get their gas stoves and inserts up and running or for those with ALL Electric homes to have an alternative heat source put in so they do not freeze to death!!

You would be amazed at the volume of calls we receive every year from home owners who do not have a heat source other than a Natural Gas stove or insert or fireplace. When there gas or electric furnace broke down they found they could heat their house effectively and cheaper with a alternative heat source that Lisac's was able to supply them.

Lisac's has employed 17-20 people for years now , serving the Milwaukie public keeping them warm when Electricity is unavailable!!!

We are truly surprised and disappointed to see Agenda #7 coming before you on Tuesday, January 18th. The language in the resolution specifying " electric only " construction for all homes and businesses at some future date is either a mistake or is deeply misinformed. Your constituents need and request the reliability and resiliency of a diversified energy system for their community and especially for their homes. Gas fireplaces and stoves and inserts literally save hundreds and thousands of lives each year. This has been proven year after year! Customers called by the hundreds last year after February's storm that left them heatless had it not been for their Natural Gas Life Saving appliance! Many fixed income home owners, elderly single person homes all express their gratitude for having a backup heat source.

We are also concerned that there has been no public discussion of this resolution and that the expertise and knowledge that we have as a local business serving the community was not even considered. The resolution may be intended to be forward looking and inspirational but there still needs to be good public process. Please take the time to engage your constituents and your businesses, learn from them, and make informed , well-crafted decisions.

We respectfully request immediate language change in the resolution and a delay on the vote until it is corrected.

Thank You,
Scott Ongley Owner – Lisac's Fireplaces and Stoves Inc.
Paul Lisac Owner – Lisac's Fireplaces and Stoves Inc.

Scott H. Ongley
Lisacs Fireplaces and Stoves
Owner
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Lisacsfireplacesandstoves.com

Scott Stauffer

From: steve erickson <s.erickson.1@hotmail.com>
Sent: Monday, January 17, 2022 8:50 PM
To: OCR; Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Subject: Milwaukie City Council Gas Ban Resolution

This Message originated outside your organization.

To whom it may concern,

I am writing you today in regards to your resolution considering banning natural gas. My name is Steve Erickson and I am a native Oregonian. I have been in the HVAC industry in Portland for 25 years and I would like to explain why it's important to leave an option open in your mandate for existing residential dwellings to be able to convert from oil, wood, or straight electric resistant heat to natural gas.

Homeowners that are still heating with oil, wood or electric are often times elderly and or on a fixed income. They have no means to pay for the heat pump conversion that your mandate would require. Requiring the homeowner to purchase a heat pump, electric air handler, and often times an electrical panel or even a complete electrical service upgrade, as opposed to just buying a high efficiency gas furnace. Mandating away the affordable gas option will simply stop this group of home owners from converting from their current inefficient system and make your ultimate goal even harder to achieve.

I'm sure you are aware that straight electric resistant heat is not a viable option for older home heating. Mandating all-electric heating means installing a heat pump on virtually every residential conversion moving forward. This would put an unnecessary burden on the electrical grid in the summer, as most of this demographic would not install an AC with their high efficiency gas furnace, if given an option.

I would ask the Mayor and City Council to consider the most venerable of home owners, as well as tenants, when adopting new mandates. If no affordable options are given, then nothing will change. An affordable, reliable, low polluting, high efficiency gas furnace is certainly a better option than a home owner staying with oil, wood, or straight electric.

I also think it is important to consider a healthy mix of electricity and high efficiency gas where it makes sense. Having every home and building relying on one heat source can be problematic during weather extremes. A perfect example is the huge increase in 20KW natural gas generators that are going into homes with all electric systems. Homeowners are realizing they can't cook, heat, or have hot water during a power outage, black out, or brown out, all of which natural gas provides, negating the need for a generator, which in the long run could actually help you achieve your ultimate goal.

Thank you for taking the time to read and consider my thoughts. Please don't hesitate to contact me if you have any questions or would like to discuss this further.

Respectfully,
Steve Erickson
(503)572-1653

Scott Stauffer

From: Lou Christian <louc@ua290.org>
Sent: Tuesday, January 18, 2022 8:23 AM
To: Mark Gamba; Kathy Hyzy; Lisa Batey; Angel Falconer; OCR
Subject: Electrification Resolution Agenda Item 7 Tuesday 18th 2022

This Message originated outside your organization.

Mayor Gamba and Milwaukie City Council,
My name is Lou Christian. I am the Business Manager for Plumbers and Steamfitters Local 290. I represent the members of two thirds of Western Oregon Metro Vancouver area and a couple of counties in Northern California, and some of our members reside in the Milwaukie area.
We are excited to partner with the City of Milwaukie on renewables and the energy transition **but** what we are seeing in Agenda Item #7 for Tuesday, January 18 is concerning. The opportunity to use renewable natural gas and renewable hydrogen to complement wind and solar electrical energy is critical to decarbonize the energy supply and keep a prosperous and safe community. As currently proposed, the City seems only to be considering relying on the electricity system for all new construction after 2024—this is misguided and is not in line with the best opportunities for innovation and resiliency. Electrification does not equate to Decarbonization.
The need for redundant energy systems is undeniable when the electrical power is interrupted by natural disasters. This can happen with wind fire, weather, cold or extreme heat. A gas system can mean the difference between life and death. Please remember last year's Ice Storm. These events can be greatly mitigated with a strong, redundant system. You don't need to search far for stories from some of our most vulnerable community members on how they survived power outages by cooking, getting hot water, and having a fireplace because of the gas system. Decarbonization needs to be done with redundancy that will save lives.
Please study this issue to thoroughly understand the cost to property businesses and human lives in the event of disasters as you consider how we collectively transition to a decarbonized society. Please consider editing the language in this resolution to accommodate these recommendations before adopting.
Thank you for your time.

Lou A Christian
UA Local 290
Business Manager FS/T
Office 503-691-9557
Cell 971-777-2550
Email Louc@ua290.org

Scott Stauffer

From: Robert DeGraw <robert.degraw@290tech.edu>
Sent: Tuesday, January 18, 2022 8:28 AM
To: OCR; Angel Falconer; Lisa Batey; Desi Nicodemus; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Subject: Electrification Resolution

This Message originated outside your organization.

To Milwaukie Elected Officials, it has been brought to my attention that the City of Milwaukie is considering an all electrical resolution, discontinuing the use of Natural Gas. As a 22 year resident of Oak Grove who had to endure 10 days without electricity during last Februarys ice storm I think that this is a bad decision for multiple reasons. Relying on one exclusive energy source is literally putting all your eggs, or trust in this instance, in one basket. I was able to still have hot water and heat thanks to Natural Gas. As a 28 year member of Local 290 as a Steamfitter and past owner of a Catering Business I understand the different BTU's of different fuels and their respective efficiencies. Forcing a Restaurant, Bakery, or small business to convert their equipment to all electric would force them to relocate outside of Milwaukie city limits denying our citizens of multiple services and opportunities.

As a long time environmentalist I'm fully aware or Global warming and its consequences but until we collectively address this as a whole and upgrade and diversify our infrastructure I believe this is a bad idea.

Respectfully,

Bob DeGraw

Steamfitter Coordinator

UA Local 290 Re

290 Tech

Matt Walters Training Center

Cell 503-444-0731

YOUR CHAMBER
North Clackamas

January 18, 2022

Dear Mayor Gamba and Milwaukie City Council,

I am writing to you in support of retaining balanced and alternative forms of renewable energy for the residents of Milwaukie, including my own household. A balanced approach would include natural gas and other renewable options that could support the reduction of emissions by the 2035 and 2055.

Simply depending on electric alone could compromise our systems during peak times, especially during winter months when so many of your resident count on natural gas as their primary fuel source to heat their homes and prepare their meals.

Families and businesses should have an affordable and reliable choice of resilient and dependable energy options to meet their needs. They should not be limited to a single source of energy that has the potential of being unaffordable and potentially can't even support the grid that our community would become fully dependent on.

Consumers prefer natural gas for its reliability and affordability and new construction continues to become more energy efficient as new technologies enter the market. Any future consideration requiring any conversation of systems in established homes and businesses will create financial hardships that many may not be able to absorb. Further acerbating unsustainable hardships and the risk of losing homes and businesses.

We implore you to keep with a sensible and balanced approach of offering alternative fuel sources so long as those providers continue to make reasonable attempts to reduce their carbon footprint and keep with the same timelines as the 2035 and 2055 goals have stated.

Thank you for your time and consideration.

Laura Edmonds

Laura Edmonds, CEO
North Clackamas Chamber of Commerce

Scott Stauffer

From: Harvey Gail <harvey@prsalem.com>
Sent: Tuesday, January 18, 2022 9:35 AM
To: OCR; Mark Gamba
Cc: Angel Falconer; Desi Nicodemus; Kathy Hyzy; Lisa Batey
Subject: Electrification proposal city of Milwaukie, comments

This Message originated outside your organization.

January 18, 2022

To: Mayor Gamba and Milwaukie City Council

From: Harvey Gail, Oregon Hearth, Patio, Barbecue Association

RE: Climate Action Plan, resolution on banning gas in new construction

Our association represents retailers, service companies and distributors of home heating appliances. One of our longest standing members is Lisac's Fireplaces and Stoves in Milwaukie. The owners and employees at Lisac's understand that people who own homes want to ensure they stay warm in the winter, even when the power goes out. Lisac's was on the front lines helping people when their power went out last year. They also help people keep energy costs affordable for homeowners.
That's why the resolution to ban gas (Agenda Item #7) that specifies "electric only" construction for all homes and businesses is an ill-informed decision that will be very bad for the citizens in Milwaukie.

Why?

People want energy choice. They like having options. They know those options keep energy costs lower.

Does council have enough information to make this decision? Forced electrification has consequences. Know what they are. Listen to local businesses like Lisac's Fireplaces. Take the time for public discussion, ask the citizens of Milwaukie what they want and listen to the experts.

If the power goes out and homes don't have an alternative for heat and cooking, there could be dire consequences. Gas fireplaces literally saved lives and kept people safe during last February's power outage. Many homes had no power for days. Without gas, there was no heat, and many have electric stoves. Many relied on propane barbecues for cooking.

Oregon does not have a solution to supply enough electric power if cities like Milwaukie ban gas. The Oregon Department of Energy reported this recently at a hearing I attended. To meet aggressive climate action goals, the only solution ODOE could come up with for "resource availability" was to generate electricity in natural gas power plants or by purchasing power generated in other states from coal and gas. There's not enough coming from renewable sources or hydro power. Sure, maybe there will be at some point in the future, but does Milwaukie want to gamble on that?

Also, all electric homes are very expensive to operate. The cost of housing will go up, possibly driving people away to other cities where the cost of housing is less, and energy choice is not restricted.

We understand this resolution may be aspirational, but don't make the decision to ban gas in haste. Get more information. We respectfully request a delay on the vote of this resolution.

G. Harvey Gail, MBA

Executive Director | Oregon Hearth, Patio

Barbecue Association

p: 503-585-8254 x308
e: harvey@prsalem.com

3340 Commercial St SE, Suite 220
Salem, OR 97302

www.ohpba.org

To: The City Council of the City of Milwaukie, Oregon
Re: The health rationale for electrifying new housing and decarbonizing existing structures
January 18, 2022

Good Day, Mayor Gamba and City Councilors:

I am Dr. Theodora Tsongas, an environmental health scientist and epidemiologist. I am a member of Oregon Physicians for Social Responsibility and the Climate Change and Health Committee of the American Public Health Association. I am writing today to support the proposed Council resolution to require all newly constructed residential, commercial and industrial buildings to be electric only and amend the climate action plan to provide a roadmap for how the city can achieve decarbonization of existing residential, commercial and industrial buildings. As you may be aware, climate disruption is a public health emergency, and decarbonizing your community is a matter of public health, as you address the harms to health from gas appliances.

Gas (fossil gas, fracked gas, methane) appliances emit air pollutants--nitrogen oxides, carbon monoxide, particulate matter (PM 2.5) and formaldehyde, a volatile organic compound. Stoves and ovens pollute indoor air while furnaces, water heaters and clothes dryers, vented outside, pollute outdoor air.

There are no standards in the U.S. for indoor air pollutants. (1) On average in the U.S., people spend at least 90% of their time indoors. For children, the elderly and those living in low income and poor neighborhoods, this may be higher. (1)

Gas stoves and ovens emit an air pollutant, nitrogen dioxide, into indoor air at levels that would be illegal outdoors by EPA air quality standards. Studies have found that children in homes with gas stoves have a 42 percent increased risk of experiencing asthma symptoms (current asthma), a 24 percent increased risk of ever being diagnosed with asthma by a doctor (lifetime asthma), and an overall 32 percent increased risk of both current and lifetime asthma. (1) Asthma is currently the most prevalent pediatric chronic disease in the United States. “Around 3.2 million children had at least one asthma attack in 2016, resulting in more than 80 thousand hospitalizations.” (2)

Carbon monoxide (CO), also emitted by gas stoves and ovens, is an insidious pollutant because it is tasteless and odorless. There are no safe levels of CO exposure. One hundred seventy people die every year in the US from CO poisoning caused by non-automotive products. (1) People with coronary artery disease are vulnerable to low levels of CO. Chronic exposure to CO increases the risk of dementia and congestive heart failure. (1) CO exposure can exacerbate asthma. Children are especially vulnerable to CO exposure due to their developing nervous systems and high metabolic rates. Exposure during pregnancy increases the risk of low birth weight. (3)

Research has shown that these two gas appliances, stoves and ovens, produce twice as much particulate matter, including PM2.5, as electric cooking. (1,4) Fine particulate matter (PM 2.5) has been shown to increase blood pressure, increase the risk of stroke, and is associated with premature mortality, bronchitis, asthma onset and exacerbation, low birth weight and preterm birth. (1)

It has also been found that moving residents of two public housing apartment buildings in Boston to "green" housing, resulted in significant decreases in multiple indoor exposures and improved health outcomes among residents. Nitrogen dioxide concentrations decreased by 65 percent and PM2.5 concentrations decreased by 57 percent with no change in time spent cooking. (1)

Gas furnaces, water heaters, and clothes dryers emit the same pollutants as gas stoves and ovens but are vented outside, contributing to outdoor air pollution. Air pollutants produced in the combustion of gas include nitrogen oxides (NOx), carbon monoxide, particulate matter and formaldehyde, a VOC (volatile organic compound). Ozone is a secondary pollutant produced from a complex chemical reaction between NOx, VOCs and sunlight. Ozone causes an increase in all-cause, cardiovascular, and respiratory mortality resulting in 0.5-1.2 million deaths per year worldwide. (3)

More than 8 million people died in 2018 from fossil fuel pollution, significantly higher than previous research suggested. Exposure to particulate matter from fossil fuel emissions accounted for 18 percent of total global deaths in 2018 — a little less than 1 out of 5. (5, 6)

So, there are many health risks associated with the use of gas appliances as well as the exacerbation of climate disruption caused by our use of fossil fuels. Please do all you can to support this resolution and help your community and all of us respond to this local and global health crisis.

Thank you for your work and for the opportunity to provide comments.

References

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3. Yifang Zhu et al. 2020. Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California. UCLA Fielding School of Public Health. 68pgs. https://ucla.app.box.com/s/xyzt8jc1ixnetiv0269qe704wu0ihif7

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5. KarnVohra et al. 2021. Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem. Environmental Research Volume 195, 110754. https://doi.org/10.1016/j.envres.2021.110754
6. https://www.seas.harvard.edu/news/2021/02/deaths-fossil-fuel-emissions-higher-previously-thought

Scott Stauffer

From: Lisa Batey
Sent: Tuesday, January 18, 2022 10:52 AM
To: Scott Stauffer; _City Council; Peter Passarelli; Natalie Rogers
Subject: FW: NW Natural decarbonization plan and additional information for 1/18 council meeting
Attachments: DestinationZero2022_ExecutiveSummary.pdf

Scott: Thanks for compiling the comments into compendium documents. I don't think I saw this one there, so please do add it, if not already in the record. Copying everyone, but I imagine other Councilors received it as well.

From: Carlson, Nina <Nina.Carlson@nwnatural.com>
Sent: Sunday, January 16, 2022 2:00 PM
To: Lisa Batey <BateyL@milwaukieoregon.gov>
Subject: NW Natural decarbonization plan and additional information for 1/18 council meeting

Councilor Batey,

I wanted to take a moment to check in with you prior to the upcoming council meeting on January 18th, specifically to discuss the gas ban proposal being brought forth by Mayor Gamba. Before I go any further I want you to know that NW Natural respects and supports the focus of the City of Milwaukie on climate change as reflected in their climate action plan. We at NW Natural also believe there is a climate imperative, and that we must face it using a triple bottom line approach valuing the environment, our customers and the economy. To that end, NW Natural has been tirelessly pursuing strategies that will enable us to transform into the nation's first carbon neutral gas utility, our strategy to achieve this is outlined in the attached document which outlines three pathways that make that possible. Right now NW Natural has contracts to purchase or develop 3% Renewable Natural Gas (RNG- which is capturing methane from decomposing material, such as waste water treatment plants, landfills, dairies, etc. , cleaning and injecting on our pipeline) to our customers territory wide, to reduce the carbon intensity of our product. This is just the beginning, and what we have been able to achieve in 2 years, and we intend to increase that percentage year after year. To put that in context, it has taken decades for the solar and wind sector to achieve 11% renewable generation nationwide. We are also working with our industrial customers to incorporate dedicated or blended hydrogen into the energy we deliver to them to decarbonize the energy used by the industrial sector. Additionally, NW Natural was an early member of One Future, a consortium of gas industry stakeholders that are working to reduce fugitive methane emissions to less that 1% across the entire value chain from well site to burn tip. This link will enable you to learn more about their work and how they continually are exceeding their annual goals. This year they are working with Veritas to get even more specific and verified data, and in fact, current members of One Future have a fugitive emission rate of approximately .6% across the value chain. ONE Future - Working to Reduce Methane Emissions Lastly, we have newly approved (by legislature and PUC) ability to work with jurisdictions that want to pursue more aggressive decarbonization goals locally. Ideally NW Natural would rather work with our cities side-by-side to achieve their climate goals in partnership.

This climate work is complex and multifaceted, as is our energy system. We understand that the city of Milwaukie wants to achieve aggressive goals with its climate action plan, and achieve meaningful greenhouse gas emissions reductions, and we as one of the state's largest energy producers want to work in partnership with the city to do that in a manner that protects reliability and affordability that your citizens count on. To that end, we were very disappointed that instead of discussion and a willingness to work together, our company was alerted through an agenda monitoring service that this was being brought to council, without so much as a phone call, and that the potential gas ban discussion could potentially be headed to a vote after 10 minutes of discussion. This policy will have long term and serious implications for the city and its citizens, and deserves more thoughtful discussion and stakeholder engagement

than 10 minutes. I ask that you review these document and link I provided in advance of the city council meeting, as the 10 minute time limit will not allow for the robust and through discussion this topic warrants, nor does it seem detailed and rigorous modeling will be provided to the council demonstrating that a gas ban would actually produce greenhouse gas emissions reductions in the short or long term. If given the opportunity, we feel we can offer a whole host of solutions to the climate problem that are significantly more cost efficient and effective in reaching the stated goals of carbon reduction. We also feel these solutions would be far more popular with Milwaukie residents. There are few, if any, gas utilities in America as committed to partnering on this issue as we are, and we hope we can be a part of the discussion to determine the best path forward for decarbonizing Milwaukie. I am happy to discuss in more detail, and have a wealth of very accomplished subject matter experts in my company available to answer questions or go into further detail. I appreciate your time and dedication to this matter, and look forward to working with you to create policy that will achieve the city of Milwaukie's climate goals and approaches climate change with the seriousness and rigor it deserves.

Kind regards,

Nina Carlson
NW Natural- Government Affairs
w: 503.721-2474 m: 503.312-0683
nina.carlson@nwnatural.com



EXECUTIVE SUMMARY

NW Natural is committed to a low-carbon energy future and our role in reducing greenhouse gas emissions. This document illustrates the potential for us to achieve carbon neutrality by 2050 for the energy services we provide to the roughly 2.5 million Northwest residents we serve every day.

So how do we ramp up our existing decarbonization efforts with a goal to achieve carbon neutrality by mid-century?

We start by re-assessing how we will transition our current energy deliveries to a target of carbon neutrality while serving future growth projected for the region. That begins with more aggressive energy efficiency actions, coupled with new equipment technologies that reduce energy consumption while maintaining safety, reliability, and customer satisfaction.

From there we look for lower-carbon energy sources to displace our conventional natural gas supplies. These include renewable natural gas captured and converted from organic waste, as well as clean hydrogen that can be distributed in a dedicated pipe network, blended at certain amounts directly into our system or combined with waste carbon dioxide and converted to synthetic natural gas—all providing climate benefits similar to wind and solar energy. Finally, we look to emerging models for deep carbon reductions that align with our skills and services, such as carbon capture, utilization and sequestration (CCUS).

Over the past several years, we've taken several actions that have made this vision of a carbon neutral future possible. In 2016 we established a Low Carbon Pathway as a cornerstone of the company's strategic plan, setting a voluntary goal of 30% carbon savings by 2035 (using a 2015 customer and company operations baseline). Most recently, this includes investments to develop and procure renewable natural gas, made possible by Oregon's landmark SB 98 (2019) legislation—a first-of-its kind bill.

We've formed partnerships with like-minded utilities to facilitate the adoption of clean hydrogen into our system and supplies. And we're working across the value chain on market transformation of advanced heating equipment such as natural gas-fired heat pumps that can achieve better than 100% efficiency at any temperature, or hybrid heating systems that combine electric heat pumps with a gas furnace for optimal performance.

This report evaluates scenarios using a range of options by which we can realize our vision for a carbon neutral gas utility.

Key Decarbonization Principles

- **Helping customers use less is the fastest and cheapest way to reduce emissions.** We are dedicated to continuing to help customers conserve energy, save money, and reduce emissions through more efficient buildings and equipment.
- **All forms of renewable energy are needed in a balanced, low-carbon future.** We are committed to displacing conventional natural gas over time with renewable natural gas—gases produced from organic waste streams—and clean hydrogen.
- **Communities served by the gas system have greater energy reliability.** We need a dual energy system—gas and electric—to handle peak energy loads and to prepare for a future with potentially more extreme weather events. Homes and businesses with gas service can have energy even when the power is out, providing a resiliency benefit for our communities.
- **Leveraging our existing modern system in new ways is our priority.** We are seeking paths that ensure a renewable energy future without undermining long-term affordability and dependability.
- **Families and businesses should have a choice of energy options to meet their needs.** Energy system diversification and competition provides the best opportunity for accelerated innovation.
- **We must drive toward carbon neutrality in a way that leaves no one behind.** We are committed to pursuing policies and approaches that provide fair and equitable support for our most vulnerable customers.

Not to be used for investment purposes—see NW Natural and NW Natural Holdings most recent Form 10-Ks as updated by the most recent 10-Q for information relevant to investment decisions.

Working with internal teams of subject matter experts and resource planners, we have developed three scenarios that demonstrate it's possible to achieve the goal using different views of the future. All three draw on proven approaches to emissions reductions that are already technically viable. In some instances, such as energy efficiency programs or renewable natural gas procurement, these efforts are in progress at NW Natural now. For some others, such as clean hydrogen or carbon capture, we incorporate lessons from early adopters in Europe and Canada, where favorable policies and market conditions have enabled progress on those innovations sooner.

- **Scenario 1 - Balanced Approach:** Includes a balanced mix of renewable supply and demand-side measures and does not employ offsets in 2050
- **Scenario 2 - Moderate Offsets:** Utilizes offsets in conjunction with a mix of renewable supply and demand-side activities
- **Scenario 3 - RNG Constrained:** Utilizes far less RNG and no offsets in 2050 while emphasizing demand-side activities and clean hydrogen

Our 2020 sales deliveries total nearly 80,000,000 dekatherms of conventional natural gas. To decarbonize, those supplies and the associated GHG emissions must be replaced with carbon neutral alternatives.

Each scenario incorporates the following components: energy efficiency and conservation through building shell improvements, deep retrofits, and advanced heating equipment; lower-carbon fuels such as renewable natural gas and clean hydrogen; technology that extracts carbon alongside natural gas combustion; and verified, quality carbon offsets.

These charts show how we expect these various measures, applied across three distinct scenarios, could achieve carbon neutrality by 2050.



[1] For a discussion of potential cost implications of decarbonizing the gas system relative to electrification of building heat, see the E3 report Pacific Northwest Pathways to 2050: https://www.ethree.com/wp-content/uploads/2018/11/E3_Pacific_Northwest_Pathways_to_2050.pdf.

Vision 2050 Technologies & Measures

	YEAR	BALANCED APPROACH SCENARIO	MODERATE OFFSETS SCENARIO	RNG-CONSTRAINED SCENARIO
SUPPLY SIDE MEASURES				
Decarbonized gas supplies (dekatherms)	2050	52.2M	47.4M	35.2M
Renewable Natural Gas		34.2M	34.2M	14M
Clean Hydrogen or Clean Hydrogen Derived Synthetic Gas		18M	13.2M	21.2M
DEMAND SIDE MEASURES				
Natural gas heat pumps as a percentage of natural gas space heating equipment installed in year	2025	3%	4%	3%
	2030	17%	12%	17%
	2050	72%	55%	60%
Hybrid heating systems as a percentage of natural gas space heating equipment installed in year	2025	9%	8%	18%
	2030	16%	8%	33%
	2050	0%	0%	40%
Natural gas heat pumps for water heating as a percentage of new gas-fired water heating equipment installed in year	2025	7%	4%	7%
	2030	36%	15%	36%
	2050	91%	65%	91%
Industrial energy efficiency increase (percentage) beyond current Energy Trust of Oregon expectations	2050	23%	13%	30%
Percentage reduction in building heating requirements, due to building shell improvements	2050	21%	13%	30%
CARBON OFFSETS AND CARBON CAPTURE				
Certified carbon offsets used to account for conventional gas supply not yet decarbonized	2025	4.2%	7.1%	2.7%
	2030	7.5%	11%	8%
	2050	0%	25%	0%
Natural gas supplies decarbonized with CARBiN-X carbon capture equipment (dekatherms)	2025	38k	37k	38k
	2030	0.8M	0.8M	0.8M
	2050	2.3M	2.8M	1.7M

This document illustrates a breadth of options for reducing emissions. It also makes projections nearly 30 years into the future and as such, is limited by future uncertainties around economics, policies, and innovations. And while we've relied on the same types of models and expertise that our resource planning team uses to develop our integrated resource plan, scenarios presented here have not been cost-optimized. So, while we presume that elements such as renewable natural gas supplies or energy efficiency savings acquired here will be done in the most cost-effective manner, we do not present any single pathway as a least-cost option.[1]

We do believe, however, that our Vision 2050 provides an optimized approach to our shared energy future. Two energy systems, carrying renewable electrons along wires and renewable and clean molecules in pipes, provides greater resilience, reduces risks, and limits cost impacts for energy users. A concerted effort to decarbonize the gas system alongside the electric system offers synergies in meeting peak demands, redundancy, and long-term storage needs.

Through this document our intent is to show that it's possible and that we are committed to pursuing that future.

[1] For a discussion of potential cost implications of decarbonizing the gas system relative to electrification of building heat, see the E3 report Pacific Northwest Pathways to 2050: https://www.ethree.com/wp-content/uploads/2018/11/E3_Pacific_Northwest_Pathways_to_2050.pdf.

Not to be used for investment purposes—see NW Natural and NW Natural Holdings most recent Form 10-Ks as updated by the most recent 10-Q for information relevant to investment decisions.

Scott Stauffer

From: Irais Gandarilla <irais.gandarilla@290tech.edu>
Sent: Tuesday, January 18, 2022 10:52 AM
To: OCR; Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba
Subject: Electrification Resolution Agenda Item 7 Tuesday 18th 2022

This Message originated outside your organization.

To Milwaukie Elected Officials, it has been brought to my attention that the City of Milwaukie is considering an all-electrical resolution, discontinuing the use of Natural Gas. As a 20-year resident of Ardenwald. Last February's ice storm was scary but thankfully natural gas is affordable and helped keep the heat on in my home. Relying on one exclusive energy source is literally putting all your eggs, or trust in this instance, in one basket. I was able to still have hot water and heat thanks to Natural Gas. As a 20+ years and a member of Local 290 as a Steamfitter established 2013. I understand the different BTUs of different fuels and their respective efficiencies. Forcing small business to convert their equipment to all electric would force them to relocate outside of Milwaukie city limits denying our citizens of multiple services and opportunities.

As a long time, environmentalist, I'm fully aware or Global warming and its consequences but until we collectively address this as a whole and upgrade and diversify our infrastructure, I believe this to be putting the cart before the horse.

Respectfully

Irais Gandarilla
Steamfitter Curriculum Coordinator

UA Local 290 College of Mechanical Systems & Technology
20220 SW Teton Ave | Tualatin, OR 97062 | Main: 503-691-1997
C: 971-271-3465 | E: Irais.gandarilla@290tech.edu#
#

Scott Stauffer

From: JJNeu <jjneusies2@gmail.com>
Sent: Tuesday, January 18, 2022 11:14 AM
To: OCR
Cc: James Neu
Subject: Building Electrification

This Message originated outside your organization.

Mayor and City Councilors,

After another year of record temperatures, heat domes, wildfires, drought, and winter flooding due to climate related effects, it is imperative that cities look to pass policies that reduce greenhouse gas emissions.

Specifically, I urge the City of Milwaukie mayor and city council to pass concrete policies to transition all existing buildings to all electric with an emphasis on supporting low income, BIPOC, and historically marginalized communities in the transition. Also, all new building construction should be required to be all electric by a specified date.

The City of Milwaukie is not alone in this effort to Decarbonization as the city of Eugene city council made a motion last November to require all new construction after Jan.1, 2023 be electrified. They also directed staff to create a roadmap for all existing buildings in Eugene become electrified by 2040.

I thank you for your commitment to reduce the City of Milwaukie's carbon and GHG emissions through electrification.

Jim Neu
350.Eug Volunteer
Eugene, Or. 97404

Sent from my iPad

To: Mayor Mark Gamba
Councilor Kathy Hyzy
Councilor Lisa Batey
Councilor Desi Nicodemus
Councilor Angela Falconer

From: Nellie deVries, Executive Director, Clackamas County Business Alliance

Date: January 18, 2022

Re: Please Oppose Natural Gas Ban Proposal

The Clackamas County Business Alliance (CCBA) is a non-profit advocacy group supporting issues of importance to Clackamas County Businesses.

CCBA respectfully asks the council to oppose the natural gas ban, and work with NW Natural to create strategies that achieve climate goals and greenhouse gas emissions by leveraging the system that is already in place, as you have so successfully done with the electric provider. Diversification of our energy system is important for a host of reasons, from reliability and resiliency to affordability. We need to leverage the strengths of each and build solutions collaboratively where there are challenges, adding renewable energy sources to both as quickly as possible. We'll reach our climate goals faster and more affordably by working together on a diversified, resilient energy system that drives down costs through innovation.

We appreciate the work that the city, energy utilities and others have done for climate action, particularly in the realm of renewable energy. We encourage you to envision more investment in renewables across our entire energy system – both the gas and electric grid. We need more possibilities for how we create energy systems that are reliable, affordable and reduce emissions at the same time. We encourage you to rigorously model what ways achieve decarbonization most affordably and efficiently.

In addition, forced electrification takes the choice away from home buyers. This is important for homebuilders who are helping meet the region's housing needs. Milwaukie could be put at a disadvantage compared to those right outside the city limits that can offer homes with amenities like gas cooking, fireplaces and BBQs. Gas bans remove choice for consumers, and would put Milwaukie at a disadvantage for small business recruitment and expansion, and would not necessarily provide greenhouse gas emissions reductions

Further, this natural gas ban was formulated without community input. We would very much appreciate the ability to participate in the policy process as good policy is developed when we listen to the voices of everyone in our community. We would be happy to work with council

along with other business organizations to convene business leaders in the area to provide input and develop data driven policy that has broad community support.

For the aforementioned reasons, CCBA asks you to oppose the natural gas ban. Thank you for your consideration and for the opportunity to provide testimony.

Sincerely,

Nellie deVries
Executive Director
Clackamas County Business Alliance

January 18, 2022

The Hon. Mark Gamba
Milwaukie City Council
10722 SE Main Street
Milwaukie, OR

RE: Natural Gas Ban Resolution

Dear Mayor Gamba and Councilors:

The Commercial Association of Brokers (CAB) is comprised of more than 600 commercial real estate professionals who diligently provide their clients with the information needed to make the best choices about their purchases, investments, management opportunities, and long-term business environments.

We echo the concerns raised by NAIOP Oregon in their letter to you yesterday regarding the resolution on tonight's meeting agenda that would ban the use of natural gas in all new construction beginning in 2024 and decarbonization of all existing buildings by 2035.

CAB also agrees with the goal of reducing carbon emissions, but switching from natural gas to electricity is a very complex matter and will have huge—indeed, potentially crippling—cost impacts on residents and businesses if done in an overly quick manner without adequate research and planning. It should not be done in such casual manner as proposed in the resolution especially when an estimated 40% of all electricity generated is through the use of natural gas.

We urge you to refrain from adopting this resolution and to work with our industry and others to develop a more well-reasoned approach.

Sincerely,

Keegan Clay, 2022 President



Scott Stauffer

From: Tom Brenneke <thomas.brenneke@gres.com>
Sent: Tuesday, January 18, 2022 2:00 PM
To: OCR
Subject: RE: Resolution to Ban Natural Gas

This Message originated outside your organization.

Dear Members of City Council,

It has come to our attention that you are planning to vote tonight on a resolution to ban natural gas in the City of Milwaukie. While we respect the City's goal to be net-zero building energy by 2035, we have serious concerns and request the opportunity for public feedback on this subject.

We are concerned about the negative impact of this resolution on the community and economy, such as the strain put on construction and development, including affordable housing. In addition, the end user is affected and forced to make a costly transition to less-efficient, all-electric appliances. By eliminating consumer choice and forcing more expensive options, low-income residents take the brunt of this burden while being least equipped to absorb it.

Natural gas is an affordable and efficient energy source. Since 1970, gas utilities have added more than 30 million residential customers. At the same time, the average household's carbon footprint from natural gas has been cut in half thanks to customer programs and operational efficiencies.

By contrast, all increases in residential carbon dioxide emissions since 1973 have been due to increased use of electricity and the carbon intensity of the fuels used for electricity generation. Currently, the U.S. electric grid cannot meet the energy demands of every American household through renewable energy. Banning natural gas would put an additional burden on the power grid by reducing resource diversity and endangering reliability during a period of transition.

There is much to consider before voting on this resolution, and we respectfully request a postponement of the vote until there is adequate time for public comment and feedback.

Sincerely,

Thomas B. Brenneke
President

Guardian Real Estate Services LLC
760 SW 9th Avenue, Suite 2200 | Portland, OR 97205
Tel 503.802.3600 | **Direct** 503.802.3613| **www.gres.com**

Please consider the environment before printing this email.

Sources:
https://www.utilitydive.com/news/the-dangers-of-out-of-sight-out-of-mind-gas-ban-policies/600789/
http://www.truebluenaturalgas.org/value-natural-gas/

Scott Stauffer

From: Nick Caleb <nick@breachcollective.org>
Sent: Tuesday, January 18, 2022 2:14 PM
To: OCR
Cc: Carra Sahler
Subject: Written Testimony for Council Agenda Item "Net Zero Building Energy Resolution"
Attachments: We sent you safe versions of your files; Milwaukie City Council - BE - Jan 18, 2022.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Greetings,

Attached, please find testimony from Breach Collective and the Green Energy Institute on the "Net Zero Building Energy" resolution agenda item for tonight's city council meeting.

Best,
--
Nick Caleb, J.D., LL.M. (he/him)
Climate and Energy Attorney
nick@breachcollective.org
+1(541) 891-6761

January 18, 2022

RE: Milwaukie Net Zero Building Resolution

Mayor Gamba and members of the Milwaukie City Council,

Increasingly, local governments across the United States are exploring restrictions on gas use and encouraging electrification for heating/cooling, water heating, and cooking in buildings. In 2020, the City of Berkeley, CA passed an ordinance prohibiting gas in commercial and residential buildings, which was upheld in federal court. In December 2021, New York City, the largest city in the United States, passed a law that restricts the use of fossil gas in newly constructed residential and commercial buildings by phasing in emissions limits beginning in 2023. In Fall 2021, Eugene, OR declared a policy direction to explore pathways to prohibit gas in new and existing buildings. So far, over 50 local governments in California alone have passed regulations to prohibit gas and mitigate fossil fuel consumption, and numerous local governments around the country have either adopted similar policies or are considering them. Because of these efforts, there is an increasing understanding about best practices in policy development and a growing network of national, regional, and local organizations capable of providing support to local governments pursuing building electrification. We applaud Milwaukie City Council for pursuing similar policy and are always available to share information about similar efforts happening in Oregon and throughout the country.

In addition to concerns about the climate warming effects of fossil gas, towns and cities have identified other important reasons to restrict gas use in buildings, including significant indoor and outdoor air pollution, seismic vulnerabilities of the gas system, and the expectation of sharp increases in ratepayer costs as gas prices rise.

Last year, Breach Collective and the Green Energy Institute joined with 62 other organizations from around the Pacific Northwest to release a comprehensive report titled, "Methane Gas: Health, Safety, and Decarbonization,"as a means to curtail confusion created by NW Natural and other fossil fuel entities' purposeful misinformation campaigns targeting elected officials and the public.[1] The report aims to help policymakers and government staff to (1) identify false expressions of environmental care as a cover for climate-damaging activities; (2) know where to

[1] Power Past Fracked Gas, Methane Gas: Health, Safety, and Decarbonization (August 2021), available at https://powerpastfrackedgas.org/wp-content/uploads/2021/08/Methane-Gas-Health-Safety-and-Decarbonization.pdf

find accurate data about the many impacts of the gas industry; (3) avoid undue influence by fossil fuel interests; and (4) make sound policy decisions for the health and safety of our communities in the just transition to a decarbonized economy. We encourage Milwaukie City Councilors and staff to read through the report to better understand the significant and serious harms posed by methane gas and false solutions offered by gas utilities as a means of delaying regulation for as long as possible.

To assure that any gas regulation or building electrification policy from Milwaukie City Council best addresses the full harms of gas to your residents and the climate, we suggest amending the Net Zero Building resolution to include explicit reference to harms from indoor and outdoor air pollution, seismic risks, and the strong likelihood of increased costs to ratepayers. Below, we provide some language to that effect:

WHEREAS, fossil gas cooking appliances emit nitrogen dioxide, carbon monoxide, and formaldehyde, which compromise indoor air quality and impact the respiratory health of vulnerable populations, including children, the elderly, and those with existing health conditions;[2]

WHEREAS, Milwaukie is located in an area at risk to earthquakes, and natural gas infrastructure is potentially a significant source of fire and explosion during earthquakes and other fire events;

WHEREAS, all-electric technologies are cost-competitive substitutes to fossil gas counterparts;[3]

WHEREAS, the most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety;

WHEREAS, the lack of air conditioning in homes makes long and frequent heat waves dangerous, but replacing gas furnaces with electric heat pumps provides efficient heating in the winter and efficient cooling in the summer;[4]

WHEREAS, gas utility ratepayers are at significant risk of incurring additional costs and rate increases due to fossil gas price volatility and utility decarbonization plans;[5]

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[2] Rocky Mountain Institute, Health Effects from Gas Stove Pollution at 8 (May 2020), available at https://rmi.org/insight/gas-stoves-pollution-health/.
[3] Rocky Mountain Institute, The New Economics of Electrifying Buildings, An Analysis of Seven Cities (2020), available at https://rmi.org/insight/the-new-economics-of-electrifying-buildings/
[4] E3, Residential Building Electrification in California, Consumer economics, greenhouse gases and grid impacts (April 2019), available at https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf.
[5] Regulatory Assistance Project (RAP), Under Pressure: Gas Utility Regulation for a Time of Transition (May 2021) available at https://www.raponline.org/knowledge-center/under-pressure-gas-utility-regulation-for-a-time-of-transition/.

WHEREAS, the lifecycle impacts of fossil fuels pose risks to the health, livability, and safety of local communities surrounding the fuels' extraction, refinement, and combustion sites, transportation routes, and storage facilities and those communities are often disproportionately low-income and/or communities of color;

Thank you for your consideration,

Nick Caleb
Climate and Energy Attorney
Breach Collective

Carra Sahler
Staff Attorney
Green Energy Institute at Lewis & Clark Law School

Milwaukie City Council Testimony
Potential Ban on Natural Gas Installations in New Construction
January 18, 2022

Mayor Gamba, Members of the Council,

For the record, my name is Greg Astley, Director of Government Affairs for the Oregon Restaurant & Lodging Association.

To say the last twenty-two months have been beyond difficult for the hospitality industry would be an understatement. Many people forget lodging properties were some of the first casualties of COVID-19 and the restrictions imposed because of the global pandemic.

Although restaurants were formally shut down, lodging properties first felt the impact because of travel restrictions and limitations on large gatherings. Conventions, business trips and even leisure travel were severely restricted or eliminated leading to devastating economic losses and record unemployment.

Best estimates put recovery for our members in 2023 or possibly even 2025, if they ever fully recover. Many restaurants have permanently closed, maybe even some of your favorite ones here in Milwaukie or the surrounding area.

Our industry is resilient and innovative though. Operators find ways to overcome obstacles like an ice storm, wildfires, or a global pandemic. But they need options and flexibility to survive.

It has come to our attention Mayor Gamba is planning to introduce a resolution and ask for a vote at tonight's meeting to "*make changes to the city code that would require all newly constructed residential, commercial, and industrial buildings to be electric only by February 5, 2024".*

As this resolution was filed on Friday, January 14, 2022, it's incredibly concerning to our organization and our members that there has been no public outreach or information about this resolution and no attempts to engage the restaurant and lodging industry in a conversation about what this may mean for the future.

Limiting the choices for restaurants or lodging properties when it comes to energy doesn't make sense. Not only would some operators have an unfair advantage over others, the options for what you could cook just wouldn't be the same. Some concepts need natural gas for cooking, it's not the same meal without it.

Having multiple energy options also means a more reliable system for everyone. The recent winter storms showed the importance of having more than one source of energy to cook with or heat your home or business.

As a statewide association, we challenge Council to consider the impacts of local climate change work and how it may conflict or coordinate with state objectives. Inconsistent rules and regulations, or worse, contradictory goals, not only frustrate operators but can hinder the kind of economic and job recovery we so desperately need right now.

We urge you to delay adoption of this resolution until the language can be studied publicly and the community, including businesses like restaurants and hotels, can have any understanding of the process and analysis of information needed to pass transformative energy policy ideas through building codes.

We also encourage Council to open a conversation and have discussions with the public and those businesses and individuals impacted by such a far-reaching decision. We strongly support the City engaging a diverse group of community members, industries and employers who may not have had the opportunity to attend tonight's meeting and be heard.

We're asking you to consider a reasonable, balanced approach to renewable energy for Milwaukie's future and to make sure everyone has a seat at the table.

Thank you.

Greg Astley
Director of Government Affairs
Oregon Restaurant & Lodging Association

Scott Stauffer

From: Ryan Makinster <ryanm@hbapdx.org>
Sent: Tuesday, January 18, 2022 2:31 PM
To: Mark Gamba
Cc: OCR; Angel Falconer; Lisa Batey; Desi Nicodemus; Kathy Hyzy
Subject: Jan. 18, 20220 Agenda Item RS 7. B.
Attachments: We sent you safe versions of your files; HBAPDX Milwaukie 011822 RS7B Letter.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

1/18/2022

Mark Gamba, Mayor
10722 SE Main St.
Milwaukie, OR 97222

By E-mail

Re: Jan. 18, 20220 Agenda Item RS 7. B.

Dear Mayor Gamba,

I am writing you today in opposition to the resolution titled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DIRECTING THE CITY MANAGER TO BEGIN THE PROCESS TO REACH OUR GOAL OF BEING NET ZERO BUILDING ENERGY BY 2035" as currently drafted.

Although we support the city's efforts to address climate change and the substantial work, over recent years, that has gone into those efforts, as a representative of the homebuilding industry, our members companies, their employees and the Oregon families that we supply homes to, I must also provide our concerns for the record.

The Home Builders Association of Metropolitan Portland (the "HBA") represents over 1300 businesses and tens of thousands of women and men who work in the residential building and remodeling industries throughout the greater Portland area. We are dedicated to maximizing housing choices for all who reside in the region while promoting housing access and availability for everyone.
We believe a balanced approach, recognizing all forms of transitional and renewable energy including renewable hydrogen and natural gas, solar, etc. as part of the solution should be the goal, rather than an exclusionary outcome. Just as a best practice dictates having a diverse stock portfolio, a diverse energy portfolio is also important to the resiliency and cost effectiveness of the energy grid.

The market expects and often demands gas in new homes, and with the advances in renewable natural gas and hydrogen technologies, it is possible and becoming more cost effective to provide a sustainable, climate-friendly solution to the end user. We encourage the city to not "throw the baby out with the bath water" through this resolution, but understand the market demand and work to offer a better, more sustainable climate friendly version of what is desired rather than try and force a change through a mandate serving to exclude a specific type of energy delivery.

As an industry that provides homes to Oregonians, we respectfully ask that you consider a balanced approach that recognizes the need for multiple resilient and redundant systems to deliver affordable energy to the end user in their home.

Sincerely,



Ryan Makinster
Director of Policy and Government Relations

CC: Councilor Angel Falconer
Councilor Lisa Batey
Councilor Desi Nicodemus
Councilor Kathy Hyzy

Ryan Makinster
Director of Policy and Government Affairs
Home Builders Association of Metro Portland
d 503.603.4505 o 503.684.1880 c 971.325.9240 | hbapdx.org

Home Builders Association
of Metropolitan Portland

1/18/2022

Mark Gamba, Mayor
10722 SE Main St.
Milwaukie, OR 97222

By E-mail

Re: Jan. 18, 20220 Agenda Item RS 7. B.

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Sincerely,

Ryan Makinster
Director of Policy and Government Relations

CC: Councilor Angel Falconer
Councilor Lisa Batey
Councilor Desi Nicodemus
Councilor Kathy Hyzy

Michele Gila
Director
Realtor® Advocacy
mgila@pmar.org

PMAR
PORTLAND METROPOLITAN ASSOCIATION OF REALTORS®
Realtor® Advocacy Department

Whitney Minnich
Assistant Director
Realtor® Advocacy
wminnich@pmar.org

January 18, 2022
Mayor Gamba
Councilor Falconer
Councilor Batey
Councilor Nicodemus
Councilor Hyzy

Dear Mayor Gamba and Councilors,

On behalf of PMAR's 9000 members, I'm urging you to consider a different strategy than forced electrification to meet Milwaukie's climate goals. PMAR supports climate resiliency and many potential pathways to get there. However, there is concern that a ban on natural gas for the city may have unintended consequences. With implementation, there is concern that these policies could impact the region's most vulnerable, by increasing the cost of housing. Where is the balance?

We are in a housing crisis with a historic low inventory of residential homes for sale. As of today, the Portland Metro area has .6 months of inventory (Regional Multiple Listing Service Market Action Report). Further data provided by RMLS shows that of the 1051 total residential homes SOLD in 2021 in Milwaukie, 831 use natural gas. If we are going to meet our housing needs and address the humanitarian crisis we are seeing on our streets, we need to make sure our development community is robust. This will impact future home building in Milwaukie.

Has the City determined answers to the following considerations:

- How will it reliably provide affordable heat on the coldest winter days?
- What will be used to generate that electricity?
- Can the electric system handle all that energy?
- How much will this cost compared to other ways to meet our climate goals?
- Will this action cause reduction in greenhouse gasses?

Diversification of our energy system is important for a host of reasons. No energy system is perfect, and we need to work to bring more renewable options to both systems, as quickly and affordably as possibly, while ensuring the resiliency of both energy grids. In order to do this, we need to leverage the strengths of each and build solutions collaboratively where there are challenges, using solid data and a clear process. Do we really want to put all our eggs in one basket with forced electrification? We'll reach our climate goals faster and more affordably by working together on a diversified, resilient energy system that drives down costs through innovation. I think of my own 1905 craftsman home, built with radiant heat, so it has pipes, not ducts. If I were to replace my high efficiency 99%+ gas boiler today with an electric boiler, I'd be losing efficiency and the units available would not meet the heating needs of my home. This winter when my water heater died on Christmas Eve, we spent 8 days without hot water, while we hustled to locate equipment. It was helpful to have choices, and as a result, we were able to install a high-efficiency water heater with a lifetime warranty. These are the sorts of priorities that deserve consideration when drafting retrofit codes to existing homes.

We appreciate the work that the city and others have done for climate action, particularly in the realm of renewable energy. We encourage you to envision more investment in renewables across our entire energy system – both the gas and electric grid. We need more possibilities for how we create energy systems that are reliable, affordable and reduce emissions at the same time. It is PMAR's hope that a work group forms with input from all stakeholders, to develop a plan and policy to meet Milwaukie's climate goals.

Sincerely, Michele Gila
Director of Realtor® Advocacy, PMAR

Scott Stauffer

From: Dan Kirschner <dkirschner@nwga.org>
Sent: Tuesday, January 18, 2022 2:54 PM
To: Mark Gamba; Kathy Hyzy; Lisa Batey; Angel Falconer; Desi Nicodemus; OCR
Cc: Natasha Jackson; Scott Peterson; Judy Adair
Subject: Natural Gas Resolution

This Message originated outside your organization.

Mayor Gamba and Milwaukie City Councilors:

The Northwest Gas Association represents the owners and operators of the 30,000 miles of safe, reliable energy infrastructure that is the gas delivery system in Oregon. Collectively, our members serve warmth and comfort to more than two million Oregon residents, including thousands of homes in Milwaukie.

Our members also serve heat and productive energy to 85,000 businesses, institutions and industries across Oregon upon which tens of thousands of livelihoods depend. Hundreds of those businesses of all different stripes are located in Milwaukie including restaurants, hotels and motels, dry cleaners, schools, grocery stores, clinics, manufacturers and more.

It is on our own behalf and on behalf of the consumers that rely on the energy delivered by NWGA members that we express serious concerns with Agenda Item #7 on tonight's Council Agenda, "*Natural Gas Ban*".

We share the City's concern for and commitment to climate action. Indeed our members are actively investigating and rapidly adopting measures to decarbonize the energy they deliver to home and businesses in Milwaukie and the greater Pacific Northwest. With respect, banning the constructive use of a particular infrastructure to achieve our shared objective while forcing over-reliance on another infrastructure is misguided. Decarbonization is the objective. Electrification is a pathway to the objective but certainly not the only one and arguably not the best pathway.

We enjoy a diverse energy portfolio in the Northwest delivered by multiple different yet integrated and interdependent systems. The many ways those systems work together is both a marvel and a unique value to energy consumers here. Two recent extreme weather events demonstrate the importance of a diverse energy mix.

For instance, the electric grid relies upon the gas infrastructure to fuel the generation of electricity when demand outstrips the ability of other resources to meet the need. During the recent heat dome event, virtually all of the gas-fueled electricity generation was running all out to provide vital cooling for the region.

The gas infrastructure is highly reliable and supplies upwards of 90% of the energy required during the coldest hour of the coldest day of the year. When the power was out during last year's ice storm event, those with gas in their homes were still able to enjoy hot water, the ability to cook, and heat from gas fireplaces.

Instead of forsaking an entire infrastructure as a part of the solution, we urge you to consider every tool in the toolbox; to methodically and deliberately optimize each tool to achieve the objective in the context of broader economic, environmental and physical impacts. In short, the gas delivery system is a vital asset to achieving our shared decarbonization objectives. We urge you to work closely with affected stakeholders to craft a thoughtful course toward decarbonization.

With warm regard,

Dan Kirschner, Executive Director
Northwest Gas Association
1914 Willamette Falls Dr, #260
West Linn, OR 97068
O - (503) 344-6637
M - (503) 880-7269
www.nwga.org



Click here for up-to-date information about NWGA events

Testimony on Natural Gas Ban

Mayor Gamba, City Council — thank you for providing this opportunity for testimony.

My name is Elijah Cetas, and I'm here with my partner Sofie Jokela. We've residents of Ardenwald neighborhood, and we love living in Milwaukie.

I'm currently a law student at Lewis & Clark law school and I'll start.

First off, thank you for introducing this important resolution to ban gas and move towards 100% electric buildings.

Homes and buildings consume nearly 43% of all energy in Oregon and cause about one-third of the state's climate pollution—the second largest source of climate pollution after the transportation sector. A recent study found that these number may even be a significant undercount, from leaks in urban areas - our homes, pipelines, storage tanks. (Source: https://www.sciencedaily.com/releases/2021/10/211025172125.htm)

Putting an end to the expansion of fracked gas in homes and buildings is one of the most important first steps we can take in Oregon and across the country to reduce emissions and stop runaway climate catastrophe. By taking the lead here you join with the cities across the country like Berkeley, San Francisco, and now New York City making this necessary transition. You support the bold efforts of our sister City in Eugene; and you send a clear and direct message to the Portland and other growing cities in the West to step up and do the necessary work to protect their residents and the climate.

———————
Hi everyone. My name is Sofie. I'm enrolled in community college taking prerequisites for a nurse-midwife program at OHSU, and I work with unhoused community in Portland.

In addition to what Elijah said, I am also in favor of the ban as someone who lives and cooks in a home that is heated and runs on fracked gas. I love to cook, and now with the pandemic I'm cooking more than ever. But I worry about the health affects of our gas range. We know that cooking with gas for just an hour produce nitrogen dioxide levels that would be illegal if found outdoors, and that children who grow up in homes with gas stoves have a 42 percent increased risk of asthma symptoms.

I don't want to live in a house that poisons me, and I certainly don't want to think about bringing our future children into a space that could be so harmful to their health.

——————————

By now you've probably heard from NW natural. We certainly have. They are wasting no time to greenwash gas with false promises of clean bio-gas and net zero promises. The science doesn't add up. We need to electrify.

But what you might hear most is that gas is reliable. Well I'm here to tell you it's not. In the biggest climate disasters to hit this town - the 2020 wildfires, and the 2021 ice storm and heat wave, our gas heating was more a hindrance than a help. We lost power in the ice storm, and with it our access to gas heat. In both the wildfires and the heat wave, we fled our poorly ventilated home for a family member's house, where an all electric heat pump filtered the smoke and cooled the air.

100% electricity is the future, and it's time we stepped into it.
Our full support. Thank you.

Sincerely,
Sofie Beth Jokela
Elijah Rempe Cetas

10049 SE 36th Ave.
Milwaukie, OR 97222

Er.cetas@gmai.com
Sofiejokela@gmail.com
(503) 789 2352

Scott Stauffer

From: Wendy Woods <woodsw67@gmail.com>
Sent: Wednesday, January 19, 2022 11:39 AM
To: OCR
Subject: Support for Electrification

This Message originated outside your organization.

Dear Mayor and Councilors,

I applaud the City of Milwaukie proposal to slow the climate emergency. While many have done a lot, we have not done enough. This moment is one in which you have an opportunity to be a leader among cities. Corvallis, Eugene and other Oregon cities are taking similar steps.

Scientists know the earth is reaching tipping points where the damage cannot be reversed. The latest IPCC report warns that we have very little time left to act. At least, we must cut greenhouse gas emissions in half no later than 2030 to maintain a habitable planet.

Scientists are certain that global warming is caused by humans burning fossil fuels, including methane. The catastrophic impacts of warming: wildfires, floods, heat domes, are accelerating. **The solution is to STOP using fossil fuels.** Technology already exists that allows us to power vehicles and buildings with clean electricity.

Methane gas in buildings harms public health and the climate

The use of methane gas in buildings is one of the top growing sources of greenhouse gas emissions, and is also putting residents at increased risk to their health and safety due to the high levels of air pollution that it generates.
Most recently, scientists discovered that gas appliances have been leaking methane in buildings - and into the air - at least six times the rate ever previously known.

Transportation and buildings together are the source of about 75% of our greenhouse gases and a third is from natural gas, which is mostly methane, a much more potent greenhouse gas than carbon dioxide over the short term.
Electrification is the most cost-effective solution available that uses existing technologies, according to the research of Saul Griffith, a recipient of a MacArthur award.

In particular, the city should **complete** the following **by 2025**:

1. Install efficient **electric heat pumps** in all buildings to both heat and cool the space as well as to heat water. Increase energy efficiency.

2. Replace all city owned **autos and buses** with electric versions.

These steps are urgent. We simply don't have a moment to waste.

Thank you for taking the lead in Oregon, making it easier for other cities to follow.

Wendy Woods PhD

RS 7. B. 1/18/22
Speaker Registration

Scott Stauffer

From: OCR
Sent: Tuesday, January 18, 2022 1:25 PM
To: Carlson, Nina; OCR
Cc: Williams, Kathryn; Yocom, Jennifer
Subject: RE: Verbal Testimony request on the gas ban agenda item at the 1/18 Milwaukie

Good Afternoon Nina, it was pleasure to chat this morning. We'll keep an eye out for Kathryn in the Zoom participants list and when Council takes comment on the natural gas ban resolution we'll promote Kathryn to the panel to speak. If you have any questions please let me know – I will be monitoring email and the Zoom chat during the meeting.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
City of Milwaukie
p: 503.786.7502

From: Carlson, Nina <Nina.Carlson@nwnatural.com>
Sent: Tuesday, January 18, 2022 1:18 PM
To: OCR <OCR@milwaukieoregon.gov>
Cc: Williams, Kathryn <Kathryn.Williams@nwnatural.com>; Yocom, Jennifer <Jennifer.Yocom@nwnatural.com>
Subject: Verbal Testimony request on the gas ban agenda item at the 1/18 Milwaukie

This Message originated outside your organization.

Scott,

Thank you for your time this morning explaining the process to request time to present verbal testimony on a council agenda item. I would like to request time for verbal testimony for tonight's city council agenda (1/18) around the discussion of the gas ban. This would be for our Vice President of Public Affairs and Sustainability, Kathryn Williams. She will be on the Zoom link for the meeting, but if she needs to have a special link to be a panelist for that portion of the meeting, her email is copied above. Please alert me if there is a question or I need to use a different process.

Kind regards,

Nina Carlson
NW Natural- Government Affairs
w: 503.721-2474 m: 503.312-0683
nina.carlson@nwnatural.com

CITY OF MILWAUKIE
CITY COUNCIL

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: Paul Lisac Address:

Organization: Lisac's Fireplace Phone:

Email:

Meeting Date: 1/18/22 **Topic:** Natural Gas Ban

You are Speaking...

- ☐ in Support
- ☑ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:

Would like to speak

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Name: Elijah Cetas

Address: 10049 SE 36th Ave., Milwaukie OR 97222
Phone:
Email:

Organization: Resident; Breach Collective

Meeting Date: 1/18/22 **Topic:** Resolution to ban fracked gas hookups

You are Speaking…

- [x] in Support
- [ ] in Opposition
- [ ] from a Neutral Position
- [ ] to ask a Question

Comments:

I strongly support this resolution to pursue a path to ban natural gas from new residences in Milwaukie. It is so important to reduce methane pollution from both a climate justice and human health perspective. As a resident living with gas, I also believe I would be safer, healthier, and better prepared for extreme weather if I had an all electric heat pump system. I urge Milwaukie to continue to step up as a climate leader and first pass this resolution, followed shortly by an ordinance banning fracked gas in new construction, and in the longer term, collaborating with Portland and the state of Oregon for incentives to transition existing home infrastructure.
Thank you,
Elijah Cetas

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Name: Nick Caleb

Organization: Breach Collective

Address: 3418 NE 72nd Ave
Phone: 5418916761
Email: nick@breachcollective

Meeting Date: 1.18.2022

Topic: Building Energy Net Zero resolution

You are Speaking…

- [x] in Support
- [ ] in Opposition
- [ ] from a Neutral Position
- [ ] to ask a Question

Comments:

I also submitted written testimony to the city in support of this item.

RS Agenda Item 8

Public Hearings

CITY OF MILWAUKIE

RS 8. A. 1/18/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 11, 2022

Reviewed: Laura Weigel, Planning Manager, and
Peter Passarelli, Public Works Director

From: Natalie Rogers, Climate and Natural Resources Manager, and
Vera Kolias, Senior Planner

Subject: **Comprehensive Plan Implementation: Code Amendments – Hearing #1**

ACTION REQUESTED

Council is asked to open the public hearing for land use file #ZA-2021-002, discuss the proposed amendments to the Milwaukie Municipal Code (MMC) with a focus on Title 16 (Tree Code), take public testimony, and ask any clarifying questions of staff regarding the proposed amendments. Discussion about the proposed revisions to Title 19 (Zoning), Title 17 (Land Division), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map will begin at a continued public hearing on February 15.

The requested action this evening is to continue the public hearing regarding Title 16 (Tree Code) to February 1. The requested action on February 1 is to hear any additional information from staff, receive additional public testimony, deliberate, and approve file #ZA-2021-002 and adopt the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

This staff report is focused on the proposed amendments to Title 16 (Tree Code). Staff reports for the continued public hearing related to housing and parking will provide background and analysis related to those topics. Please refer to the December 21, 2021 staff report (linked below) for background on the overall project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

December 1, 2020: Staff provided Council with a project update.

January 19, 2021: Staff provided Council with a project update

February 16: The Council packet included a project update.

April 6: Staff provided Council with a project update.

April 20: Staff led a discussion with Council about flag lots and the minimum lot size approach.

May 11: Staff led a study session discussion about Oregon House Bill (HB) 2001 and the model code, parking code recommendations, and standards in the proposed consolidated residential zones.

June 15: Staff provided Council with a project update ahead of the posting of the proposed draft code for public comment over the summer.

Following three work sessions in August, the Planning Commission held three public hearings on the proposed amendments (October 12, October 26, and November 9). On November 9, the Commission voted 5-2 to recommend approval of the amendments with specific revisions and recommendations to the Council.

December 21: Council work session. Council was presented with the proposed amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information, specifically on building height and accessory dwelling units (ADUs), and the proposed tree code.

January 4, 2022: Council work session. Council was presented with the proposed code amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information specifically on parking, maximum lot coverage, and flag lots/back lots.

ANALYSIS

Project Background

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and Oregon's Housing Choices Bill (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options throughout the state.

The adopted Comprehensive Plan policies also call for preservation and expansion of canopy in Milwaukie to meet the city's 40% canopy by 2040 goal and to provide a variety of ecosystem services to the community. These services include urban habitat benefits, heat island mitigation, watershed and stormwater improvements, community health improvements, and aesthetic, recreational and economic benefits from trees. The policies in the Plan's existing urban forest program align with the work already being performed by the city's natural resource staff. Community support for urban forest efforts is high – in 2019, a community survey found that 78% of respondents felt that community forestry was an important investment priority for the city. Additional direction to develop tree code comes from the Community Visioning process from 2017, the 2018 Climate Action Plan (CAP), and the 2019 Urban Forest Management Plan (UFMP).

Starting in the summer of 2020, the city conducted a 13-month process to develop the proposed code amendments, which represent Phase 1 of the implementation of the comprehensive plan, including:

- Pilot newsletter articles: 12 articles
- Comprehensive Plan Implementation Committee (CPIC) meetings: 9
- Stakeholder interviews: 32 interviews in October
- Virtual open houses: 3 (English and Spanish)
- Community Surveys: 2 (English and Spanish)
- Email blasts and social media posts
- Handouts (English and Spanish)
    - Library, Farmers Market, Hillside, Wichita Center, Northwest Housing
- Neighborhood District Association (NDA) presentations
- Small group discussions (in both Spanish and English)
- Monthly Planning Commission and City Council updates

Public outreach for the public hearings that started in October included:

- September 1: 35-day public hearing notice
  - Project webpages (city and Engage Milwaukie)
  - Email blast
  - Executive Summary posted
  - City social media
- September 22: 20-day notice
  - Email blast
  - Mailed postcard to all residential and business properties (English and Spanish)
- September 28: presentation to Milwaukie Rotary
- NDA's: Materials send to each NDA in September
- October 10: Materials available at Farmers Market
- October Pilot newsletter article
- October 6 and October 20: Measure 56 notice mailed re: Tree code
- December 16: 30-day public hearing notice
  - Project webpages (city and Engage Milwaukie)
  - Email blast
- December 28: CPIC and NDA update email; Engage Milwaukie updates
- January 13: Email blast; City social media

Please see Attachments 2, 3, and 4 for a summary of the public engagement process for the project.

Zoning code and map amendments to allow middle housing options in residential zones will move the city closer to realizing its goal of providing "safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability".

Through these updates to the city's zoning code, the following policy mandates are addressed:

1. Increasing the supply of middle and attainable housing, and providing equitable access and housing choice for all
2. Increasing the tree canopy and preserving existing trees to support the city's goal of a 40% tree canopy
3. Managing parking to enable middle housing and protect trees

Although the focus of tonight's hearing is on the tree code it is important to provide the context for the entire code package, which will be discussed beginning Feb. 15. HB 2001 requires middle housing options to be permitted in ALL residential areas zoned for detached single-unit dwellings throughout the state. Middle housing includes duplex, triplex, quadplex, townhouse, and cottage cluster development – the types of housing that fill the gap between single-unit housing and apartment or mixed-use buildings.

The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city's goal for a 40%

tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

Throughout the project, staff and the consultant team used the comprehensive plan goals and policies to guide the code amendments. All the amendments are connected to the adopted comprehensive plan – see Attachment 1a for a detailed analysis.

The adoption of the Comprehensive Plan establishes a mandate for Milwaukie to update any lagging land use policies and practices that may be holding the city back from realizing its vision. One major area where current policies and practices need to be updated is the zoning code. The city made it an early priority to update the zoning code for single dwelling residential areas. These areas of the zoning code need to be amended to achieve several Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency. Additionally, revising the code for residential areas begins the process of addressing historic patterns of inequity by allowing different types of housing types, other than single unit housing, that may be an option for people at different income levels.

As noted above, the policy mandates from the comprehensive plan have been distilled to three key themes: housing, tree canopy, and parking. The primary focus on tonight's hearing is the policy mandate regarding trees. The other two policy mandates will be summarized for the hearing on February 15.

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees – focus of the January 18 hearing

Trees are very important to Milwaukians, are a major contributor to the quality of life in Milwaukie and could be considered a signature feature of the city to be nurtured and protected. Additionally, trees are important to reducing stormwater runoff and associated utility costs, improving residents' health outcomes, helping the city meet its climate goals, reducing the urban heat island effect, and can increase property values.

Most trees in Milwaukie are on private property, therefore it is appropriate that these trees be considered for additional protections to achieve the community's goals. As a result, trees on private property will be regulated differently than they have been in the past. These protections will help preserve the existing canopy and contribute to the future canopy of the city.

A culture shift will be required on the part of Milwaukians, the development community, and city staff towards one that promotes a collaborative approach to tree preservation and planting. Staff and community members will begin to have tree specific conversations early in the development application process, and, as a result, there will be a much better understanding of the community's goals regarding trees.

The city's Tree Board, established in 2017, and city departments now view trees as a form of citywide green infrastructure that needs to be managed just like other forms of built infrastructure. Unlike hard infrastructure, trees are the only urban infrastructure that exponentially increase in community benefits and value over time. Urban trees offer an important opportunity to mitigate climate change induced high temperatures and air quality impacts faced by Milwaukie residents. The potential of trees to regulate temperature is widely acknowledged in scientific literature and daytime temperatures can be significantly reduced at the city block scale when canopy exceeds 40%.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, the CAP, the UFMP, and the Community Vision. In Goal 3 of the Comprehensive Plan, a target is established to have 40% tree canopy throughout the city using a combination of development code and other strategies. Comprehensive Plan goals recognize that flexibility is needed in the siting and design of buildings and design standards to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The UFMP and the CAP bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The UFMP further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

Code amendments that support this policy mandate are found in the following sections:

1. Title 16 – Environment, 16.32 – Tree Code (and related code section, Public Works Standards, 5.0030)
2. 19.200 Definitions, Tree-related definitions
3. 19.402 Natural Resource Overlay Zone

Summary of Key Amendments – Tree Code

The final draft code amendments were posted on September 1, 2021 in advance of the first public hearing with the Planning Commission on October 12. Following a review by the Oregon Department of Land Conservation and Development, and the Planning Commission hearings and additional staff review, several recommendations were made to the posted code language. The following is a discussion of the key amendments and includes the recommendations from the Planning Commission from their public hearing on November 9.

Amendments Related to Trees – Focus of the January 18 hearing
Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan.

The existing tree code addresses only trees in the public right-of-way or on public property, like park or street trees. To meet the city's goal of a 40% tree canopy, as identified in the CAP, the UFMP, and the Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In this package of code amendments, the private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume, and protection standards for development situations, and a simplified permitting process for non-development residential tree removal. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removals on private property, a permit will be required in addition to tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees, trees posing safety hazards, invasive species, and trees significantly impacting infrastructure for which mitigation is impracticable.

The proposed amendments to MMC Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet city policy goals for greater forest diversity, more

native and climate-resilient species, improving the ecological function, and creating multi-level, uneven-aged canopy.

Key amendments include:

- Regulate preservation and protection of trees on private property in residential zones, including:
    - Define standards for preserving and protecting trees
    - Create a process for application and development review
    - Define rare or threatened trees
    - Establish minimum tree canopy of 40% per lot in development situations
- Amend "Vegetation Buffer Requirements" in MMC 19.401 Willamette Greenway overlay zone to be consistent with updated tree code
- Update "Native Plant List" referenced in Natural Resource Overlay Zone to include other vegetation types and nuisance/prohibited plants. Update native vegetation and native plant definitions to be consistent with new tree code.

Planning Commission recommendations

The proposed code amendment package was posted on September 1. Following the Planning Commission hearing process, the following key revisions to the Tree Code were recommended in the final vote to recommend approval of the code package (See Attachment 1):

- Revise the non-development tree code type 1 healthy tree removal approval standard to allow for one healthy tree removal under 12" diameter at breast height instead of 18" diameter at breast height.
- Add tree preservation and tree canopy standards variance language where appropriate
- Discuss bonding requirements for development related tree code with Council as allowed in draft residential tree code (MMC 16.32.J.1.c.5)

City Council clarifying questions

- Tree code
    - Council requested information on public works staff coordination with the planning department on setback variances for tree preservation.
    - Council requested information on development tree code triggers. Staff will bring code language to the January 18 hearing regarding development tree code for the construction of additional housing units without expansion of building footprints.
    - Council and staff discussed the canopy standards, and the tree lists to be created by staff for replanting requirements.
    - Council and staff discussed bonding requirements.

NEXT STEPS

- Council public hearing #2: February 1, 2022 – continued staff presentation on the tree code, presentation of proposed fee schedule, clarifying questions from Council, additional public testimony, close the public hearing, and Council deliberations.,
- Council public hearing #3: February 15, 2022 – open hearing on proposed middle housing and parking code amendments, and continue hearing if necessary, and

- Council public hearing #4: March 1, 2022 _ continue hearing on proposed middle housing and parking code amendments and continue hearing if necessary; and
- Council public hearing #5: March 15, 2022 _ continue hearing on proposed middle housing and parking code amendments

BUDGET IMPACT

The proposed code language calls for the establishment of fees (permit fees, mitigation fees, bonding requirements, etc.) that would be used to fund urban forest activities in future budget years. The fees will be adopted by resolution as part of the master fee schedule. As the urban forest program grows, future revenue generated from permits and mitigation fees will generate additional dedicated revenue for urban forest programs.

WORKLOAD IMPACT

Some additional permits will likely be submitted when the new code is adopted, but this additional activity will be absorbed by staff.

CLIMATE IMPACT

The objective of the implementation project is code amendments that will support a variety of housing opportunities throughout the city, including middle housing, and an updated tree code that will help the city achieve its stated goal of a 40% tree canopy. Tree preservation and canopy expansion is critical for climate mitigation and adaptation in Milwaukie.

COORDINATION, CONCURRENCE, OR DISSENT

Community development, planning, engineering, city manager's office, and public works staff worked on this project.

ATTACHMENTS

1. Ordinance
    a. Recommended Findings in Support of Approval
    b. Draft code amendment language (underline/strikeout)
    c. Draft code amendment language (clean)
2. Public outreach summary table
3. Public outreach summary report dated July 29, 2021
4. Public comments spreadsheet tracker and comments submitted during Planning Commission hearings

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 16 ENVIRONMENT FOR THE PURPOSE OF ADDRESSING TREE PRESERVATION (FILE #ZA-2021-002).

WHEREAS it is the City of Milwaukie's intent to increase the city's tree canopy and preserve existing trees to support efforts to achieve a40% city-wide tree canopy; and

WHEREAS the proposed code amendments implement several of the goals and policies of the city' Comprehensive Plan related to tree preservation; and

WHEREAS legal and public notices have been provided as required by law, and that all residential addresses in the city were notified of the amendments and multiple opportunities for public review and input has been provided over the past 15 months; and

WHEREAS on October 12 and October 26 and November 9, 2021 the Planning Commission conducted public hearings as required by Milwaukie Municipal Code (MMC) 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS the 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 (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 30 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_____.

_____
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

_____
Scott S. Stauffer, City Recorder

_____
Justin D. Gericke, City Attorney

EXHIBIT A
Findings in Support of Approval
File #ZA-2021-002
Amendments to MMC Title 16 (Tree Code)

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 the tree preservation regulations that are established in Title 16 of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2021-002.

2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to tree preservation.

3. The proposal is subject to the criteria and procedures outlined in the following sections of the Milwaukie Municipal Code (MMC):

   - MMC Section 19.902 Amendments to Maps and Ordinances
   - MMC Chapter 19.1008 Type V Review

   The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. An initial evidentiary hearing was held by the Planning Commission on November 9, 2021. Public hearings were held by the City Council on January 18, 2022 and February 1, 2022 as required by law.

4. MMC Section 19.902 Amendments to Maps and Ordinances

   MMC 19.902 establishes the general process for amending the City's Comprehensive Plan and land use regulations within the Milwaukie Municipal Code. Specifically, MMC Subsection 19.902.5 establishes Type V review as the process for changing the text of land use regulations, with the following approval criteria:

   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, including MMC Section 19.402 Natural Resources.

      This standard is met.

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

      The goals and policies of the Comprehensive Plan support the amendments to allow the development of a new tree code:

      (a) Section 3 – Natural Resources and Environmental Quality:

Protect, conserve, and enhance the quality, diversity, quantity and resiliency of Milwaukie's natural resources and ecosystems, and maintain the quality of its air, land, and water. Utilize a combination of development regulations, incentives, education and outreach programs, and partnerships with other public agencies and community stakeholders.

(a) Policy 3.4.2:

Pursue the City's goal of creating a 40% tree canopy through a combination of development code and other strategies that lead to preservation of existing trees and planting of new trees and prioritize native and climate-adapted species, while also considering future solar access.

(b) Section 6 – Climate Change and Energy Goals and Policies:

Promote energy efficiency and mitigate the anticipated impacts of climate change in Milwaukie through the use of efficient land use patterns, multimodal transportation options, wise infrastructure investments, and increased community outreach and education as outlined in the City's Climate Action Plan.

(a) Policy 6.1.4:

Develop standards and guidelines that contribute to a 40% citywide tree canopy.

The proposed amendments implement sections of the comprehensive plan related to tree preservation.

Through these updates to the City's municipal code, the following policy mandate is addressed:

- *Increasing the tree canopy and preserving existing trees to support the City's goal of a 40% tree canopy*

The proposed amendments include standards and requirements related to tree preservation, tree removal, and replanting on residentially zoned private property throughout the city. As proposed, the amendments are consistent with and facilitate the actualization of several relevant goals and policies in the City's Comprehensive Plan.

This standard is met.

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 are consistent with the following applicable sections of Metro's Urban Growth Management Functional Plan:

Title 8 – Compliance Procedures

The City's current Comprehensive Plan and land use regulations are in compliance with the Functional Plan. The proposed amendments will be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by Metro Code Section 3.07.820.A, the City has provided notice of the proposed amendments to Metro's Chief Operating Officer as much in advance of the City Council hearing on the proposed amendments as possible.

In processing the proposed amendments, the City has followed its own requirements and procedures for citizen involvement. The proposed amendments have been reviewed at a public City Council work session and made available to the City's various Neighborhood District Associations for review. The City has conducted public hearings on the proposed amendments before the Planning Commission and City Council and has published public notice prior to each hearing.

Title 13: Nature in Neighborhoods

The purpose of Title 13 is twofold: (1) to conserve, protect, and restore a continuous ecologically viable streamside corridor system in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality and prevent water pollution. The City is required to comply with Title 13 for all mapped resources located within the City. By meeting the requirements of Title 13, the City also complies with Statewide Planning Goal 5 for riparian areas and wildlife habitat. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance with Title 13.

The proposed code amendments do not propose any changes to the City's habitat protection program or inventory of habitat resources. Further the amendments strengthen the City's approach to habitat conservation with a new tree code that applies to residential properties. The new tree code applies to both new development and non-development activities.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan.

The current tree code addresses only trees in the public right of way or on public property, like park or street trees. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forestry Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In the proposed code amendments, private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume and protection standards. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removal on private property, a permit will be required as well as tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees,

trees posing safety hazards, invasive species, and trees significantly impacting infrastructure without practical mitigation.

The proposed amendments to the City's municipal code Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet City policy goals for greater forest diversity, more native and climate-resilient species, improving the ecological function and creating multi-level, uneven-aged canopy.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Grown Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

This standard is met.

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.

Goal 1 – Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has an adopted and acknowledged amendment process and has followed that process in making these amendments. Public hearings on the proposed amendments have been held and public notice was published prior to each hearing. In addition, all owners of residential property were sent notice of the public hearings. The Planning Commission members are appointed by an elected City Council, following an open and public selection process.

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed amendments will not change the City's land use planning process. The City will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. Specifically, the proposed amendments will include standards and requirements related to tree preservation on private property. These changes strengthen the City's existing policies that implement Goal 2.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

This standard is met.

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.

This standard is met.

The City Council finds that the proposed amendments to MMC Title 16 (Tree Code) are consistent with the applicable approval criteria for zoning text amendments as established in MMC 19.902.5.B.

5. MMC Section 19.1008 Type V Review

MMC 19.1008 establishes the procedures and requirements for Type V review, which is the process for legislative actions. The City Council, Planning Commission, Planning Manager, or any individual may initiate a Type V application.

The amendments were initiated by the Planning Manager on August 13, 2021.

a. MMC Subsection 19.1008.3 establishes the public notice requirements for Type V review.

(1) MMC Subsection 19.1008.3.A General Public Notice

MMC 19.1008.3.A establishes the requirements for public notice, including a requirement to post public notice of a public hearing on a Type V application at least 30 days prior to the first evidentiary hearing. The notice must be posted on the City website and at City facilities that are open to the public.

A notice of the Planning Commission's October 12, 2021, hearing was posted as required on September 1, 2021. A notice of the City Council's January 18, 2022, hearing was posted as required on December 17, 2021.

(2) MMC Subsection 19.1008.3.B DLCD Notice

MMC 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) as per the standards of MMC Subsection 19.1001.6.C.4.a, which required notice to be sent to DLCD at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on August 31, 2021, in advance of the first evidentiary hearing on October 12, 2021.

(3) MMC Subsection 19.1008.3.C Metro Notice

MMC 19.1008.3.C requires notice of a Type V application be sent to Metro at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on August 31, 2021, in advance of the first evidentiary hearing on October 12, 2021.

(4) MMC Subsection 19.1008.3.D Property Owner Notice (Measure 56)

MMC 19.1008.3.D requires notice to property owners if, in the Planning Manager's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

Notice of the proposed amendments was sent to all residential properties in the city on October 20, 2021 in advance of the November 9, 2021 public hearing related to the proposed amendments to the tree code.

b. MMC Subsection 19.1008.4 Type V Decision Authority

MMC 19.1008.4 establishes that the City Council is the review authority for Type V applications and may approve, approve with conditions, amend, deny, or take no action on a Type V application after a public hearing.

The City Council held a public hearing to consider this application on January 18, 2022 and February 1, 2022, and approved the proposed amendments as presented.

c. MMC Subsection 19.1008.5 Type V Recommendation and Decision

MMC 19.1008.5 establishes the procedures for review and a decision on Type V applications. The process includes an initial evidentiary hearing by the Planning Commission and a recommendation to the City Council, followed by a public hearing and decision by the City Council.

The Planning Commission held an initial evidentiary hearing on the tree code on November 9, 2021, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on January 18, 2022 and February 1, 2022, and approved the proposed amendments as presented.

CHAPTER 16.32 TREE CODE

16.32.005 PURPOSE

The purpose of this chapter is to establish processes and standards that ensure the City maximizes the environmental, economic, health, community, and aesthetic benefits provided by its urban forest. It is the intent of this code to establish, maintain, and increase the quantity and quality of tree cover in residential zones and on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

This code is designed to:

1. Foster urban forest growth to achieve 40% canopy coverage by 2040.
2. Maintain trees in a healthy condition through best management practices.
3. Manage the urban forest for a diversity of tree ages and species.
4. Manage street trees appropriately to maximize benefits and minimize hazards and conflicts with infrastructure.
5. Ensure the preservation and planting of tree canopy with development and redevelopment of housing in residential zones.
6. Regulate the removal, replanting, and management of trees prior to and following development and redevelopment in residential zones.
7. Implement applicable urban forest goals, policies, objectives, and action items in the Comprehensive Plan, Climate Action Plan, and Urban Forest Management Plan.

16.32.010 DEFINITIONS

The following definitions will ~~shall~~ apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

"Arbor Day/Week" means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

"Arboriculture" means the practice and study of the care of trees and other woody plants in the landscape.

"City" means the City of Milwaukie.

"City Engineer" means the city engineer of the City of Milwaukie or designee.

"City Manager" means the city manager or the city manager's authorized representative or designee.

"Council of Tree and Landscape Appraisers (CTLA)" means the publishers of the Guide for Plant Appraisal.

"Crown" means area of the tree above the ground, measured in mass, ~~or~~ volume, or area and including the trunk and branches.

"Cutting" means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

"DBH" means the diameter at breast height.

"Dead tree" means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

"Diameter at breast height" means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

"Drip line" means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

"Dying tree" means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

"Hazardous tree" means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

"Invasive species" means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

"ISA" means the International Society of Arboriculture.

"ISA Best Management Practices" means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

"Major tree pruning" means removal of over 20% of the live crown, or removal of or injury to over 15% of the root system during any 12-month period.

"Master Fee Schedule" is the schedule of City fees and charges adopted by City Council for the services provided by the City.

"Minor tree pruning" means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

"NDA" means Neighborhood District Association.

"Noxious weed" means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

"Owner" means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's written consent.

"Park tree" means a tree, shrub, or other woody vegetation within a City park.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit ~~means any individual, firm, association, corporation, agency, or organization of any kind~~.

"Planning ~~Director~~ Manager" means the planning ~~director~~ manager of the City of Milwaukie or designee.

"Public agency" means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

"Public tree" means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

"Public Works Director" means the public works director of the City of Milwaukie or designee.

"Right-of-way" means ~~the area between boundary lines of a public way~~ means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement.

"Shrub" means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

"Street tree" means a tree, shrub, or other woody vegetation on land within the right-of-way. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

"Tree Canopy" means the aggregate or collective tree crowns.

"Tree Fund" means the Tree Fund as created by this chapter.

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

"Urban forest" means the trees that exist within the City.

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

A. The City Manager is authorized to administer and enforce the provisions of this chapter.

B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.

C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning ~~Director~~ Manager, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;

2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;

4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;

5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and

7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;

2. Payments received in lieu of required and/or supplemental plantings;

3. Civil penalties collected pursuant to this chapter;

4. Agreed-upon restoration payments or settlements in lieu of penalties;

5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;

7. Sale of seedlings by the City; and

8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter will ~~shall~~ be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

a. Whether the species of tree is appropriate for its location,
b. Whether the species of tree is an invasive species;
c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:

(1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.

(6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.

(7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.

c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.

2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.
b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.
c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.

3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.

2. The applicant's proposed outreach and notification program provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;

2. Geographic area covered by the permit;

3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;

4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;

5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and

6. Traffic control requirements.

7. Annual Report

   On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
   a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
   b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will ~~shall~~ be provided in accordance with MMC 16.32.026 B.2
   c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation

1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal must ~~shall~~ be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit for trees on public properties and rights-of-way is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12-month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City and requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting, establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal on public properties and rights-of-way has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within ~~in~~ the right of way and residential zones. Eligibility and extent of assistance will be based on a

percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

The tree preservation and planting standards in this subsection apply to the following types of development in residential zones:

1. Land Divisions.

2. Construction of New Residential Dwelling Unit.

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25 percent of onsite tree canopy maybe removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Affordable housing developments that meet the exemption standards in MMC 3.60.050 (A)1 and 2 may remove up to 50% of the existing canopy below the 40 % site canopy coverage standard without mitigation. See Table 16.32.042 B1. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Table 16.32.042 B1

Development Type	Standard	Allowable Reduction not requiring Mitigation	Remaining Site Canopy Coverage
Residential Developments	40% Site Canopy Coverage	25% below 40%	30%

Eligible Affordable Housing Developments	40% Site Canopy Coverage	50% below 40%	20%

Trees listed on the City of Milwaukie Rare or Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards.

C. Clear and Objective Tree Canopy Standards

In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.

3. One hundred percent (100%) of the existing canopy or mature crown area of onsite trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.

4. Fifty percent (50%) of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an onsite tree except when the trunk crosses a public right-of-way line at ground level, it is considered a street tree for the purposes of these tree canopy standards.

D. Mitigation Standards

If the Tree Preservation and/or Tree Canopy Standards are not met, mitigation fees must be provided to the Tree Fund as follows:

1. The tree preservation fee in the Master Fee Schedule based on the percentage of canopy that if preserved would meet the minimum tree canopy preservation standard as shown in Table 16.32.042 B1.

2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Variance Procedure.

1. Intent

To provide a discretionary option for variances to the tree preservation and/or tree canopy standards in MMC 16.32.042 to allow projects that provide significant environmental benefit.

2. Applicability

The Type III tree preservation and tree canopy variance is an option for proposed developments that chooses not to, or cannot, meet the tree preservation and/or tree canopy standards specified in MMC 16.32.042

3. Review Process

An applicant may apply for a variance to the tree preservation and/or tree canopy standards. The tree preservation and tree canopy variance shall be subject to Type III review and approval by the Planning Commission, in accordance with Section 19.1006.

4. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the following approval criteria. The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. Examples of activities that may justify a variance include but are not limited to:

a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
b. Use of techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).

c. Use of techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.

d. Use of techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

a. Establish a root protection zone:

(1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1-foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.

(2) For street trees – the Urban Forester may prescribe greater or lesser protection than required for onsite and offsite trees.

(3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:

(a) the area of all new encroachments is less than 25 percent (25%) of the remaining root protection zone area when existing encroachments are subtracted; and

(b) no new encroachment is closer than 1/2 the required radius distance (see Figure 16.32.042.F)

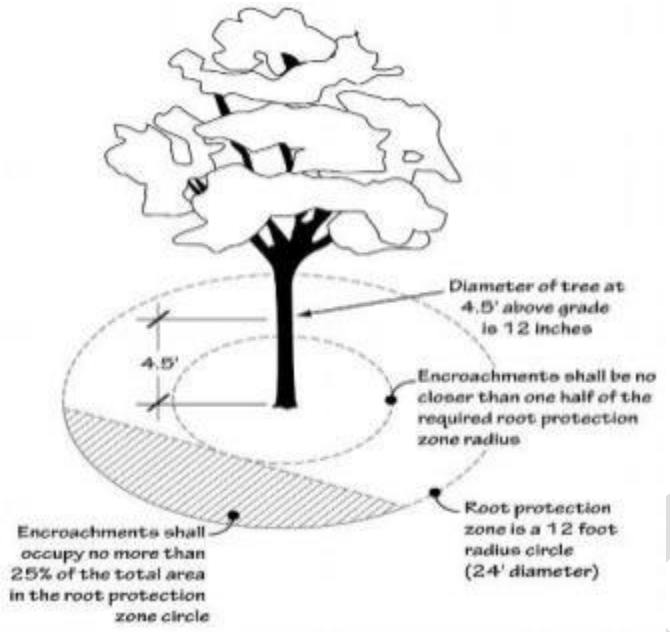


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

c. Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or

equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone plan is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impacts based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify with the Urban Forester in writing that the soil volume plan has been successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be 3 feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is 3 feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. Soil volume areas must be protected from construction impacts through any combination of the following methods:

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(b) When a soil volume area extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(c) Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

(2) Compaction prevention options for encroachment into soil volume areas:

(a) Steel plates placed over the soil volume area.

(b) A 12-inch layer of coarse wood chips over geotextile fabric continuously maintained over the soil volume area.

(c) A 6-inch layer of crushed gravel over geotextile fabric continuously maintained over the soil volume area.

g. Soil contaminants are prohibited from the soil volume areas.

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. The following items may be addressed in performance path soil volume plans but are dependent on specific site conditions and should be verified on a project basis in coordination with other professionals such as civil and geotechnical engineers, landscape architects, and soil scientists as needed:

(1) Compaction Reduction
- (a) tilling
- (b) backhoe turning
- (c) subsoiling

(2) Soil Amendments
- (a) organic amendments
- (b) mineral amendments
- (c) biological amendments
- (d) chemical amendments

(3) Topsoil Replacement (when soil contamination or soil removal occurs)

(4) Soil Under Pavement
- (a) structural soil cells
- (b) structural tree soils

(c) soil vaults
(d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through G. Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

1. Tree Inventory Requirements

a. Survey the locations of all trees at least 6-inch DBH, and trees less than 6-inch DBH as specified on the City of Milwaukie rare or threatened tree list. Trees that must be surveyed include those that are onsite, within abutting public rights-of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.

b. Number each tree for identification at the site and on the plans.

c. Identify the common name and scientific name of each tree.

d. Measure the DBH of each tree in inches according to accepted ISA standards.

e. Measure the approximate average crown radius of each tree in feet.

f. Provide the crown area of each tree using the formula: $(\text{crown radius})^2 \times \pi$.

g. Assess the health condition of each tree using the following categories:

(1) Good (no significant health issues)
(2) Fair (moderate health issues but likely viable for the foreseeable future)
(3) Poor (significant health issues and likely in decline)
(4) Very Poor or Dead (in severe decline or dead)

h. Identify whether the tree is on the Milwaukie Rare or Threatened Tree List.

i. Identify whether the tree is proposed for removal or retained.

j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify rare or threatened trees as described in the City of Milwaukie rare or threatened tree list.

d. Identify the following site disturbances:

(1) Demolition
(2) Tree removal
(3) Staging, storage, and construction access
(4) Grading and filling
(5) Paving
(6) Construction of structures, foundations, and walls
(7) Utility construction
(8) Trenching and boring
(9) Excavation
(10) Any other demolition or construction activities that could result in ground disturbances and/or tree damage

e. Locate tree and soil protection fencing to scale.

f. Locate soil compaction prevention methods to scale.

g. Identify performance path tree protection and soil volume areas.

h. Include tree and soil volume protection specifications from the arborist report on the plans including a detail and description of tree and soil volume protection fencing and signage.

i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

a. Provide a site plan drawn to scale.

b. Include the existing trees to be retained and their crown areas to scale.

c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.

d. Identify the soil volume areas for each tree to be planted to scale.

e. For performance path soil volume areas, identify the methods and specifications as applicable for:

(1) Compaction Reduction;
(2) Soil Amendments;
(3) Topsoil Replacement; and/or
(4) Soil Under Pavement

f. Include a diagram depicting the tree planting that is consistent with ISA best management practices.

g. The minimum size of planted trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

h. The minimum spacing and setback requirements in Table 16.32.042.H must be met based on the mature size class of the tree from the City of Milwaukie tree canopy list unless otherwise approved by the Urban Forester:

Table 16.32.042.H

Spacing/Setback	Small Stature	Medium Stature	Large Stature
between existing and new trees	15 feet	25 feet	35 feet
from habitable buildings	10 feet	15 feet	20 feet
from pavement	2 feet	3 feet	4 feet

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type that, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the tree preservation standards in MMC 16.32.042.B have been met.

c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.

d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.

e. If the applicant is seeking a variance to the tree preservation and/or tree canopy standards in place of providing mitigation fees, provide findings that demonstrate the proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.

f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.

g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

a. Trees that are at least 6-inch DBH.

b. Trees that are less than 6-inch DBH as specified on the City of Milwaukie threatened tree list.

c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following approval standards will be applied to type 1 tree removal permits by the Urban Forester:

a. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

(1) The proposed tree removal will be performed according to current ISA Best Management Practices.

(2) The tree proposed for removal meets one or more of the following criteria:

(a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA tree risk assessment standards.

(e) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue

cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(k) Healthy trees. One (1) healthy tree may be removed per site per calendar year if the tree meets the following:

i. The tree is less than 12 inches in diameter;

ii. None of the trees are required to be preserved by a condition of a land use review, a provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.I.2.a.j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

(b) Replacement trees must be planted in a manner consistent with ISA best management practices. (c) The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable. For example, a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone must be replaced with a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone.

(d) If planting a replacement tree is not practicable, the Urban Forester may allow a tree replacement fee in lieu according to the Master Fee Schedule based on the cost of planting and maintaining a replacement tree for three years.

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

(1) Whether the species of tree is appropriate for its location;

(2) Whether the species of tree is an invasive species;

(3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

(4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and

(5) Whether the removal will significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

b. Approval Standards: The Urban Forester will at a minimum condition the removal of tree based on MMC 16.32.042 I.2.a.(3) and the Urban Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed if the tree is greater than 18" DBH.

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:

a. Photograph(s) that clearly identify the tree(s) proposed for removal.

b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.

c. Information as to whether the tree is within a Habitat Conservation Area overlay district or is part of an approved landscape or mitigation plan.

d. Any additional information required by the City.

e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.

a. Application Procedures Type 1 Tree Removal Permit.

(1) Applications for a Type 1 Tree Removal Permit must meet the requirements of Section MMC 16.32.042. I.4.

(2) Additional information required.

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 I.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant.

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16,32.042. I.4.

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 12 inches in diameter.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review factors in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4The Urban Forester must notify the applicant of the decision in writing.

(5). If no appeal is filed as specified in subsection 7. below, the decision of the Urban Forester is final.

c. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.

b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.

c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

(1) City of Milwaukie tree lists.
(2) Tree protection standards, specifications, and procedures.
(3) Tree planting standards, specifications, and procedures.
(4) Tree establishment and maintenance standards, specifications, and procedures.
(5) Performance bonding, letters of credit, and cash assurances to help ensure proper tree protection, planting, and establishment.
(6) Tree protection inspections and oversight.
(7) Soil protection inspections and oversight.
(8) Performance path tree protection standards and specifications.
(9) Performance path soil volume standards and specifications.
(10) Fees for permit applications, reviews, mitigation, inspections, and violations.

2. Penalties: The following penalties may apply to violations of the provisions of MMC 16.32.042:

a. The penalty for illegal tree removal must not be less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

b. Topping, pruning, or otherwise inflicting willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

c. Tree protection zone violations:

(1) Up to the amount established in the Master Fee Schedule.

(2) Restoration of the tree protection zone as prescribed by an ISA certified arborist and approved by the Urban Forester.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

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CHAPTER 16.32 TREE CODE

16.32.005 PURPOSE

The purpose of this chapter is to establish processes and standards that ensure the City maximizes the environmental, economic, health, community, and aesthetic benefits provided by its urban forest. It is the intent of this code to establish, maintain, and increase the quantity and quality of tree cover in residential zones and on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

This code is designed to:

1. Foster urban forest growth to achieve 40% canopy coverage by 2040.
2. Maintain trees in a healthy condition through best management practices.
3. Manage the urban forest for a diversity of tree ages and species.
4. Manage street trees appropriately to maximize benefits and minimize hazards and conflicts with infrastructure.
5. Ensure the preservation and planting of tree canopy with development and redevelopment of housing in residential zones.
6. Regulate the removal, replanting, and management of trees prior to and following development and redevelopment in residential zones.
7. Implement applicable urban forest goals, policies, objectives, and action items in the Comprehensive Plan, Climate Action Plan, and Urban Forest Management Plan.

16.32.010 DEFINITIONS

The following definitions will apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

"Arbor Day/Week" means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

"Arboriculture" means the practice and study of the care of trees and other woody plants in the landscape.

"City" means the City of Milwaukie.

"City Engineer" means the city engineer of the City of Milwaukie or designee.

"City Manager" means the city manager or the city manager's authorized representative or designee.

"Council of Tree and Landscape Appraisers (CTLA)" means the publishers of the Guide for Plant Appraisal.

"Crown" means area of the tree above the ground, measured in mass, ~~or~~ volume, or area and including the trunk and branches.

"Cutting" means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

"DBH" means the diameter at breast height.

"Dead tree" means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

"Diameter at breast height" means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

"Drip line" means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

"Dying tree" means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

"Hazardous tree" means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

"Invasive species" means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

"ISA" means the International Society of Arboriculture.

"ISA Best Management Practices" means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

"Major tree pruning" means removal of over 20% of the live crown, or removal of or injury to over 15% of the root system during any 12-month period.

"Master Fee Schedule" is the schedule of City fees and charges adopted by City Council for the services provided by the City.

"Minor tree pruning" means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

"NDA" means Neighborhood District Association.

"Noxious weed" means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

"Owner" means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's written consent.

"Park tree" means a tree, shrub, or other woody vegetation within a City park.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

"Planning-Manager" means the planning manager of the City of Milwaukie or designee.

"Public agency" means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

"Public tree" means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

"Public Works Director" means the public works director of the City of Milwaukie or designee.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement.

"Shrub" means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

"Street tree" means a tree, shrub, or other woody vegetation on land within the right-of-way. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

"Tree Canopy" means the aggregate or collective tree crowns.

"Tree Fund" means the Tree Fund as created by this chapter.

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

"Urban forest" means the trees that exist within the City.

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

A. The City Manager is authorized to administer and enforce the provisions of this chapter.

B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.

C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning Manager, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;

2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;

4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;

5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and

7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;

2. Payments received in lieu of required and/or supplemental plantings;

3. Civil penalties collected pursuant to this chapter;

4. Agreed-upon restoration payments or settlements in lieu of penalties;

5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;

7. Sale of seedlings by the City; and

8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the owner of the adjacent property or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one

year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

a. Whether the species of tree is appropriate for its location,
b. Whether the species of tree is an invasive species;
c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:

(1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.
(2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.

(6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.

(7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.

c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.

2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

   a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.

b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.
c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.

3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.

2. The applicant's proposed outreach and notification program provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;

2. Geographic area covered by the permit;

3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;

4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;

5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and

6. Traffic control requirements.

7. Annual Report

   On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
   a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
   b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will ~~shall~~ be provided in accordance with MMC 16.32.026 B.2
   c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation
   1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal must be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit for trees on public properties and rights-of-way is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12-month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City and requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting, establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal on public properties and rights-of-way has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within ~~in~~ the right of way and residential zones. Eligibility and extent of assistance will be based on a percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

The tree preservation and planting standards in this subsection apply to the following types of development in residential zones:

1. Land Divisions.

2. Construction of New Residential Dwelling Unit.

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25 percent of onsite tree canopy maybe removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Affordable housing developments that meet the exemption standards in MMC 3.60.050 (A)1 and 2 may remove up to 50% of the existing canopy below the 40 % site canopy coverage standard without mitigation. See Table 16.32.042 B1. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Table 16.32.042 B1

Development Type	Standard	Allowable Reduction not requiring Mitigation	Remaining Site Canopy Coverage
Residential Developments	40% Site Canopy Coverage	25% below 40%	30%
Eligible Affordable Housing Developments	40% Site Canopy Coverage	50% below 40%	20%

Trees listed on the City of Milwaukie Rare or Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards.

C. Clear and Objective Tree Canopy Standards

In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.

3. One hundred percent (100%) of the existing canopy or mature crown area of onsite trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.

4. Fifty percent (50%) of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an onsite tree except when the trunk crosses a public right-of-way line at ground level, it is considered a street tree for the purposes of these tree canopy standards.

D. Mitigation Standards

If the Tree Preservation and/or Tree Canopy Standards are not met, mitigation fees must be provided to the Tree Fund as follows:

1. The tree preservation fee in the Master Fee Schedule based on the percentage of canopy that if preserved would meet the minimum tree canopy preservation standard as shown in Table 16.32.042 B1.

2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Variance Procedure.

1. Intent

To provide a discretionary option for variances to the tree preservation and/or tree canopy standards in MMC 16.32.042 to allow projects that provide significant environmental benefit.

2. Applicability

The Type III tree preservation and tree canopy variance is an option for proposed developments that chooses not to, or cannot, meet the tree preservation and/or tree canopy standards specified in MMC 16.32.042

3. Review Process

An applicant may apply for a variance to the tree preservation and/or tree canopy standards. The tree preservation and tree canopy variance shall be subject to Type III review and approval by the Planning Commission, in accordance with Section 19.1006.

4. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the following approval criteria. The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. Examples of activities that may justify a variance include but are not limited to:

a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
b. Use of techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
c. Use of techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.

d. Use of techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

a. Establish a root protection zone:

(1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1-foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.

(2) For street trees – the Urban Forester may prescribe greater or lesser protection than required for onsite and offsite trees.

(3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:

(a) the area of all new encroachments is less than 25 percent (25%) of the remaining root protection zone area when existing encroachments are subtracted; and

(b) no new encroachment is closer than 1/2 the required radius distance (see Figure 16.32.042.F)

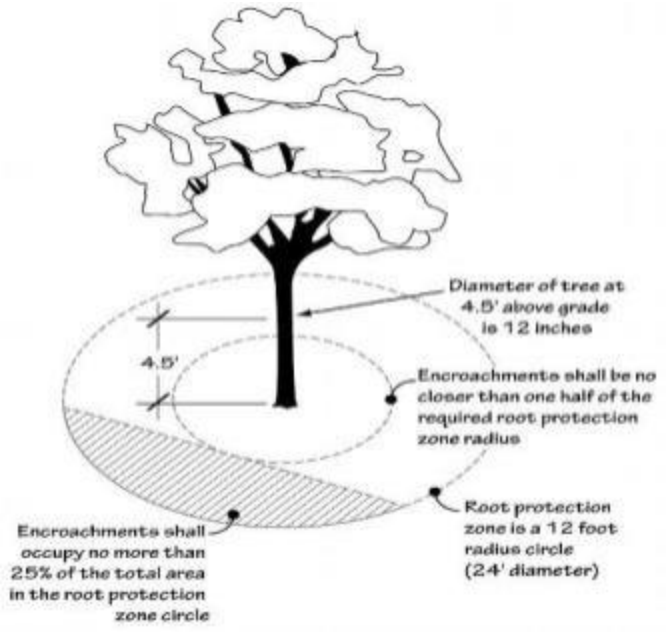


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

c. Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone plan is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impacts based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify with the Urban Forester in writing that the soil volume plan has been successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

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a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be 3 feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is 3 feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. Soil volume areas must be protected from construction impacts through any combination of the following methods:

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(b) When a soil volume area extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(c) Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

(2) Compaction prevention options for encroachment into soil volume areas:

(a) Steel plates placed over the soil volume area.

(b) A 12-inch layer of coarse wood chips over geotextile fabric continuously maintained over the soil volume area.

(c) A 6-inch layer of crushed gravel over geotextile fabric continuously maintained over the soil volume area.

g. Soil contaminants are prohibited from the soil volume areas.

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. The following items may be addressed in performance path soil volume plans but are dependent on specific site conditions and should be verified on a project basis in coordination with other professionals such as civil and geotechnical engineers, landscape architects, and soil scientists as needed:

(1) Compaction Reduction
- (a) tilling
- (b) backhoe turning
- (c) subsoiling

(2) Soil Amendments
- (a) organic amendments
- (b) mineral amendments
- (c) biological amendments
- (d) chemical amendments

(3) Topsoil Replacement (when soil contamination or soil removal occurs)

(4) Soil Under Pavement
- (a) structural soil cells
- (b) structural tree soils
- (c) soil vaults

(d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through G. Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

1. Tree Inventory Requirements

a. Survey the locations of all trees at least 6-inch DBH, and trees less than 6-inch DBH as specified on the City of Milwaukie rare or threatened tree list. Trees that must be surveyed include those that are onsite, within abutting public rights-of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.

b. Number each tree for identification at the site and on the plans.

c. Identify the common name and scientific name of each tree.

d. Measure the DBH of each tree in inches according to accepted ISA standards.

e. Measure the approximate average crown radius of each tree in feet.

f. Provide the crown area of each tree using the formula: $(\text{crown radius})^2 \times \pi$.

g. Assess the health condition of each tree using the following categories:

(1) Good (no significant health issues)
(2) Fair (moderate health issues but likely viable for the foreseeable future)
(3) Poor (significant health issues and likely in decline)
(4) Very Poor or Dead (in severe decline or dead)

h. Identify whether the tree is on the Milwaukie Rare or Threatened Tree List.

i. Identify whether the tree is proposed for removal or retained.

j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify rare or threatened trees as described in the City of Milwaukie rare or threatened tree list.

d. Identify the following site disturbances:

(1) Demolition
(2) Tree removal
(3) Staging, storage, and construction access
(4) Grading and filling
(5) Paving
(6) Construction of structures, foundations, and walls
(7) Utility construction
(8) Trenching and boring
(9) Excavation
(10) Any other demolition or construction activities that could result in ground disturbances and/or tree damage

e. Locate tree and soil protection fencing to scale.

f. Locate soil compaction prevention methods to scale.

g. Identify performance path tree protection and soil volume areas.

h. Include tree and soil volume protection specifications from the arborist report on the plans including a detail and description of tree and soil volume protection fencing and signage.

i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

a. Provide a site plan drawn to scale.

b. Include the existing trees to be retained and their crown areas to scale.

c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.

d. Identify the soil volume areas for each tree to be planted to scale.

e. For performance path soil volume areas, identify the methods and specifications as applicable for:

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(1) Compaction Reduction;
(2) Soil Amendments;
(3) Topsoil Replacement; and/or
(4) Soil Under Pavement

f. Include a diagram depicting the tree planting that is consistent with ISA best management practices.

g. The minimum size of planted trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

h. The minimum spacing and setback requirements in Table 16.32.042.H must be met based on the mature size class of the tree from the City of Milwaukie tree canopy list unless otherwise approved by the Urban Forester:

Table 16.32.042.H

Spacing/Setback	Small Stature	Medium Stature	Large Stature
between existing and new trees	15 feet	25 feet	35 feet
from habitable buildings	10 feet	15 feet	20 feet
from pavement	2 feet	3 feet	4 feet

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type that, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the tree preservation standards in MMC 16.32.042.B have been met.

c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.

d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.

e. If the applicant is seeking a variance to the tree preservation and/or tree canopy standards in place of providing mitigation fees, provide findings that demonstrate the proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.

f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.

g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

a. Trees that are at least 6-inch DBH.

b. Trees that are less than 6-inch DBH as specified on the City of Milwaukie threatened tree list.

c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following approval standards will be applied to type 1 tree removal permits by the Urban Forester:

a. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

(1) The proposed tree removal will be performed according to current ISA Best Management Practices.

(2) The tree proposed for removal meets one or more of the following criteria:

(a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA tree risk assessment standards.

(e) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue

cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(k) Healthy trees. One (1) healthy tree may be removed per site per calendar year if the tree meets the following:

i. The tree is less than 12 inches in diameter;

ii. None of the trees are required to be preserved by a condition of a land use review, q provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.I.2.a.j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

(b) Replacement trees must be planted in a manner consistent with ISA best management practices. (c) The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable. For example, a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone must be replaced with a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone.

(d) If planting a replacement tree is not practicable, the Urban Forester may allow a tree replacement fee in lieu according to the Master Fee Schedule based on the cost of planting and maintaining a replacement tree for three years.

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

(1) Whether the species of tree is appropriate for its location;

(2) Whether the species of tree is an invasive species;

(3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

(4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and

(5) Whether the removal will significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

b. Approval Standards: The Urban Forester will at a minimum condition the removal of tree based on MMC 16.32.042 I.2.a.(3) and the Urban Forester may require up to an equivalent number of inches be planted for the total diameter inches of the tree being removed if the tree is greater than 18" DBH.

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:

a. Photograph(s) that clearly identify the tree(s) proposed for removal.

b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.

c. Information as to whether the tree is within a Habitat Conservation Area overlay district or is part of an approved landscape or mitigation plan.

d. Any additional information required by the City.

e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.

a. Application Procedures Type 1 Tree Removal Permit.

(1) Applications for a Type 1 Tree Removal Permit must meet the requirements of Section MMC 16.32.042. I.4.

(2) Additional information required.

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 I.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant.

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16,32.042. I.4.

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 12 inches in diameter.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review factors in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4The Urban Forester must notify the applicant of the decision in writing.

(5). If no appeal is filed as specified in subsection 7. below, the decision of the Urban Forester is final.

c. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.

b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.

c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

(1) City of Milwaukie tree lists.
(2) Tree protection standards, specifications, and procedures.
(3) Tree planting standards, specifications, and procedures.
(4) Tree establishment and maintenance standards, specifications, and procedures.
(5) Performance bonding, letters of credit, and cash assurances to help ensure proper tree protection, planting, and establishment.
(6) Tree protection inspections and oversight.
(7) Soil protection inspections and oversight.
(8) Performance path tree protection standards and specifications.
(9) Performance path soil volume standards and specifications.
(10) Fees for permit applications, reviews, mitigation, inspections, and violations.

2. Penalties: The following penalties may apply to violations of the provisions of MMC 16.32.042:

a. The penalty for illegal tree removal must not be less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

b. Topping, pruning, or otherwise inflicting willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

c. Tree protection zone violations:

(1) Up to the amount established in the Master Fee Schedule.

(2) Restoration of the tree protection zone as prescribed by an ISA certified arborist and approved by the Urban Forester.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

DRAFT

Comp Plan Implementation Project - Public Outreach tracking

Date	Activity	Notes
7/30/2020	CP Imp email subscription created	https://www.milwaukieoregon.gov/subscribe
	CP Imp project website	https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation
	Worksessions	
9/15/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-262
10/27/2020	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-61
11/24/2020	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-63
12/1/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-289
1/12/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-meeting
1/19/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-269
2/16/2021	Council (cancelled but packet posted)	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-271
3/23/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-69
4/6/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-274
4/20/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-275
4/27/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-71
5/11/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-study-session-117
5/25/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-73
6/8/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-74
6/15/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-279
8/5/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-special-meeting
8/10/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-78
8/24/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-82
	Pilot Articles	https://www.milwaukieoregon.gov/citymanager/city-newsletter-pilot
	Sep-20	
	Nov-20	
	Dec-20	
	Feb-21	
	Mar-21	
	Apr-21	
	May-21	
	Jun-21	
	Jul-21	
	Aug-21	
	Oct-21	
Nov 12 - 29, 2020	**Open House #1**	https://engage.milwaukieoregon.gov/
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School	

	Printed packets distributed to: Ledding Library; Hillside Park; Wichita Center (English and Spanish)	
	Bookmarks provided at Ledding Library	
	Engage Milwaukie site: English and Spanish	
	Pilot Article	
	Social media posts	
March 22 - April 15, 2021	**Open House #2**	https://engage.milwaukieoregon.gov/
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School; Axeltree Apts; Waverley Greens; Hillside Park; Northwest Housing	
	Email to Engage Milwaukie subscription list	
	BIPOC email (x2)	
	Spanish language group email (x2)	
	Presentations to all NDAs - meeting in a box	
4/8/2021	Open presentation to general public	
4/1/2021	BIPOC meeting in a box	
3/31/21 and 4/14/2021	Spanish language meeting in a box	
	Social media posts	
3/17/2021	Milwaukie Leadership Academy meeting in a box	
3/9/2021	City staff/residents meeting in a box	
Opened on June 25	**Open House #3**	https://engage.milwaukieoregon.gov/
	High level summary of proposed amendments	
	Comment box left open	
	Staff responses as needed	
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School; Axeltree Apts; Waverley Greens; Hillside Park; Northwest Housing	
	Email to Engage Milwaukie subscription list	
	BIPOC email	
	Spanish language group email	
	City social media posts	
	Emails to NDAs	
	CPIC meetings x10	https://www.milwaukieoregon.gov/planning/comprehensive-plan-advisory-committee-cpic
	Meeting packets posted 7 days in advance	
	Notices sent to project email list	
	Meeting videos posted	

	Powerpoint presentations posted	
	Meeting notes posted	
	Breakout groups included public	
	Tree Board	https://www.milwaukieoregon.gov/bc-tb
2/4/21; 2/24/21; 3/17/21; 4/21/21; 5/12/21; 5/19/21	Meetings to discuss proposed tree code	
	35-day Notice	https://www.milwaukieoregon.gov/planning/za-2021-002
8/31/2021	Required notice sent to Metro and DLCD	
	Code and code commentary posted on city website. Email blast and Engage Milwaukie site updated with all information for October 12 public hearing	
	Postcard	
9/14/2021	Postcard in English and Spanish mailed to all residential and business addresses in the city with information on how to get information about the code amendments, the October 12 public hearing, and how to provide comments.	
	Milwaukie Rotary	
9/28/2021	Staff presentation regarding code amendments and October 12 public hearing	
	Measure 56 Notice - Tree Code	
10/6/2021	Measure 56 notice related to the proposed tree code mailed to all residential addresses 20 days prior to October 26 public hearing.	

Project Memorandum

July 29, 2021

To: Milwaukie Comprehensive Plan Implementation Project Management Team

From: Kimi Sloop, Barney & Worth, Inc.

Re: Milwaukie Comprehensive Plan Implementation Public Engagement Summary

As part of the Comprehensive Plan Implementation Project Phase 1 process, a robust public engagement process was established to include all members in the Milwaukie community in the process. The following is a summary of the project's community engagement goals and strategies implemented to address those goals.

Project Community Engagement Goals

At the beginning of the project, community engagement goals for the project were established. The goals included:

- Creating opportunities for as wide a reach of engagement as possible given the schedule and budget limitations.
- Making a concerted effort to engage historically under-represented communities. To quantify this goal, the project targeted having participation in the community surveys being approximately equivalent to the overall demographics in the city of Milwaukie.
- Focusing communications and seeking input in no-contact techniques while reaching out to multiple groups in smaller venues (via Zoom), rather than holding large city-wide open house events due to Covid.
- Communicating information in a way that people can provide meaningful input on the complex issues, such as by breaking down topics into understandable pieces and using visual images and examples to illustrate different policy concepts.
- Having a transparent and inclusive process that seeks both to educate and provide opportunities for input.
- Providing an open and welcoming process, with emphasis placed on using inclusive language in conversations, materials and plan and policy recommendations.
- Documenting public input and responding to individual comments.

Communication Activities & Tools

With the project goals in mind, various strategies were used to engage the public throughout the project, including:

- Project webpages (City of Milwaukie and Engage Milwaukie)
- Pilot newsletter articles
- Comprehensive Plan Implementation Committee (CPIC)
- Stakeholder interviews
- Virtual open houses, with accompanying community surveys
- Neighborhood District Association (NDA) presentations
- Small group discussions (in both Spanish and English)
- Planning Commission updates

Project Webpages

Information about the project was available on both the City of Milwaukie's website and at Engage Milwaukie, the City of Milwaukie's online engagement platform.

General project information was available on the City's website (https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation), including project background, CPIC meeting information, summaries of the open houses, and contact information.

Engage Milwaukie (https://engage.milwaukieoregon.gov/comprehensive-plan-implementation) was utilized for the virtual open houses, community surveys, and to provide a forum for ongoing feedback. When the community surveys were closed, Engage Milwaukie also maintained the information from the open houses to be accessed by the public as desired. After registering, the public could comment on the project at any time during the process. Comments provided on Engage Milwaukie were included in the open house and community survey summaries.

Pilot Newsletter

Articles about the project were included monthly in the Pilot Newsletter, distributed to all residents within the City of Milwaukie. Articles provided background information about the project, informed people of upcoming opportunities for public input and provided updates of key project milestones.

Comprehensive Plan Implementation Committee (CPIC)

The city appointed a Comprehensive Plan Implementation Committee (CPIC) in the spring of 2020 to provide feedback on the zoning code and map amendments. The 18-member committee (13 community members and five planning commissioners/City Councilors) offered feedback on code concepts, and ensured that the diverse interests of the Milwaukie community were reflected in the code and map amendments, while also adhering to the state's requirements. The

CPIC met 10 times from June 2020 through July 2021. Their input was incorporated into the draft code amendments that were brought before the Planning Commission for review.

CPIC members included:

- Joel Bergman
- Matthew Bibeau
- Jennifer Dillan
- Celestina DiMauro
- Daniel Eisenbeis
- Ada Gonzalez
- Sharon Johnson
- Stephan Lashbrook
- Micah Meskel
- Renee Moog
- Dominique Rossi
- Eugene Zaharie
- Nicole Zdeb
- Joseph Edge, Planning Commissioner
- Lauren Loosveldt, Planning Commissioner - Alternate
- Lisa Batey, City Councilor
- Mark Gamba, City Mayor - Alternate
- Angel Falconer, City Councilor – Alternate

Stakeholder Interviews

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The stakeholders included Milwaukie residents, housing advocates, housing developers, NDA chairs, City Councilors, and members of the Milwaukie community with ties to those who are historically under-represented in public processes. A summary of the stakeholder interviews is provided in Appendix A.

Virtual Open Houses, with Accompanying Community Surveys

Due to COVID restrictions, no in-person outreach events occurred. Engage Milwaukie, the digital community engagement platform used by the City of Milwaukie, was used to provide

three opportunities for the public to engage with the process virtually. Information provided at the open houses were translated into Spanish and paper copies of materials were available upon request.

The public was notified of the open house events via social media, project email list, bookmarks at Ledding Library, direct emails to city committee members, and Pilot newsletter.

Open house #1: Fall 2020

The first virtual open house and community survey was available from November 12 through November 29, 2020. The purpose of the first open house was to educate the public about the project, including the policy mandates guiding the project, and to seek input on the community's preferences. As part of the open house, participants could provide open-ended comments on each topic and/or could participate in the community survey. The survey sought input on the priorities of the Milwaukie community related to housing, trees and parking.

Ninety-three people provided feedback through the community survey. Approximately one-third of the responses came from people living in the Ardenwald-Johnson Creek neighborhood. Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

Feedback from the first open house, in conjunction with CPIC input, was used to develop project values and identify priorities and preferences for the code concepts regarding housing, parking and tree preservation.

A summary of the community survey results is provided in Appendix B.

Open house #2: Spring 2021

The virtual open house was available from March 22 through April 15, 2021. The second open house provided code concepts for public review and comment. Concepts explored included parking locations, tree requirements and priorities related to the design of middle housing. A community survey asked for feedback on specific scenarios for parking location and the number of parking spaces, and building form. Questions also sought to gain insight on preferences for site design and code flexibility.

There were 121 completed surveys and 149 people either provided comments and/or completed the survey. The neighborhoods best represented by the survey responses included Ardenwald-Johnson Creek, and Lake Road. Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

Feedback from the second open house, in conjunction with CPIC input, was used to refine the code concepts and create draft code amendments.

A summary of the community survey results is provided in Appendix C.

Open house #3: Spring 2021

A third open house, available starting June 25, 2021 and staying open throughout the adoption process, presented the draft code amendments for public review and comment. Open house participants could either provide feedback through comments on Engage Milwaukie or by emailing the City's project manager. The open house also laid out the code amendment adoption process and identified how the public can provide public testimony during the process.

Neighborhood District Association (NDA) Presentations

Throughout the process, City planning staff provided project updates at Neighborhood District Association (NDA) meetings. In an effort to encourage as many people as possible to participate in the second open house and take the survey, city staff facilitated virtual discussions with each NDA at their regular monthly meetings in March and April, 2021.

Small Group Discussions

In an effort to increase participation from a diverse cross-section of the Milwaukie community, City planning staff held virtual meetings advertised to target audiences.

Spanish language small group meeting

On April 14, 2021, city staff and a professional Spanish language interpreter facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and processes, and the entire discussion was held in Spanish, with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC.

Black, Indigenous, people of color (BIPOC) small group meeting

On April 1, 2021 city staff, including the city's Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and processes as part of a larger open discussion. Three people participated in the meeting.

In addition, City planning staff facilitated an open meeting via Zoom advertised on Nextdoor and the city's Facebook and Instagram sites.

Feedback from these small group discussions were incorporated into the draft code amendments.

Planning Commission and City Council Updates

Throughout the process, City planning staff provided updates on the project, project and code concepts to the Milwaukie Planning Commission and City Council.

Milwaukie Comprehensive Plan Implementation Project Phase 1

Stakeholder Interview Summary

Introduction

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The key themes are summarized below.

Key Themes

1. People genuinely love the neighborhoods in Milwaukie. They shared more positives than negatives, and focused on the sense of community, scale and form of development and quality of life.

   Positives: "quiet, friendly neighborhood" "privacy that comes with bigger lots" "peaceful, close to the school" "I know most of the neighbors" "close knit" "good access to downtown, natural areas, river" "walkable"

   Negatives: "not walkable" "not a lot of diversity" "feels a bit insular" "on-street parking" "trees being cut down" "cookie-cutter housing"

2. There is a general understanding and acceptance of the benefits of integrating middle housing into Milwaukie's neighborhoods.

   "increases density" "rents could be lower" "diversity of people, backgrounds and cultures" "younger generations moving in" "more inclusive" "more opportunities for folks of all ages, abilities, income, etc." "lower carbon footprint"

3. There are concerns that, when designed and built, middle housing will not achieve the desired benefits, especially affordability. Other noted concerns with middle housing were lack of parking, consistency with scale and form, quality of life for existing residents and quality of construction.

   "middle housing implies mid-level worker housing, but not necessarily affordable. Middle housing does not mean middle income. It doesn't assure it is affordable" "that it doesn't actually happen – that it is still not affordable housing" "huge traffic impacts" "be aware of the neighborhood – the context of the road – more density on road with no sidewalks" "if you are taking single dwelling housing out or modifying it, you lose the sense of place. The quality of life for neighborhoods – less space, ownership/maintenance" "healthy vibrant communities are not created via duplexes"

4. Creating affordable housing so that everyone who works in Milwaukie can live in Milwaukie is an important goal. There was also acknowledgement that affordability in Milwaukie is partly tied to the regional housing market.

"Not attainable for most people" "Housing is competitive, not affordable, hard to come by" "people need places to live" "create more economic diversity – options for affordability " "a better strategy may be to focus on other affordable housing strategies than middle housing" "affordable housing so everyone has a house"

5. Integrating middle housing into neighborhoods with the existing scale and form of neighborhoods and the existing transportation network is as an important element of how middle housing types are designed and where they are located. Reducing parking requirements was perceived as a challenge if there are not options for transit, walking, or biking.

   "focus on walkability – make it so people don't feel like they need multiple cars" "focus on the way that design characteristics create neighborhoods that people want to walk through, live in" "need to meet the character criteria – lawn, plants, fits into the neighborhood"

6. The perception is that there is not a parking issue currently in Milwaukie neighborhoods. The lack of sidewalks in many neighborhoods raises concerns about increasing on-street parking. There was mixed sentiment if parking should be provided on-site or reliant on on-street parking.

   "address the affordability question with parking" "parking needs to be part of the package of the housing project – built into the project – not the responsibility of neighbors" "streets without curbs, sidewalks don't have the street pieces to help organize on-street parking" "parking is not a right, it is a privilege"

7. There is a lack of knowledge about Milwaukie's current tree protection policies. Those who did comment perceive the tree protection requirements to be lacking. People generally thought trees should be protected and did not want to see trees removed for development, yet they understood this might conflict with the rights of private property owners.

   "not familiar with what they are" "tree protections should be strengthened" "Current tree protections are cumbersome to understand and are overly generous towards builders" "private property rights and preserving trees – not sure what you can do"

8. There is a desire for the City to be bold and think about the long term with integrating middle housing, reducing parking and tree protection. Stakeholders mentioned the need to think about what the city will be like in 20 years, and not focus on the limitations of today. There will be a transition period that will be challenging for the neighborhoods.

   "housing for the future has to address the economic reality of the new generation that are not the same economics of boomers who occupied the suburbs" "on the road we are going, we can't get there on the road that brought us here – we need to think differently" "make it good!" "be bold!"

Single Most Important Piece of Advice

Participants were asked to provide their "single most important piece of advice for the City as they develop new code language related to middle housing in residential neighborhoods." All participant responses are presented verbatim below, organized into broad categories.

Equity in decision-making/providing opportunities to be heard

- *Make sure that you are including voice – real equity is including voice. Do an ample effort to include people.*
- *Have a real dialogue. Make sure to get the voices of those who will be one that will be those who are the audience for middle housing. Not just single-family residents. The people who will live in middle housing.*
- *Transparency and getting the word out there*
- *Remember that the loudest voice is not necessarily the most important voice.*

Communicate and educate

- *Find as many ways and get as much information out as possible to try and control fears before people get bad information.*
- *Education is really important. Dispel the myths – use facts. People need common understanding and framework.*
- *There is some fear out there, and the "what-ifs". Once we have code and we have a potential project, get buy-in from the neighbors. Present design proposals in a way that somehow includes them in the process.*
- *Communicate & Educate! Find success stories and share the heck out of them!*
- *Frame middle housing as an enhancement rather than as change.*
- *Be sure affected neighborhoods are informed of the process. Use all communication sources including U.S. mail.*

Learn from others

- *It seems like there might be lessons learned from other cities? Milwaukie has a strong City Council who are willing to support innovative and creative approaches—finding a balance across housing, natural resources and other city needs may require new, fresh thinking and approaches.*
- *Infill design toolkit for medium density development from Portland – great framework. Why reinvent the wheel?*
- *Shine a light on what currently exists. What number of units exists in each category now? Where are they? What do they look like? Show through example. Have someone with a ADU share their experience.*
- *Don't need to reinvent the wheel from scratch! There is information out there. Alternative building practices, tree protections, it's out there, we just need to read the book. Same with parking, other communities have faced these problems and solved them in creative ways.*

Balancing housing, parking and the environment

- *Take into consideration parking. Make sure there is enough parking.*
- *Balance trees, parking and housing. Keep in mind nature.*
- *Make sure it's not just about the people. Also the environment, wildlife and quality of life.*
- *Parking will always be a challenge, and there will never be enough in a thriving neighborhood - and that's okay! I say that as someone who lives here.*

- *Think about "externalizing internalities" - think of the full cost of your decisions before you make them. Equity cost, environmental cost, aesthetic cost, make sure you know the real cost*
- *Integrate, not segregate. Value all of the elements together.*
- *Prioritize the environment and making housing affordable for all.*

Design of housing/design standards

- *Be flexible. Don't be too stringent on development rules.*
- *Have a discretionary component for the planners in the code to determine if the type of housing fits within the neighborhood or street condition.*
- *Balance development with culture change for typical suburban single-family culture.*
- *Critical in general. Get the combination of density, tree protection and parking just right. Be seen as accepted long term as policy, need to hit the balance. Look at it through the lens of those who will built the housing. See the economics of middle housing. Better housing by design. Crunched proformas. Need to be a lot of work to get it right.*
- *Be careful what you wish for – there are lots of unknowns. Tree removal; horrible parking; social issues. You end up encouraging developers to build stuff without any concern for the future of the city. You can't safeguard your community – need to build trust.*
- *Please focus on quality, not quantity of housing. (Trees add to the quality).*
- *Don't shove it down people's throat. Think about what you want to accomplish and where is the best place to do that? Is it the best to build middle housing away from services? NO! If we need to increase the density of the City, focus it in downtown near the major transportation and shopping areas. Don't blanket R5 and R7 – need* system to support it too.

Housing

- *Don't waste time and money to create something that won't solve the problem you are trying to solve. Don't think it is going to solve affordability unless it really will solve the problem. Do the bare minimum and approach it differently.*
- *Everybody needs somewhere warm and safe to sleep at night.*

Be bold

- *Make it good!*
- *What is Milwaukie proud to show off? Would you want to live in it, or your parent or your child?*
- *Be the experts. At the end of the day the NIMBYS will be combatted by the experts that lead this conversation. Use fact and figures. Know exactly what you are saying and be brave!*
- *The status quo is not working.*
- *Be bold! We have lots of opportunity. Take advantage of it.*
- *Stay true to the vision. Be sustainable. Be equitable.*
- *Don't be afraid* to break from tradition, things can be done differently!

Stakeholders Interviewed

- Rebecca Alves, Tree Board
- Harry Apelbaum, Rowe Middle School
- David Aschenbrenner, Neighborhood Associations
- Lisa Batey, City Council
- Hamid Shibata Bennett, Milwaukie Resident
- Kathleen Brennan-Hunter, Tree Board
- Jon Brown, Tree Board
- Charley Clark, Development community
- Elvis Clark, Milwaukie Resident
- Ronelle Coburn, Milwaukie Resident
- Gina Dake, Tree Board
- Pam Denham, Neighborhood Associations
- Maitri Dirmeyer, Milwaukie Resident
- Douglas Edwards, Milwaukie Resident
- Nate Ember, Development community
- Angel Falconer, Council President
- Alma Flores, Reach CDC
- Mark Gamba, Mayor
- Ley Garnett, Tree Board
- Carmen Gelman, Milwaukie High School
- Lisa Gunion-Rinker, Neighborhood Associations
- Christina Harris, Tree Board
- Kathy Hyzy, City Council
- Ted Labbe, Urban Greenspaces Institute
- Robert Massey, Planning Commission Chair
- Stephen McMurtrey, Housing Authority of Clackamas County
- Carmen and Brian Mojica, Local Business Owner/Resident
- Ann Ober, City Manager
- Wilda Parks, City Council
- Liz Start, recommended by Ann
- Kim Travis, Milwaukie Resident
- Madison Tucker, Tree Board
- Ruth Tucker, El Puente Elementary

Project Memorandum

December 3, 2020

To: Milwaukie Comprehensive Plan Implementation Project Management Team

From: Kimi Sloop, Barney & Worth, Inc.

Re: Community Survey #1 Results Summary

The first virtual open house and community survey for the Milwaukie Comprehensive Plan Implementation Project, phase 1, was available from November 12 through November 29, 2020. There were over 450 visits to the open house site, and 93 people provided feedback through the community survey. The following summary provides the key takeaways from the feedback, the actual responses to the questions, and an analysis of lessons learned for future outreach efforts.

Key Takeaways

- **Priorities that benefit the entire Milwaukie community are the most important to survey respondents.** They identified "providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements" as the most important priority, followed by the need to "balance the community needs of providing more housing, protecting the environment, and reducing the focus on the car."
- **Consistency of the middle housing design with the scale and form of the existing neighborhoods was ranked the least important priority** in relation to providing greater equity, balancing community need, and building housing that is affordable. However, it was identified as a **concern to almost half of the respondents**.
- **Respondents felt more positively than negatively about middle housing.** Most people listed three different benefits compared to one perception (concern) of middle housing. The benefits identified most frequently include increasing the supply of housing, housing choice, and housing diversity.
- **Almost all (90%) of the respondents believe that tree protections will provide shading/cooling and environmental benefits.** On average, people noted three benefits compared to one negative impact of tree preservation.
- **Reducing parking requirements appeared to be of the greatest concern to the survey respondents.** People identified more negative impacts than benefits and were particularly concerned about the availability of parking and the lack of existing multi-modal networks in neighborhoods.

- **For all three topics (providing middle housing, tree preservation, and reducing parking), respondents were concerned that the desired goals may not be achieved with implementation.** For example, the housing may not be affordable, it will be too easy for developers to get exceptions to tree preservation regulations, and reducing parking requirements will not make neighborhoods more accessible or affordable.

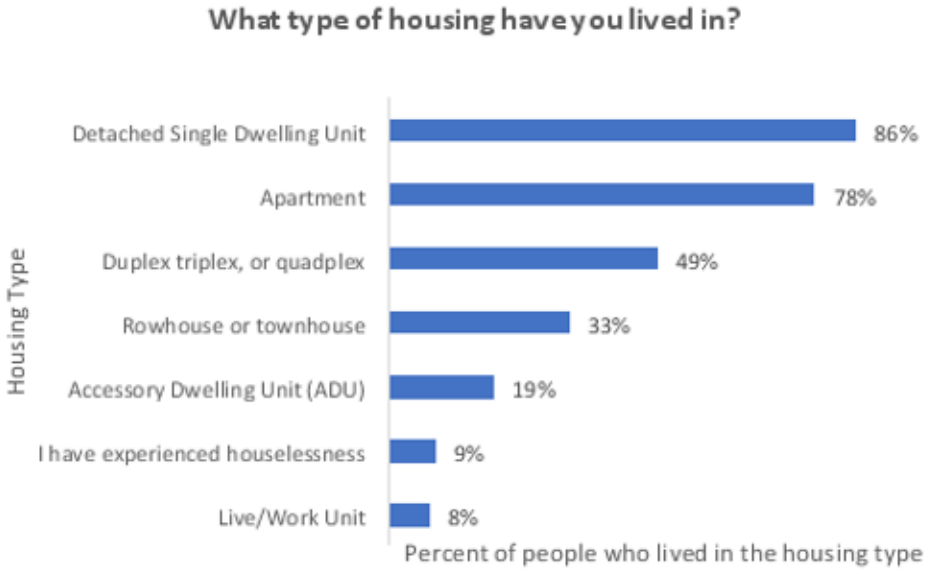
Survey Demographics

- There were over 450 visits to the open house site. Over 200 people looked through multiple stations, with the earlier stations (background, housing, trees) being more popular and stations later in the sequence (parking, next steps, provide input) receiving fewer visits. It also appears that many people may have gone straight to the survey without clicking through the open house stations.
- Ninety-three people completed the survey. All surveys were completed in English. Approximately one-third of the responses came from people living in the Ardenwald-Johnson Creek neighborhood.
- On average, respondents have lived in three different types of housing, with apartments and single dwelling units being the most popular housing types. Currently, 80% of the respondents own their own home.
- Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

Survey Responses

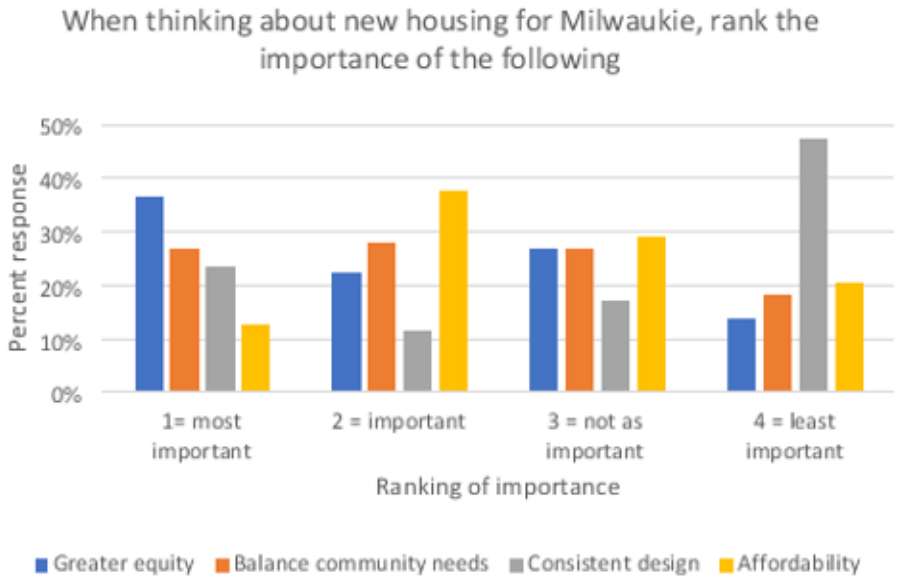
Types of Housing

On average, people responded that they had lived in three types of housing, with detached single dwelling units being the most popular (86%) followed by apartments (78%).



Priorities for New Housing

- "Providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie" was identified as the most important priority (37% ranked it as 1 being important).
- "Designing new housing consistent with the scale and form of the surrounding neighborhood" was identified as the least important priority (47% ranked it as 4 being less important).
- For those that identified equity as the most important priority, over half identified "building housing that is affordable as rentals and creates more opportunities for home ownership" as the second most important priority.



Greater equity = Providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie.

Balancing community needs = Balancing the community needs of more housing, protecting the environment and reducing the focus on the car.

Consistent design = Designing new housing consistent with the scale and form of the surrounding neighborhood.

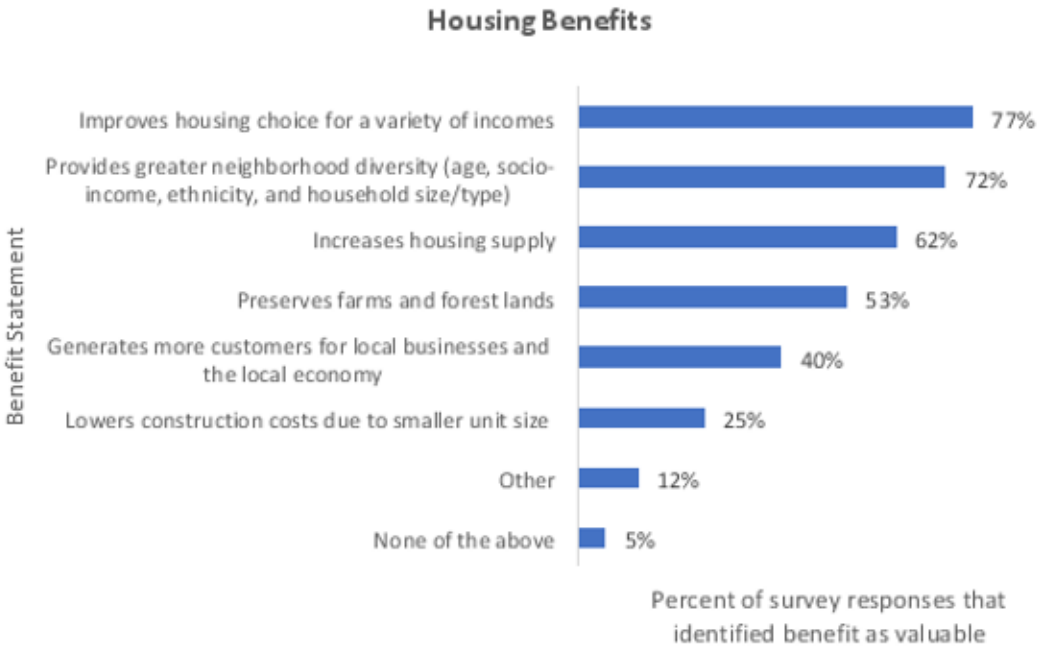
Affordability = Building housing that is affordable as rentals and creates more opportunities for home ownership.

- When grouping the statements ranked one and two as being most important, the priority is as follows:

	Important (ranked one or two)	Not as important (ranked three or four)
Providing **greater equity** throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie.	59%	41%
Balancing the community needs of more housing, protecting the environment and reducing the focus on the car.	55%	45%
Designing new housing **consistent with the scale and form** of the surrounding neighborhood.	35%	65%
Building **housing that is affordable** as rentals and creates more opportunities for home ownership.	51%	49%

Benefits of middle housing

People were asked to identify the benefits of middle housing (duplex, triplex, quad, townhouse and cottage cluster) they find to be the most valuable. On average, people identified between three and four benefits. Housing choice and neighborhood diversity were mentioned the most.

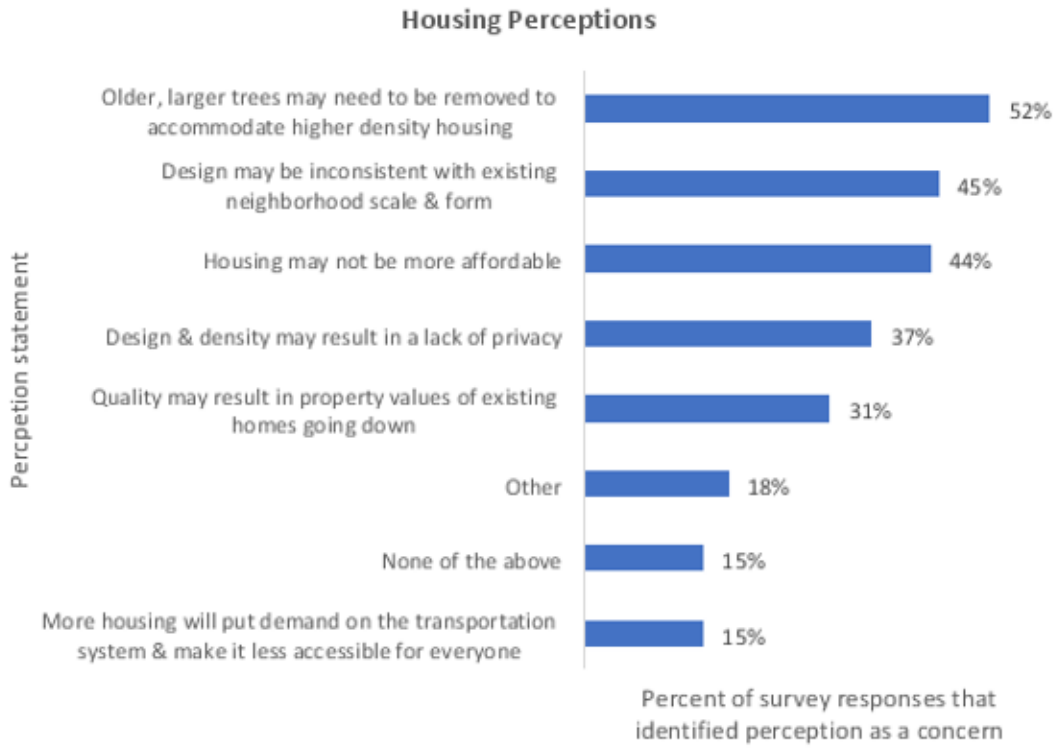


Other benefits identified included:

- Environmental benefits - opportunities for zero carbon transportation options, microgrids, water/wastewater systems, environmentally conscious infrastructure, and energy efficiency
- Increase city tax base
- Sense of community
- Preserve natural habitat areas
- Age in place
- Lower energy/maintenance costs

Perceptions of middle housing

People were asked to identify perceptions about middle housing they might have. On average, people identified between two and three perceptions. The need to remove larger trees, the design being inconsistent with the existing neighborhood scale and form, and the possibility that the housing may not be more affordable were identified the most.

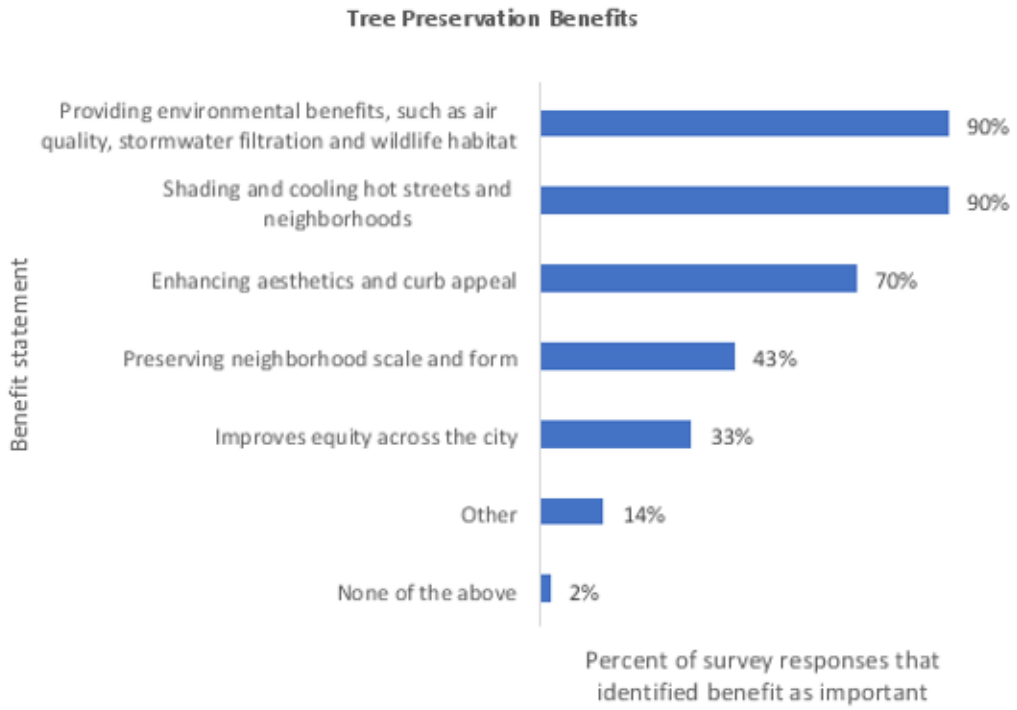


Other housing perceptions identified include:

- May not provide increased ownership opportunities
- Negative impacts to climate and watershed goals and natural ecosystems
- Lack of quality construction and design
- Parking and traffic problems, and need for increased street maintenance
- Potential to reduce access to green open space

Benefits of tree preservation

People were asked to identify the benefits of tree preservation they find to be the most important. On average, people identified between three and four benefits. Shading/cooling and other environment benefits (air quality, stormwater filtration and wildlife habitat) were mentioned the most.

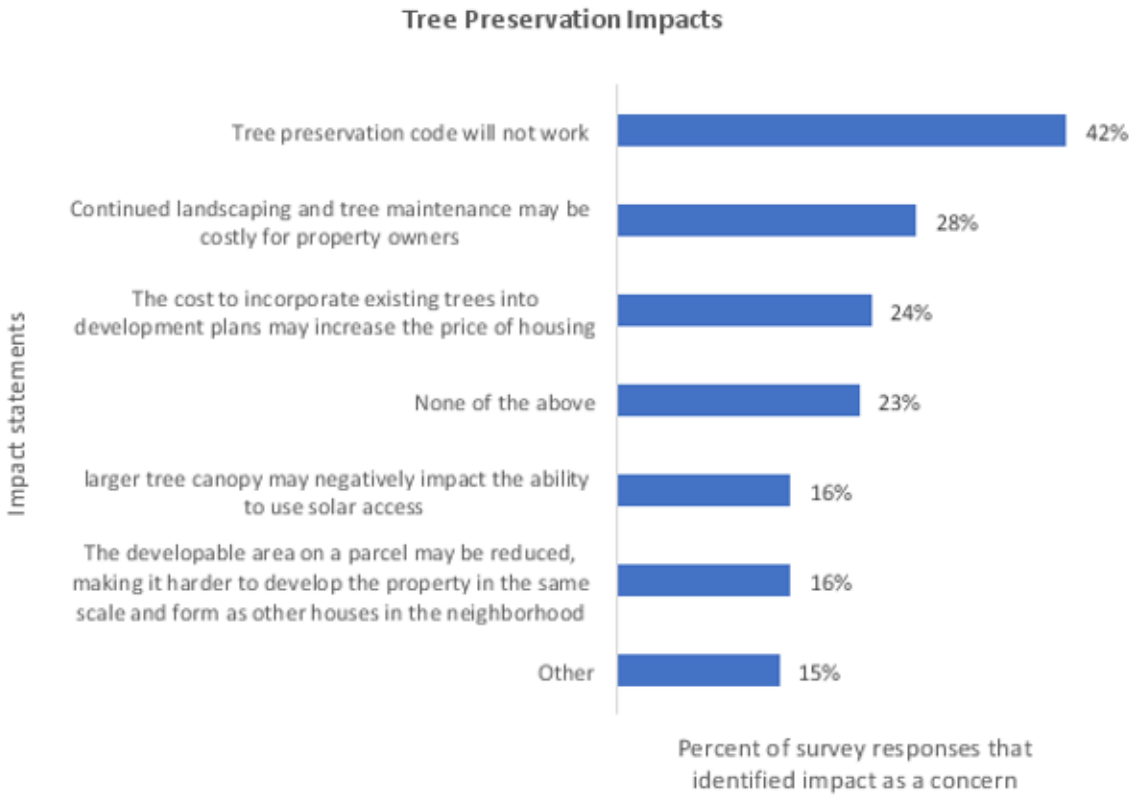


Other tree preservation benefits identified included:

- Food production potential
- Impacts on human health, physical and mental wellness
- Wildlife habitat
- Preserve urban foraging
- Provides an environment that encourages walking and biking
- Carbon capture
- Landscape that reflects the "wildness" of the river

Impacts of tree preservation

People were asked to identify the impacts of tree preservation they find to be of most concern. On average, people identified one or two impacts they are concerned about, with the potential of it being too easy for developers to get an exception to the tree preservation regulations being the top concern.

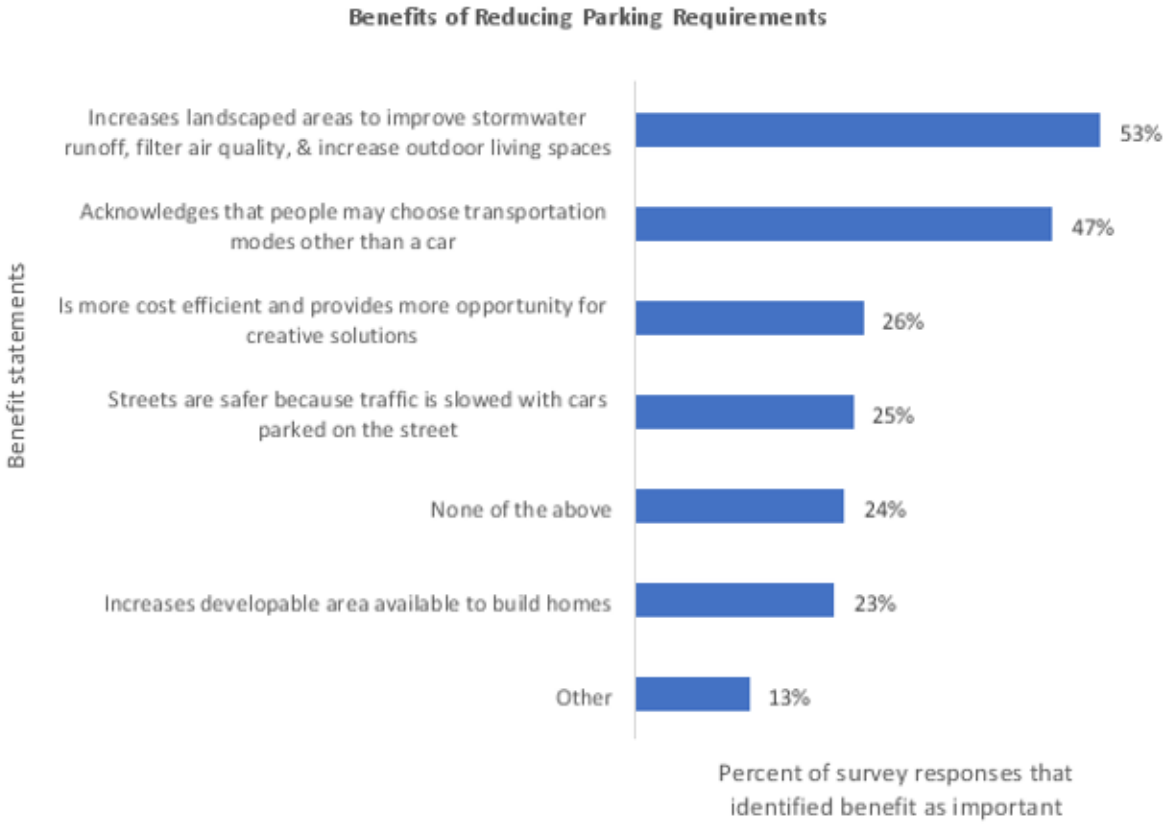


Other tree preservation impacts identified included:

- Limitations on the bigger environmental benefit of higher density living (zero carbon transportation, solar energy)
- Less light for gardening/creating independent food sources
- Damage caused by large tree limbs falling during windstorms
- Possible reductions in buildable area of a property
- Tree root damage to home foundation and streets
- Requiring sidewalks may result in removing trees

Benefits of reducing parking requirements

People were asked to identify the benefits of reducing parking requirements they find to be the most important. On average, people identified two benefits. The benefits of "increasing the landscaped areas to improve stormwater runoff, filter air quality and increase outdoor living space," and "acknowledging other transportation modes beside the car" were mentioned the most.

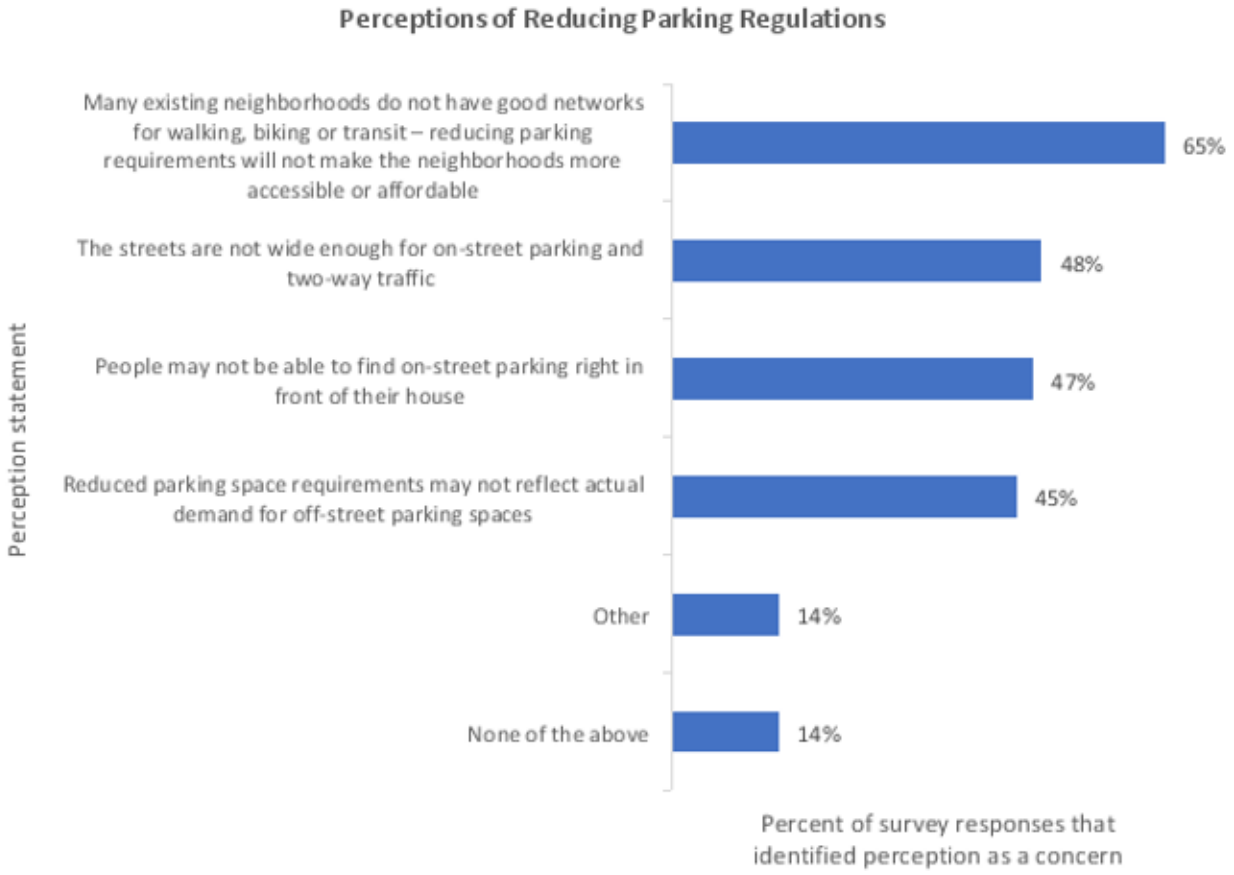


Other benefits of reducing parking requirements included:

- Encouraging community discussions on reducing dependency on the car
- Potential to open up more space for green infrastructure
- Ability for trees to absorb water
- Acknowledges reduction of car ownership
- Potential for more attractive, nature filled areas in front of homes and porches closer to the street
- Increases housing supply

Perceptions of reducing parking requirements

People were asked to identify perceptions about reducing parking requirements they might have. On average, people identified between two to three perceptions. The lack of good networks for walking or biking and availability of transit in existing neighborhoods was mentioned the most, followed by streets not being able to accommodate on-street parking, a concern that the reduced parking requirements will not reflect actual demand, and a lack of on-street parking close to people's destinations.



Other perceptions related to reducing parking requirements included:

- Resistance to bike parking requirements
- Immediate neighbors might be impacted by reduced parking requirement for multi-unit complexes
- Streets would not safe or friendly for pedestrians and cyclists – poor lines of sight and lack of sidewalks make it dangerous
- Negative impacts on lower economic groups because they rely on their car for work
- Concerns about electrical vehicles charging stations

Outreach Lessons Learned

There were over 450 visits to the open house main page, including 42 who visited the open house's Spanish language version, although only 93 completed the survey. We will continue to analyze the data to determine how to improve the conversion rate of those who visit the site to those who provide input. The open house site will remain active, and we will provide "discussion boards" and comment forms for people to continue to provide input.

Some of the lessons learned from this round of outreach include:

- **People did not register on Bang the Table, and therefore could not provide feedback.** Less than half the people who visited the open house registered with Bang the Table. The project team will work with the City's communications team to better explain to the public the purpose of registering in hopes to reduce concerns about how the demographic information is being used.
- **The response rate from the BIPOC community in particular was low.** The most recent City demographic data (2016) identified 89% of Milwaukie residents as white and 11% as people of color. Our survey response rate was 5% for people of color. Although we did do directed outreach to people of color, we know more specific outreach is needed. For the next round of community input, we will work with the City's new Equity Program Manager to enhance our outreach efforts.
- **The people who did respond to the survey did so as a result of a personal "ask."** Over 75% of the people heard about the open house from their neighborhood association, a personal invitation from a friend, or a direct email from the City. We will continue to focus our outreach efforts using more personal approaches. Ideas under consideration for the next round of outreach include a meeting in a box and focus groups.
- **No paper survey responses were received, nor were any surveys completed in Spanish.** Although these efforts did not yield public input, we believe that the City needs to continue to provide these opportunities. More advertising and more one-on-one invitations can help to raise awareness and encourage feedback.
- **Current events out of our control may have reduced participation.** Although we did take the November election into consideration when the scheduled the outreach, we did not anticipate a state-wide COVID "freeze" which resulted in not being able to implement all the outreach strategies as planned. Based on general sentiment, it also appears that there is a desire to un-plug from the computer whenever possible.

Project Memorandum

May 11, 2021

To: Milwaukie Comprehensive Plan Implementation Project Management Team

From: Kimi Sloop, Barney & Worth, Inc.

Re: Community Engagement Spring 2021 Survey Summary

In March and April, community outreach was conducted for the Milwaukie Comprehensive Plan Implementation Project. This outreach included a series of meetings in a box and a virtual open house on the Engage Milwaukie site. The virtual open house was available from March 22 through April 15, 2021. In total, we received 121 completed surveys and 149 people either providing comments and/or completing the survey.

In an effort to encourage as many people as possible to take the survey, city staff facilitated ten virtual discussions about the project and the open house with each NDA at their regular monthly meetings as well as an open meeting via Zoom that was advertised on Nextdoor and the city's Facebook and Instagram sites. Additionally, staff facilitated two virtual small group discussions: one entirely in Spanish, and one with BIPOC community members. Also included in this effort were: bookmarks at the Ledding Library, articles in the Pilot, email blasts, and numerous posts on city social media outlets.

Spanish language small group meeting

On April 14, city staff and a professional Spanish language interpreter, facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and process and the entire discussion was held in Spanish with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC. The participants asked a lot of questions and shared many thoughts about housing in Milwaukie, and housing in general:

- Support for ADUs and multiple ADUs on properties for multigenerational or larger families
- Support for allowing a cottage cluster on the same property as a single-family home
- Duplexes and triplexes are very important for larger families
- Participants preferred to not have a parking maximum, as larger families may have multiple vehicles
- Access to trees and parks in all neighborhoods is very important
- The American Dream is to be a homeowner, and participants really want the opportunity to be able to how their own home. Affordability is a key concern because housing is so expensive in the Portland region.
    - Several comments included the lack of resources for first time Latinx homebuyers and those without documentation, such as credit or a social security number

- The participants greatly appreciated the opportunity to hear about the project, to share their thoughts, and that they could do so in Spanish

BIPOC small group meeting

On April 1, city staff, including the city's Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and process as part of a larger open discussion. Three people participated in the meeting. The participants asked many questions and shared many thoughts about housing in Milwaukie, and housing in general:

- Encouraged the city to provide an arborist assistance program for residents to help take care of the trees on their property.
    - Offering help will encourage people to preserve their trees.
    - Provide incentives to help plant more trees and help maintain the trees.
- Affordability is very important to the BIPOC community.
- The group encouraged the city to look at successful examples of where these kinds of codes have worked.
- The group encouraged the city to include deconstruction requirements like the city of Portland does.

The following summary provides the key takeaways from the community survey, demographics of survey respondents, and a summary of the input received.

Key Takeaways

- When considering the trade-offs between housing, trees and parking, people appeared to prioritize trees and housing over on-site parking. People did not question the concept that trade-offs are required.

    "I strongly support allowing on-street parking to count towards parking requirements. Preserving lot area for trees and homes is a much more important use of space."

    "It seems a good compromise for human & tree living space"

    "Maintaining trees, reducing concrete (high embodied carbon) and use of valuable site area with parking should be the top priorities."

- **Preserving trees, open space and yards is a benefit that resonates with people.** In the written open-ended comments, over 435 responses included the term "trees" or "open space."

    "Trees are necessary infrastructure for communities and their preservation should be prioritized over aesthetic or convenience "

    "Please save our trees"

    "Trees provide more public benefit than cars and pavement for parking"

- **Flexibility is important to encourage middle housing.** In the comments provided, many people mentioned that how development fits in to the existing neighborhood is important and that the application of the code should be flexible to encourage the right type of development in each neighborhood.

  "We need more flexibility to accommodate new housing options"

  "I think its most important to make parking, height and yards sizes requirements as flexible as possible to maximize tree protections."

  "Let's allow more flexibility for individual applicants that are trying to help the City meet its middle housing goals on a micro level, rather than heavily favoring developers on a macro level."

  "Flexibility is key to successful growth. Allowing for taller buildings and a variety of styles that can consume up to 35-75% of a lot and be able to provide affordable housing."

- People generally support a change in the existing parking location requirements, but not necessarily a significant change in the number of parking spaces required. There are concerns that the existing car ownership trends and available transit do not support a reduction in parking spaces required.

  "Most Milwaukians have to drive for work, shopping, family activities. Most families have 2 or more cars"

  "People need their own space for their cars, and is best if it is on their own property (rented or owned) so that there is no competition for public parking space"

  "I don't believe that Milwaukie currently has the public transportation infrastructure to support less than one parking space per dwelling unit"

  "I am in support of a future with less cars and more human-propelled transportation, but we are not there yet."

- **Counting on-street parking as part of the required parking has mixed reviews.** Some people are in support of counting the on-street parking if it means that the site can be developed with more efficiently. Many have concerns about neighborhood aesthetics and pedestrian and bicycle safety with on-street parking, in addition to the logistics of on-street parking for residents and visitors.

  "Too crowded, not safe for pedestrians, bicyclists, children."

  "I don't want to live in a neighborhood where everyone parks on the street"

  "As a previous renter (and female), that can create a potentially dangerous situation with street parking"

- People seemed to prefer the opportunity for creative design with multiple buildings on a site for multi-plex middle housing rather than having one long and skinny structure. Key benefits cited include privacy and autonomy for residents as well as neighbors, preservation of trees and the ability for buildings to blend into the neighborhoods more seamlessly.

  "The ability for multiple stories and multiple buildings per lot allows for greater variation in design. It also allows for more space for gardens, green space, trees, etc."

  "I really think smaller detached homes is the way of the future. It provides more feelings of autonomy for those who live in them. Aesthetically the preservation of trees makes a neighborhood feel more protected."

  "Multiple buildings and more trees is nicer for the trees and those living in those homes – more privacy, more trees, more interesting shape."

Survey Demographics

- There were 121 completed surveys, including one Spanish survey and one paper copy.
- Of the responses, 81 people stated that they live in Milwaukie, 79 people stated they own a home in Milwaukie while 9 people stated they rent a home in Milwaukie. Note that people could select more than one response or could choose to select just one response.
- The neighborhoods with the most responses included Ardenwald-Johnson Creek, Lake Road and people who live outside Milwaukie (Oak Grove, unincorporated Clackamas County and Portland). Eighteen percent of the respondents did not specify the neighborhood they live in.
- The age of the participants was well spread out: 11% under the age of 34; 26% between the ages of 35 and 44; 17% between the ages of 45 and 54; 13% between the ages of 55 and 64; and 26% over the age of 65.
- Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

Survey Responses

Parking Questions

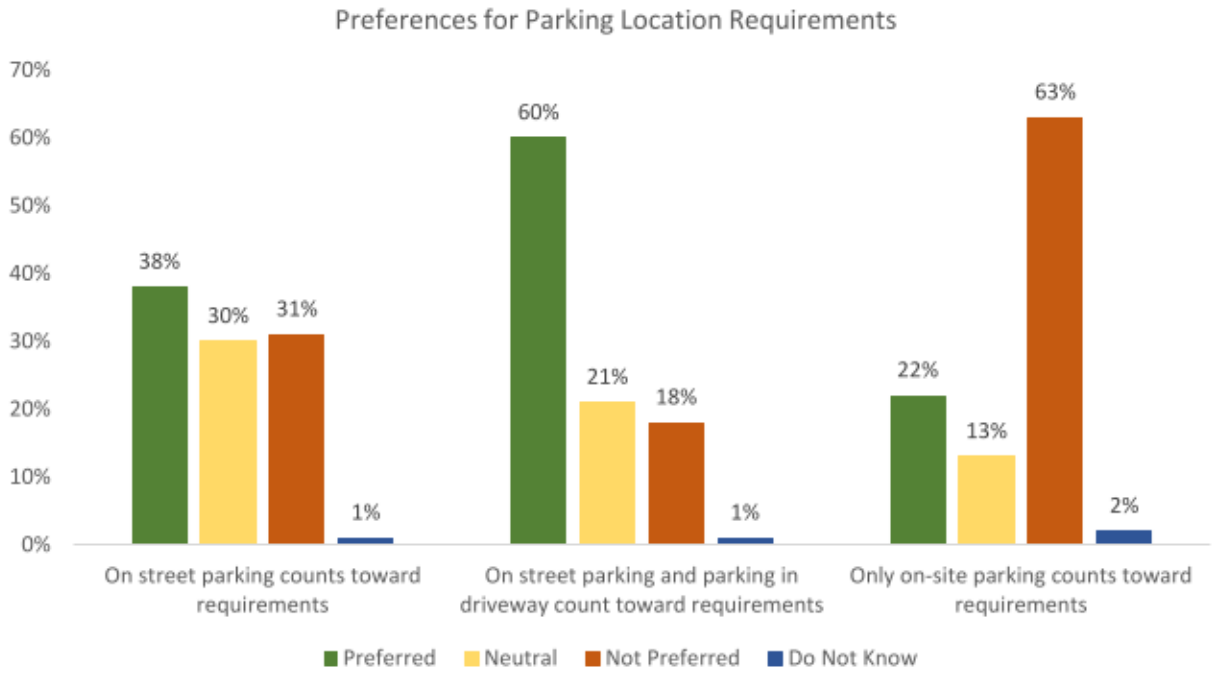
Survey responses and comments related to parking indicated a clear preference for modifying the current parking requirements. There was not clear direction on whether fewer parking spaces should be required.

Location of Parking

When asked about preferences for parking, three options were given:

1. On-street parking counts toward requirements
2. On-street parking and parking in the driveway count toward requirements
3. Only on-site parking counts toward requirements

Most respondents preferred being able to include on-street parking and/or driveways as part of the parking requirements. The current code requirement of only counting on-site parking was significantly the least preferred.



Respondents mentioned the following reasons why either on-street parking and/or parking in driveway should count toward the parking requirements:

- protect greenspace and saving trees
- create more livable spaces on the lots, increase the efficiency of space
- increase the flexibility for developers and site development (assuming that developers are not prohibited from building more parking spaces on site if they want)
- provide options for people who do not drive

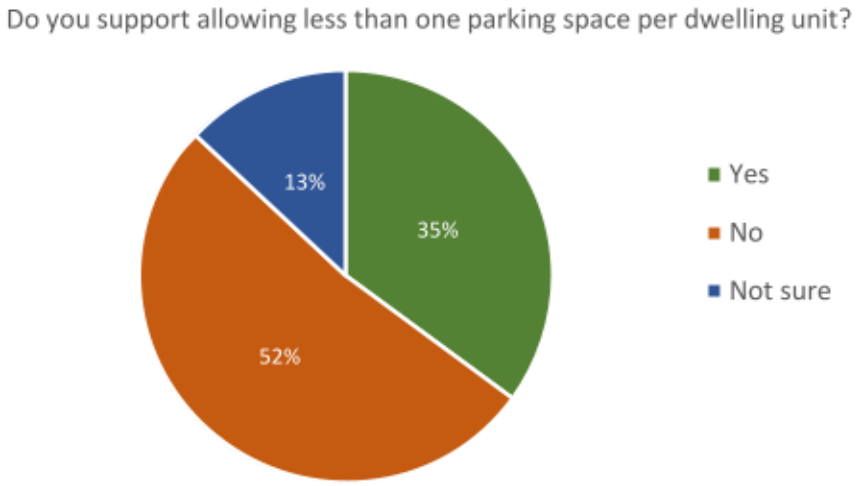
Concerns about on-street parking and parking in the driveway followed several themes:

- access to properties – cars on the street blocking driveways
- pedestrian and bicycle safety – cars blocking sidewalks, unsafe walking environment next to street edge, reduced visibility for both drivers and pedestrians
- aesthetics – streets being lined with cars
- daily logistics of parking – distance of the on-street parking space to the home, challenge of parking in a different on-street location each day, electric vehicle plug-ins, safety of walking from parking to homes, visitor/guest parking

The flexibility to provide different parking standards in different locations was also mentioned in the comments. For example, allowing on-street parking to count toward parking requirements in areas near transit, or requiring off street parking where sidewalks do not exist.

Number of Parking Spaces

When asked whether they support less than one parking space per dwelling unit, 52% said that they would *not* support less than one parking space per dwelling unit. Thirty-five percent said they would support less than one parking space per dwelling unit.



Reasons cited for not supporting fewer than one parking space per dwelling unit included:

- lack of available transit throughout Milwaukie
- perceived current car ownership trends of people owning more than one car per dwelling unit – cars would have to park on the street
- perceived street conditions, aesthetics and safety of cars being parked on the streets
- perceived lack of available parking for visitors, care providers, etc.

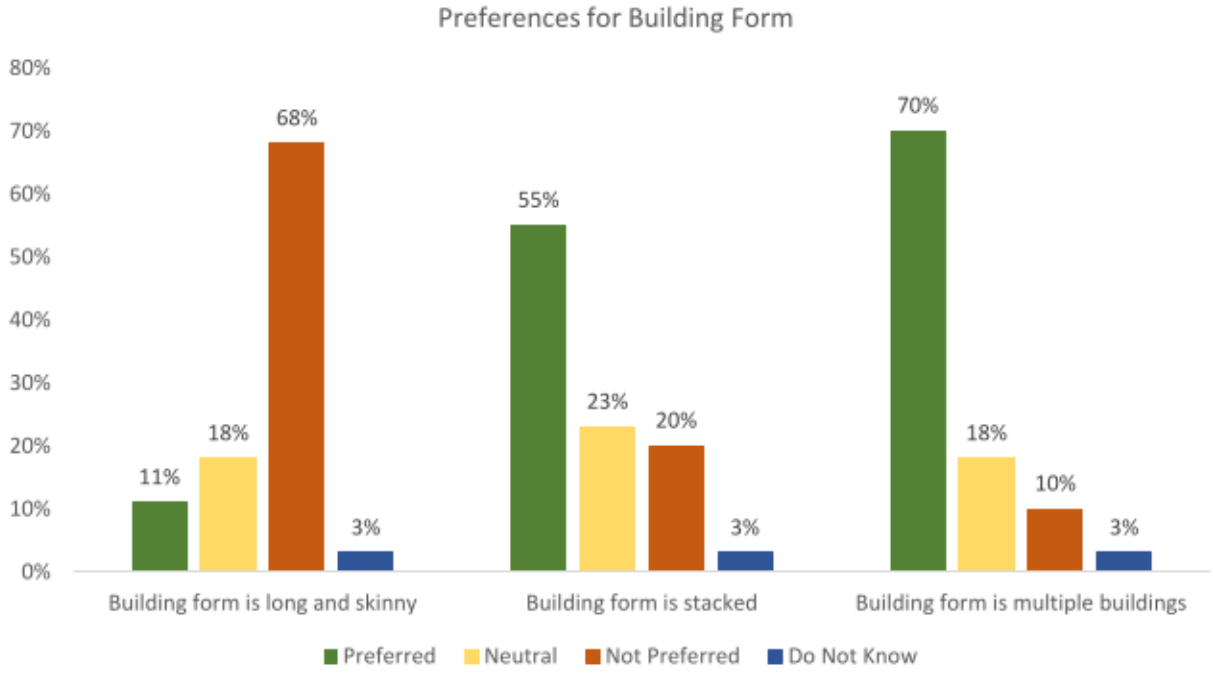
Building Form

Survey responses and comments related to building form indicated a clear preference for stacked or multiple buildings on a lot. They are not supportive of long skinny buildings.

Building Form on Sites

When asked about preferences for building form, three options were given:

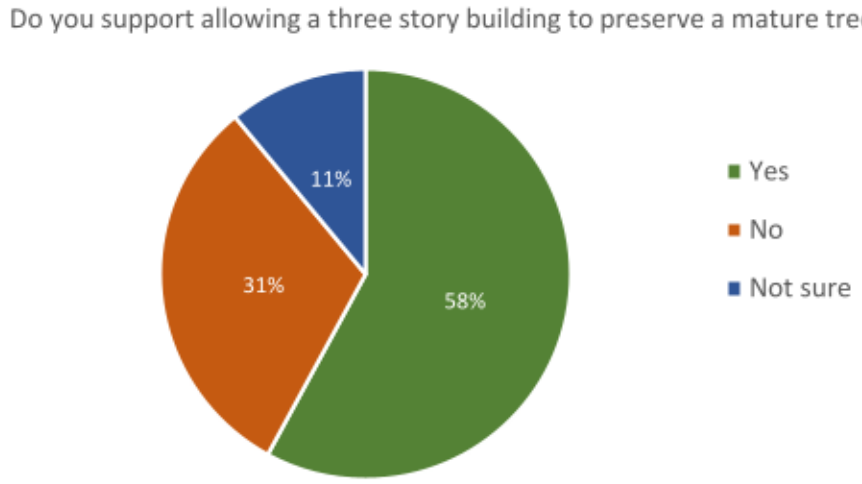
1. Building form is long and skinny
2. Building form is stacked
3. Building form is multiple buildings



The primary reason that people preferred stacked buildings is the ability to preserve and maintain landscaping, green space, and trees. People preferred multiple smaller buildings because it provides privacy and autonomy for residents, better quality of life with not having another dwelling above or below your unit, creative use of space and design, preserving trees and green space, and blending in better with the neighborhood.

Building Height

When asked if they would support the building height going up to three stories if it meant a tree on the site could be preserved, 58% said that they would.



People are generally supportive of taller buildings to preserve mature trees, with many comments related to the importance of preserving trees. Concerns about the building height noted were:

- impacts to view corridors and sight lines
- privacy of adjacent neighbors
- solar access on adjoining lots
- consistency with neighborhood style and feel

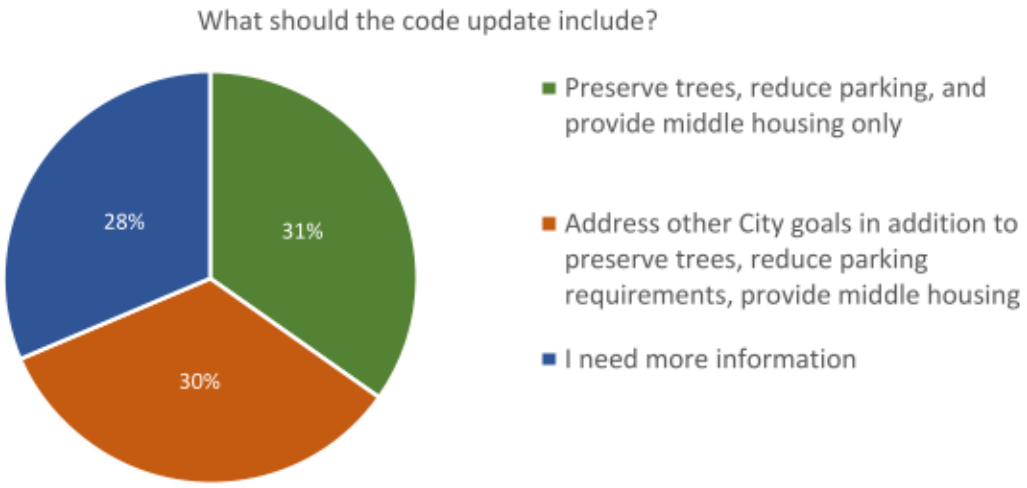
Comments were also made regarding the ability to count the basement as a third story and allowing three stories based on specific location and consistency with the existing neighborhood feel.

Code Flexibility

Survey participants were asked to weigh in on what the code update should include:

- Option 1: Flexibility to preserve trees on site and reduce parking requirements in addition to the state mandated middle housing requirements, only when certain conditions are met.
- Option 2: Flexibility to address other City goals, in addition to providing middle housing, preserving trees, and reducing parking requirements, only when certain conditions are met.

Responses were split evenly between the two options and needing more information to give an opinion.



When asked what conditions needed to be met, many of the responses related to conditions to allow for parking reductions. People suggested that parking reductions could be granted if the following conditions were met:

- increase in outdoor space
- cohousing situation with access to car sharing
- near transit, specifically high frequency transit
- near neighborhood greenways, bikeable/walkable area
- provision for bike parking/facilities
- parking study that adequate street parking is available
- preservation of trees

- addition to the social/ecological well-being of the community (i.e., bioswale, community garden)
- specialized housing for those who may not drive

Respondents identified the following topics as other City goals that could met by the code update related to middle housing, parking, and trees:

- green building practices (i.e., solar panels, stormwater treatment)
- affordable housing
- walkability
- passive house design
- sidewalk and street frontage improvements

Envisioning Your Neighborhood

To get a better understanding of the elements that are important to define the look and feel of neighborhoods, the public's input on the importance of certain site design features was sought. The following includes the percentage of respondents who noted each photo as being important for their household.

Size/width of yard (front, back, side setbacks)



37%
Small yard



79%
In between small and large



19%
Large yard

Location of parking



42%
In the front of the house



53%
In the front of house & on-street



64%
In an alley or behind the house

The amount/ size the building takes up on a lot (lot coverage)



24%
Building covers over 50% of lot



72%
Building covers 35% - 50% of lot



43%
Building covers 35% of lot

Height of building(s)

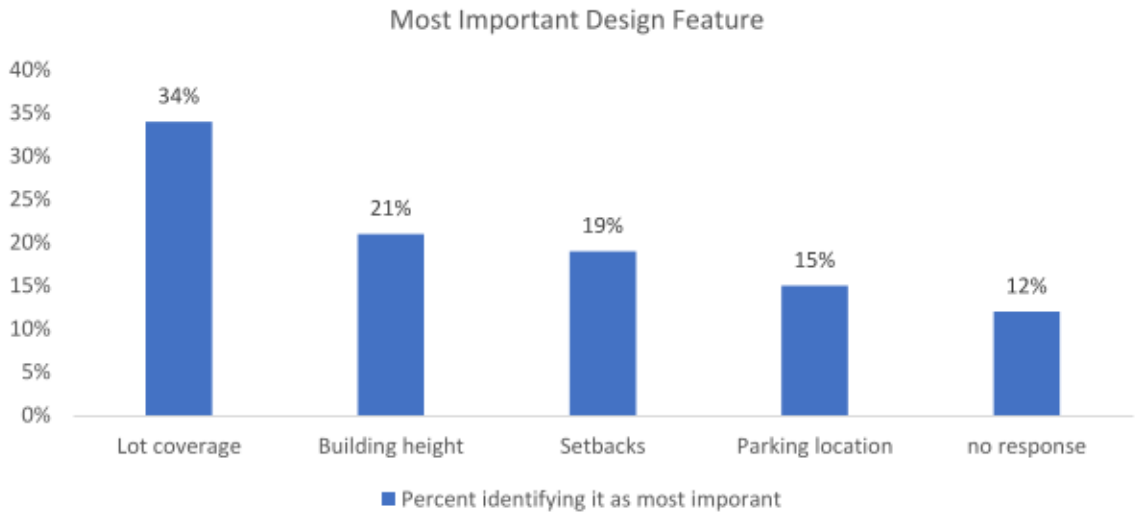


50%
Maximum two and one-half stories (current code)



57%
Maximum three stories

Participants were asked to identify their most important design feature. Overall, lot coverage was the most important design feature to people. Many people also noted that, regardless of the design standards, it is the quality of design and the ability for the building to fit into the aesthetics of the neighborhood that is most important element.



Individual comments

People who viewed the virtual open house had the opportunity to provide comments through the community survey or within each station of the open house. In addition to the over 450 open ended survey responses received, there were over 130 station comments. The themes of the comments included:

- Clarification of the middle housing requirements in Oregon HB 2001
- Role of the City regarding tree regulation on private property, including replacement and maintenance
- Areas within Milwaukie for future development
- Development review process, including the difficulty of developing middle housing currently and public review of plans
- Loss of green space around the city due to development and need for more green space
- Housing needs and types of housing in Milwaukie, including affordable housing and home ownership
- Examples/discussion of housing developments that people like or do not like
- Concerns about higher density housing, Airbnb use, etc.
- Importance of the Vision and Comprehensive Plan and relationship to other City goals
- Importance of linking the transportation infrastructure (transit, biking, and walking) to housing
- On-street parking, existing street improvements and parking requirements
- Design features of middle housing
- Neighborhood livability
- Green buildings
- Need for regulation and flexibility (both in support and opposition)
- Appreciation for communication, open house materials and survey
- Technical difficulty related to the survey and open house (note: staff responded and fixed the issues immediately)

Next Steps

The information from the community survey has been reviewed and discussed by the Project Team. The feedback, along with the CPIC direction and city priorities, will be reflected in the recommendations presented to the CPIC for the code update.

Before the code amendments are presented to the Planning Commission in July, the public will be given an opportunity to review the draft amendments. The public will have an opportunity to comment through the code adoption process.

Updated Jan 5, 2022.			*Comments submitted for Planning Commission hearings are attached.*	
Commenter	**Date Received**	**Municipal Code Section**	**Comment**	**City Staff Response/Recommendation**
Zoning Map				
Bradley Bondy	7/26/2021	Zoning Map	*Rezone properties in close proximity to downtown or frequent service bus lines to the new R-1 zone, and those within 10 minute walk to downtown or MAX to the new R-1-b.*	Staff will be working on the high density zones in the next phase of code amendments and comprehensive plan implementation.
12106SE (Engage Milwaukie)	9/15/2021	Zoning Map	*It is difficult to tell on the zoning map if the Clackamas Community College Campus is included in the Comp. Plan. It appears that it is not.*	The college campus property is zoned Limited Commercial, not residential, so the proposed code amendments will not directly affect this property.
Title 19 Zoning				
Bradley Bondy	8/24/2021	19.301 and 19.302	*The proposed minimum lot size requirements for different forms of middle housing should not be included as is in the final code. I ask that the Planning Commission reduce minimum lot sizes for 3-plexes and 4-plexes to something that doesn't strongly discourage their construction.*	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	8/24/2021	19.301.5.B.3	*In 19.301.5.B.3, middle housing is provided a 10% lot coverage bonus, however it's written such that only the first floor can be built within that bonus, second floors are restricted to the same area as a single detached dwelling. This reduces the possible square footage of middle housing, thus reducing their viability. This greater restriction is not present in the R-1 and R-1b zones, and it should be not included in the R-2 zone.* *SUGGESTED EDITS: "Increaased Lot Coverage for ~~Duplexes~~ Middle Housing.* *The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by ~~20~~ 10 percentage points for a ~~duplex~~ middle housing, provided that the portions of the structures(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.*	
Bradley Bondy	8/24/2021	19.301.5.B.3	*The draft code proposes a reduction to the lot coverage bonus for middle housing from 20%, down to 10%. This change should be dropped. It's both fine and good to allow buildings in which 2-4 families live to be a fair bit larger than a single detached home where only 1 family lives. Keeping this reduction in hte final code would discourage the building of hte middle housing that the adopted comp plan makes clear is a high priority for the city.*	
Bradley Bondy	7/26/2021	19.605	*Eliminate parking minimum in the R-1-b zone. This zone exists exclusively within a short walk to downtown, the MAX, and the transit center where 8 bus lines all converge. It's also a neighborhood where a significant number of folks already don't own cars.*	By-right reductions to required off-street parking include credits for proximity to transit.
Bradley Bondy	7/26/2021	19.302	*Modify the R-1-b zone to allow 4-plexes on 5,000 sq ft lots. No adjustments to setback or lot coverage standards needed.*	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	7/26/2021	19.302	*Allow Single Room Occupancies (SROs) within the R-1-b zone.*	SROs and other similar types of housing will be addressed in a future phase of code amendments.

Wibke and Mark Fretz	9/25/2021	19.505.1	*While we understand that the intent of the Detailed Design standards is to have housing that is appropriate for the neighborhood, we would note that the 15 listed features do not constitute a known style and adhering to them would not necessarily produce esthetic housing or housing compatible with the neighborhood. We support the inclusion of porches and several other non-stylistic features, but, for example, bay windows, changes in roof height and other façade offsets add construction costs to units that are meant to be affordable and decrease energy performance (impacting climate and operational affordability). Additionally, the choice of wood shingles for roofs or walls is problematic, as these are a fire hazard. More consideration could be given for alternative materials. We realize that applicants may go through a Type II variance application to avoid compliance with 5 out of the 15 features, but an alternative would be to reconsider the list of required features so that more developments could forgo the variance application, which increases development timelines, housing cost and inhibits design innovation.*	Determining a new list of design details was beyond the scope of this project. As proposed, the existing list of design details for single detached dwellings would apply to middle housing as well to be consistent. This list was put together in a public process in 2012.
Wibke and Mark Fretz	9/25/2021	19.505.4	*We understand that the definition of a cottage is one home/house. However, if a duplex cottage (two units) can meet the maximum footprint of 900 sq. ft. and the massing (height, roof slope, etc.) requirements for a single cottage, we would advocate for the code to allow for that type of cottage within a cottage cluster.*	As proposed, duplex cottages are permitted in the High Density zones, but not in the R-MD zone.
Bradley Bondy	7/26/2021	19.607	*Allow on-street parking spaces directly in front of a property to count towards the minimum. Car parking takes up a ton of space and can greatly reduce the amount of living space that is possible to build, and it eats into yard space, likely reducing the number of trees on a property. The city's on-street parking capacity is greatly underuitilized. Limited on-street parking is not an issue.*	In order to account for each property's specific on-street parking availability, the code provides for a Type II parking modification process to allow for this type of flexibility on a case by case basis.
Rob Reynolds	9/1/2021	19.600	*Why does the city want more street parking?*	The proposed code requirements for on-street parking are in line with the requirements of HB 2001, but, more importantly, we recognize that building off-street parking increases the cost of development and one of the goals of the comprehensive plan is to find ways to reduce the cost of housing. As part of this code project, we had a Residential Parking Occupancy Study done to help ground-truth how the amendments might affect on-street parking. We posted this document on the Engage Milwaukie site. It is available here: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/117711/residential_occupancy_parking_study_-milwaukie.pdf.

Rob Reynolds			*Thanks for your response, but you still did not answer my questions. Why is the city pushing their political view for my property and future property owners? What is the number of people that you are referring to? We do not have a large involvement of all the residents in Milwaukie. I would like to see that change. But with that said I am not sure what standing you are using when you say that this is what the people in Milwaukie want. If these were safety issues that a contractor was causing I could see the code changes. But all I see is a political view being forced on the people milwaukie.*	The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law.
Donald Courson	9/6/2021	19.605.3	*Key amendment item states "Include a by-right reduction in minimum off-street parking for middle housing located near transit." A clear definition of "transit" is not referenced, and a quantitative definition of "near transit" is not included. Given Trimet's current level of coverage, this would allow for any housing to be deemed "near transit" and eliminate the requirement for off-street parking in all cases. My position is that the city needs to revise to include both a clear definition of "transit" and quantified definition of "near".*	Proximity to transit is already a reduction in the existing code – we are adding middle housing to the types of development that can get this reduction:
			Key amendment item states: "include a by-right reduction in minimum off-street parking for income restricted (affordable) housing." The terms "income restricted (affordable) housing" are a broad term, subject to interpretation resulting complexity to enforce. Recommend that the city revises to provide a clearly enforceable definition of "income restricted (affordable) housing" in a manner such as "income restricted (affordable) housing as defined by XX", or even stating a definition in detail. Otherwise, potential developers may be concerned with whether their build plans would meet the city's regulations, and the city may have limitations in situations where they disagree that a developer's plans are in the best interest of the city and affected neighborhood.	Income-restricted housing code language has been included in the proposed amendments.
Brad Thompson	9/9/2021	19.605	*I would preferably like to see only onsite parking with no street parking as this could cause pedestrian traffic accidents.*	
Charles ISN (Engage Milwaukie)	9/20/2021	19.605	*The amendment does not address the need for more parking per unit. With a couple each with a car plus a teenager and a boat more off street parking would be critical. Please adjust the amendment to include more off street parking.*	Oregon House Bill 2001 does not allow us to require more than 1 off-street parking space per dwelling unit. This is the requirement for single detached homes as well, so the proposed code is applying the same requirements to single detached homes and middle housing.

Wibke and Mark Fretz	9/25/2021	19.600	*We strongly support the proposal to reduce required parking numbers through several methods, including tree preservation, via a Type II parking modification. The summary of "key amendments," however, suggests a more flexible arrangement of parking for middle and cottage cluster developments than is specified in the code language and we would support the more flexible language in the summary, including allowing parking in some of the required setbacks. We also want to advocate for a more flexible approach to parking in general. For example, requiring parking for cottage cluster developments to be in a common area would create a large, paved surface vs. having parking spaces placed individually, some even associated closely with individual units, which seems more in keeping with the character of surrounding neighborhoods. These additional requirements for parking, including placement, limits the number of housing units on a lot, which restricts affordability.*	The proposed code amendments do provide for an allowance for parking within the required setbacks. The cottage cluster code amendments reflect HB2001 and the model code to ensure compliance with these requirements. The parking modification process is available to provide flexibility as needed on a case by case basis.
Rice99_97068 (Engage Milwaukie)	9/24/2021	19.600	*As far as the residential parking in yards and side areas i think its a great idea. Milwaukie is a city of families and families like to do stuff the may enjoy camping a have travel trailers or classic cars the family's enjoy of like water sports so have jet skis or boats, and some of the houses were not build with enough driveway space to park more then a car or 2 but there is plenty of other areas on the property that would be great to park*	
Stephan Lashbrook	10/11/2021	19.605	*Reducing the parking standard for residential developments still concerns me because there is so much variation in available parking from one block to another. I realize that the State has mandated a reduced parking standard and I suppose that the best I can do is simply say that there will be problems when residents discover that the on-street parking they have relied on for years is now occupied by overflow parking from other properties. I wish we had frequent transit service in every neighborhood and a thoroughly connected sidewalk and bike system all over town. We do not and we probably never will. Without those alternative transportation improvements, we are going to create parking problems for some people in some parts of town.*	
Jay Panagos (Engage Milwaukie)	9/1/2021		*Are "Tiny Houses" included in Cottage Cluster Development?*	Thank you for your question. If by "tiny homes" you mean very small homes on a wheeled chassis, then no, they are not permitted as dwellings because they are considered vehicles. Current code does not permit people to live in vehicles. Cottages in a cottage cluster development must meet certain minimum design and development standards – you can review them in code sections 19.505.1 and 19.505.4.
Erik (Engage Milwaukie)	9/21/2021		*I have serious reservations with the idea of combining housing type zones (essentially rezoning) for the quiet neighborhoods like many around Milwaukie. The way I read this, it would presumably allow a developer to build a high-density condo-like complex right along side single family homes. In my Hector Campbell neighborhood, we already have monstrous, brand new houses being built that tower high above all our little single-story ranch-style homes that have been here for decades, which appear intrusive. These ridiculously large houses are out of place enough already, I can't even imagine a 4+ story, 30-dwelling condo complex building on the corner of my block, casting its shadow on my already sun-starved garden (tree requirements), filled with people staring down into my windows and overseeing my activities in my yard from above. Sure, this is an extreme example, but this plan would allow for it.*	The proposed code amendments apply to middle housing and not to large multiunit developments. The proposed design and development standards include maximum building height for middle housing that is the same as for single detached units, so a 4+ story building would not be permitted in the medium density zones. The Engineering and Public Works Departments are part of the project team for these proposed amendments as well.

			I would also like to echo the previous commenter's concerns regarding additional traffic on our streets, which mine hasn't been paved since its first (only) layer of asphalt was laid down in 1946, and is now so broken and cratered it's worse than driving on the surface of the Moon. Another major concern I have is the current capacity of our existing utilities - water, gas, electrical, storm/sewer, broadband internet, phone/cell, etc... Some parts of Milwaukie are already at (or above) the limits for many of these services. We have areas in older neighborhoods with chronic sewage issues and/or low water pressure. Most of our upper-North Milwaukie neighborhoods have overhead electrical lines running old, thin copper conductors that are not tree-rated, and which already max out their current rating during the coldest weather of each Winter.	
			If you're just going to railroad these changes through anyway (Re: TriMet MAX) then at least prepare the area for potential impacts, and upgrade roads and work with utility providers toward expansion ahead of construction, instead of playing catch-up after the fact or just flat-out ignoring and denying these problems and the needs of Milwaukie's residents altogether.	
Dawntim17 (Engage Milwaukie)	9/17/2021		*Not all zones being changed to allow higher density housing have a street infrastructure to support the additional traffic. Before higher density housing is permitted, there needs to be street infrastucture improvement to support it, lest Milwaukie become the next Sellwood.*	
12106SE (Engage Milwaukie)	9/15/2021		*So the new code would require subdividing the lot for cottage cluster or could they be owned as tenants in common?*	A cottage cluster can be owned in common.
12106SE (Engage Milwaukie)	9/15/2021		*I understand the need for more middle housing. I am ok with adding duplexes and triplexes ONLY if we have stricter zoning as to what is acceptable. I don't want to live next door to a 'skinny house' that has a door and single garage facing the street. They need to fit the character of the neighborhood and that is something, I believe, that the City would need to put into the code. Also, while adding more residents to Milwaukie, what is the plan to keep up the infrastructure of the City - roads, sewer, etc? That is something we really need to have plans for.*	All new middle housing development would need to comply with minimum design standards (just like single family homes do). The Public Works and Engineering Departments are involved in this project as it relates to infrastructure needs.
Milwaukieres (Engage Milwaukie)	9/27/2021		*We are aware and understanding of the housing crisis. However, we feel that tiny home/cottage clusters and other multiple unit dwellings will ruin the charm and draw to Milwaukie and neighborhood property values will decline. It would directly affect the livability for my family. It's one thing to have neighbors next door, but it's another when there's multiple sets of neighbors next door. We live on a well traveled street and already experience many issues with traffic on a daily basis as is, so adding more people in our neighborhood would only contribute to the issue. More people=more cars=more congestion=Unhappy, established longtime homeowners. We don't want to live next door to or down the street from any more duplexes or tiny home clusters.*	Tiny homes (small homes on wheeled chassis) are not part of the proposed code amendments. The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law. The proposed amendments also include design and development standards so that new housing will compliment existing neighborhoods.
Stephan Lashbrook	10/11/2021	Trees and Solar Access	*I fear that we are not doing enough to protect solar access for energy production and for gardens. I know this requires a careful balance between tree canopy goals and building height/setback regulations and my guess is that we are about to sacrifice solar access in some cases for other goals. I am not prepared to offer specific suggestions except to say that I have long felt that building setbacks and height standards on the north side of a property that adjoins other developed or developable properties should be regulated to protect solar access on those adjacent properties.*	

Stephan Lashbrook	10/11/2021		*One question — are the standards intended to apply to a quadplex the same as for a cottage cluster of four units? If not, I think they should be the same.*	Cottage cluster development shares some standards with a quadplex, but many of the standards are specific to cottage clusters as required in HB 2001.
Stephan Lashbrook	10/11/2021		*Use more graphics in the code - fewer words*	
Stephan Lashbrook	10/11/2021	Definitions	*One suggestion — rewrite the definition of a "half story" used in the current Code (following) and carried forward in the recommended provisions. Here is the current language: "'Half-story' means a story under a gable, gambrel, or hip roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than six ft above grade, for more than 50% of the total perimeter and is not more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a half-story."*	
			That definition consists of two distinct thoughts that have little to do with one-another. The first sentence of that definition, although somewhat challenging to track, does seem relevant to the height standards for residential structures set at "2 1/2 stories or 35 feet, whichever is less." My complaint lies with the second sentence, which applies only to basements or under-floor spaces. It does nothing legitimate to help in the regulation of building height and only serves to potentially reduce the amount of floor space that might be developed on a residential property. Let me be more specific.	
			In the Lewelling Neighborhood, where I live, there are many ranch style homes constructed in the 1950s, many of which look very much like one-another. Some of the homes have full basements, others do not. Very few have daylight basements, but some do. Other than the homes with daylight basements, the other homes with basements cannot be distinguished from those without basements from a street view. However, the second sentence of the definition of "half story" would impose a more strict height standard on the homes with a conventional basement than those without. What is missing from the definition is a more specific application to homes with daylight basements, because they tend to appear, from at least one side, to be taller than nearby homes without daylight basements. I will leave it to the decision-makers to decide whether more strict height standards are needed for homes with daylight basements. For homes with conventional basements, I would urge you to amend the rules to treat them just like visually similar houses without basements. Please delete or restructure the second sentence of the definition.	
Bradley Bondy	10/25/2021	lot size and parking	*Please allow for all middle housing types on 3,000sqft lots, as well as for reducing the required parking to .5 spaces per home. Both of these changes would help to create an abundance and variety of housing options in Milwaukie. I also feel that Milwaukie has made a strong commitment towards advancing affordability in it's comprehensive plan, and adopting the bare minimum to comply with state law doesn't scream "doing all we can to advance affordability." Please also approve the changes for set back requirements for income restricted housing, and further expand that change to apply for all housing regardless of deed restrictions on affordability. It's ok for homes to have smaller setbacks. Many neighborhoods in the region have similar setback requirements, and they're all perfectly pleasant places to live.*	

Tim Taylor	10/26/2021	19.605	*My name is Tim Taylor, I'm a resident of Milwaukie, a small business owner, and I helped contribute to the most recent election for Milwaukie's newest Commissioner. I'm writing to express my support of the proposed changes to reduce parking minimums to 0.5 spaces per unit for middle housing (duplex, triplex, and quadplex). This change will prioritize Milwaukie's housing affordability and climate action goals, instead of putting car parking ahead of those goals. I believe Milwaukie should be focused on providing housing for people and space for tree canopy, not cars. As a young professional, I have friends who are interested in moving to Milwaukie but haven't due to a lack of affordable housing. These are individuals who may not be able to afford a single-family home, but would likely be able to afford a duplex. I love living in Milwaukie, but I also want to see it grow. I want small businesses to move here, but as a business owner myself, Milwaukie is not yet a desirable location to expand or start a new business. There is simply not enough people in certain areas to support a new brand. Thank you for considering my opinion on this matter and thank you for caring about the future of our beautiful city.*	
andersem (Engage Milwaukie)	10/28/2021	Zoning Map	*Simplifying the zoning map seems good, and allowing structures of similar size to exist seems good, too. People already have every right to share detached homes in any neighborhood, and often do; over the long term, the main thing this would do is give people the option of having their own kitchen and entrance if they want to prioritize that. In the short term, this should give people the option to prioritize location over home size (for any given budget) if they choose to do that.Increasing the number of homes in the city is the only way Milwaukie will be able to gracefully adapt to people relocating from elsewhere, often with quite a bit of money to spend on housing. If Milwaukie doen't allow more homes to exist, people with more money will just outbid people with less, which means the prices of existing homes will keep going up faster than is healthy for the city.*	
andersem (Engage Milwaukie)	10/28/2021		*Allowing units in a "plex" to be physically detached from each other is a great way to increase flexibility, save trees and reduce needless demolitions. Great idea. I don't understand why it should be illegal to put a triplex on a 4,999 square foot lot, or a fourplex on a 5,000 square foot lot. Splitting the land cost among more households should reduce the cost of the project (relative to other new construction).To the traffic concerns some have shared: there are only three ways to reduce auto traffic. One is to have fewer people. That's not in the cards for this region in the forseeable future. The second is for many people to have less money to spend. Probably nobody wants that. The third is to shift more trips from cars to foot, transit, bike, etc. Trying to control traffic by making it illegal for someone who wants to live in Milwaukie to do so only leads to them living somewhere else, presumably farther from their desired destinations, which means more driving. Allowing more people to live close to each other allows the sort of walkable retail and more frequent transit that we already see in the parts of Milwaukie that were built before we started building cities around cars.*	

andersem (Engage Milwaukie)	10/28/2021	Parking (19.600)	*These proposals are an improvement on the status quo. Having lots of parking space is nice, but it's not more important than housing, and making parking mandatory with every new (whether or not the people who live in the home want it) literally implies that parking spaces are more important than homes.It's likely that some public curbsides will gradually become more crowded. The only people who will be harmed by this are ... people who are already parking on the public curbsides. So I'm not clear on what grounds they have to object.If we truly want to preserve curbside space, though, requiring one parking space per home doesn't make much sense to me. Every additional driveway basically eliminates one curbside space (and removes a space for a potential tree). So if a bunch of homes go in with one off-street driveway parking space, and have to install curb cuts to do so, the only thing we're doing is removing one parking space from the street (which can be used by anyone) in order to create it off-street (which can be used only by the owners). That seems inefficient.Also, the only way to actually stop people from parking in the public street is to have permits or meters or something. Otherwise, some folks are never going to bother to clear out their garage.*	
Barbara McGinnie	10/30/2021	Parking (19.600)	*I live @ 2336 SE Llewellyn and have for about 40 years. When the Waldorf school opened the parking on the street got very difficult if not impossible during school hours, although the school administration had promised not to let the teachers & students park in the neighborhood We also have a large apartment in our back yard @ 23 & Llewellyn. They charge for a parking space there so many tenants park on the street as well. These people are not paying the $42360.76 property taxes, I am, but I could never count on being able to park on the street or have my guests park anywhere close. Now the city thinking of cutting the parking space per apartment requirement from 1 down to 1/2 space??? Please consider us home owners in the close in neighborhoods.*	
A.R (Engage Milwaukie)	1/4/2022		*Changing the zoning codes only benefits the builders and increases fees for residents. In no way is this benefiting the residents of Milwaukie! Allowing for density will only bring higher traffic, noise, pollution and is not environmentally friendly at all. This also does not meet the City of Milwaukie Comprehensive plan 'community vision'.* *As we have seen in Portland and in other suburbs, over-building has led to congestion, pollution and lack of green spaces as well as the hideous buildings that are being crammed into tiny lot spaces with no yard and ruining the beauty of the neighborhoods. This is precisely the reason we left Portland and came to Milwaukie. You are basically turning Milwaukie into Portland.* *You also want to increase tree density but yet you are reducing lot sizes and setbacks!! The math doesn't work.* *We need to keep codes and zoning in check so the builders don't have the run of the town. We'll be sorry if we do!*	
Title 16.32 Tree Code				
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Crown" is defined, but there is no definition for "mature tree crown." How will this be determined?*	Urban Forester will create species characteristics lists for street trees and yard trees using best available information. Lists will be updated and posted online for community use.

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Right-of-way" is defined but "abutting right-of-way" is not. This should be defined.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Street tree" is defined as a tree, shrub, or other woody vegetation on land within the right-of-way. The "other woody vegetation" language may be broad, and complicate things for the City if it is required to regulate the clearing of woody vegetation. To simplify this and reduce complaints, the City might consider a "height threshold when fully grown" for the purpose of regulating their removal/pruning, and remove mention of anything smaller in stature.*	Tree is defined as ""“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity."
Elvis Clark	7/11/2021	16.32.023	*Objection to proposed language on interference with city: This language taken at just its word would seem to give the Urban Forester the ability to just enter one's private property without getting permission from the property owner or through proper judicial process to override the proeprty owner's resistance.*	Intent is to allow for hazard tree removal or diseased tree/pest treatment to control infection spread
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.040	*16.32.040 Penalty: The current language suggests that penalties only apply to a person who removes a street tree or a public tree without first obtaining a permit, or for a person who removes a tree in violation of an approved permit. However, no penalty is mentioned in the event that someone removes a private residential yard tree in a non-development situation without a permit. This language should be clarified to include removal of a tree on private property without permit in situations that require a permit under Section I.1.*	16.32.042.J.2
Elvis Clark	7/11/2021	16.32.042	*Objection to proposed language including exception on residential building heights: I prefer no such exception for developers to use to build houses higher than the current 2 and half story height limit contained in the proposed Comprehensive Plan Implementation*	
Elvis Clark	7/11/2021	16.32.042	*Ojection to 6-inch DBH standard in non-development tree permit requirements: This is too narrow a diameter for private property, non-developmental tree regulation. The City of Portland uses 12 inches DBH for residential tree removal requirments. Seems unrealistic as enforcement is very unlikely to be able to enforce consistently and fairly over private property.*	

Elvis Clark	9/22/2021	16.32.402	*I believe 8 inch Diameter is too low a diameter to be practical in enforcing code. I think the focus by the City should be on regulating private property/non-development trees with diameters of at least 20 inches and greater (DBH) I think the public consternation of tree falling on private property surrounds more the mature and tall firs, oaks, elms, etc. typcially these being well over 20 inches DBH. I can't imagine the City wanting to so micro manage even small trees down to 8 inch DBH. These small trees should maybe be the subject of informational encouragement rather than enforcement. 8 inch will also cause too much friction between neighbors, as the only way it gets consistently enforced is if neighbors are "ratting on one another." Arborists and tree cutters are no longer so cheap, too; and so many folks do there own managing of trees; and so here again, there should be more balance between imposing costs beyond the 20 DBH and greater on Milwaukie property owners. I make this plea again against a draconian launch into private property tree codes, down to the 8 inch diameter range at (DBH).*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Support for 6-inch DBH: We strongly support the inclusion of trees above 6" DBH in Tree Inventory Requirements (H.1) and in Non-Development Tree Permit Requirements (I.1.a) This stringency is critical to protecting the urban forest and giving small trees a chance to contribute to a multi-age sustainable canopy as the urban forest ages.*	
Elvis Clark	7/11/2021	16.32.042	*Objection to on going maintenance language: This is both too intrusive over non-development, private property owners, and unrealistic per code enforcement. It seems way overboard for government to oversee such matters, and, costly if the property owner must hire an arborist to "properly prune."*	Removed from recent draft of code.
Elvis Clark	7/11/2021	16.32.042	*Objection to illegal tree removal language: The City should stick to a fixed Master Fee Schedule for all illegal tree removal. Appraised Value opens a can of worms as for instance guessing what a tree's assessed value is in the aftermath of its falling and even possible removal.*	Appraised value is based on ISA BMPs
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Integration of strategies to achieve 40% tree cover and equity considerations into regulatory mechanisms: There is no clear articulation of how the City plans to achieve a 40% tree cover from the 26% cover noted in the 2019 Urban Forest Management Plan. The Plan describes the need to "analyze the potential of a tree planting program to increase canopy coverage to 40% by 2040, prioritizing lower income neighborhoods that do not have adequate canopy coverage." This is an admirable goal we strongly support. A planting program obviously would require staffing and funding, in addition to partnerships. The timeline for this to be determined is unclear. However, we also belive the code framework can be an effective tool to pursue both tree coverage and equity geographically. Geospacial tools offer a decision tool for ensuring equity as trees are planted. This information is now available on Branch Out Milwaukie at the census tract level. An approach such as this provides a methodology for ensuring equity. No census tract in Milwaukie has a canopy cover greater than 35% based on current data. The aforementioned future tree planting program could help create equitable outcomes.*	Staff intend to develop an additional implementation and planting plan as follow up to UFMP to address the 40% canopy gap

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Tree preservation and planting in residential zones: Section B. Tree Preservation Standards, establishes a base requirement that one third of the existing priority tree canopy be preserved. Given the goal of 40% canopy and an existing coverage of 26%, we again feel that we cannot judge the adequacy of this 33% standard in meeting this 40% goal. How was it arrived at?*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Adequacy of tree fund payment schedule: We do not believe that the Tree Fund Payment schedule is adequate enough to incentivize developers and landowners to perserve existing trees. Conversations with city staff indicated that they predicted that most developers would simply consider these fees part of the cost of doing business, remove many large trees, adn pass the cost to homebuyers. It is absolutely critical that if the city offer a payment instead of preservation option that the cost be high enough that serves to protect large old trees and is only used as a last resort.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Role of Urban Forester: The Urban Forester is obviously a position that will hold extensive expertise in urban tree management, this latitude places a lot of power to grant exceptions to this individual with the faith that they will be forward-looking and seeking to maximize urban forest versus providing streamlined process for development. Given that positions inevitably transition, the city should 1) specify how adequate oversight of these discretionary processes will occur, and by whom, and 2) create a process by with Urban Forester exemptions and determinations can be appealed to the Tree Board before any trees are felled.*	Tree board does not serve as an appeals body in current code. Discretionary language will be limited and standards set.
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Clearer standards, criteria, and determining parties: Section D, Mitigation Standards, does not specify who determines whether or not "tree preservation and/or tree canopy standards are practicable to meet", what criteria will be used in this determination, and what routes of appeal of this decision are available to applicants, impacted parties, and/or other stakeholders. One method to clarify this could be the Urban Forester advising the lead development permit planner to approve/deny the option to remove and mitigate trees at a development site (this would parallel the process under E. Discretionary Review Alternative - where the Tree Board provides a recommendation to the Planning Commission). One can predict that arborists and consultants, operating on behalf of their clients, will often be able to justify the removal of trees, or why preservation and/or replanting are not feasible. A clear method should be established for when the Urban Forester and the applicant's arborist disagree, and that is transparent, equitable, and serves the urban forest and the public interest.*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Submittal, Tree Preservation Plan, and Tree Canopy Plan Requirements for Development Tree Permits: The burden of proof and a rigorous standard should be clearly placed on the applicant to demonstrate that first, protection of existing trees is not possible, including changing the footprint of proposed buildings, parking, etc. We do not believe that this code articulates this burden or standard sufficiently. One strategy to improve this dynamic is for the city to require predevelopment site visits in which the Urban Forester verify inventories of existing tree canopy and help developers craft a site plan that accomplishes multiple goals, including retaining existing trees. The submittal, tree preservation, and canopy plans should assess the site within its human and ecological context, including: amount of tree canopy, percentage of impervious surface, and urban heat island effect in that census tract; impact of any loss of trees, on wildlife habitat connectivity; impact of any loss trees, on riparian shade; impact of any loss of trees on stormwater and flood attenuation.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Discretionary Review Alternative (E 1a-ad): We are very concerned that the net benefit/loss of these techniques to the environment and the community will be lower and/or difficult to assess. The Discretionary Review Alternative distracts the City from the primary goal with teh most collateral benefits: expanding Milwaukie's urban forest. Typically, assessing the value of these discretionary alternative techniques requires expertise of a type beyond that of an arborist or the Tree Board (expertise in stormwater design, carbon sequestration, etc.) Many constructed stormwater facilites such as cartridge systems or detention vaults provide benefit in one sphere only (stormwater) but none of the collateral benefits that trees to (urban heat island effect reduction, shade, increase to nearby property values, wildlife habitat, carbon sequestration, etc.) This strategy should therefore be removed.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We strongly support the language that replacement trees "must sustantively replace the function and values of the tree that was removed wherever practicable."*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We recommend further strengthening this requiement to state that the replacement tree be as lare as maturity as the site can reasonably accommodate.*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We strongly support explicit language that "maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances."*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We recommend that additional language be added to the review criteria for section 2.a to include: whether the tree provides significant wildlife and/or fish habitat; whether the tree is providing shade and/or erosion control to a stream, wetland, or other waterway.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Funding the Tree Fund with Payments of Preservation: We presume that it is the City's intent that future planting efforts be funded by the Tree Fund, generated via mitigaiton fees (D. 1-2). This creates a potential dynamic in which funds for planting are reliant on Tree Preservation and Canopy Standards are not being met. If trees are not preserved, there will be funds for planting but the City will lose a lot of its existing tree cover including old trees. This funding mechanism will make it very difficult to achieve the 40% canopy standard and equity goals because there will be either insufficient funds for significant planting, or because too many trees will be removed. This funding structure also creates a potential incentive to provide exceptions to the preservation goal, which goes against the intent of these policies. We are happy to work with the city to help identify and advocate for such funding streams.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	Commercial and Industrial zones: This plan applies to residential zones in the City of Milwaukie. Significant land, and significant urban heat island effect, is generated by commercial/industrial land as well. We believe that addresses the urban forest on these lands is essential and look forward to it being generated.	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Performance bonds for tree maitenance by HOAs: We recommend the City consider Performance Bonds for trees planted as mitigation as a way to ensure that either these trees survive to maturity and that if they do not the City ahs resources to maintain/replace them. Many mitigation plantings in general do not survive. Performance Bonds would likely manage by HOAs after construction. Given the experiences of neighboring jurisdictions (Clackamas Water Environment Services and Oak Lodge Water Services) with HOAs managing and maintaining stormwater facilites given the rapid turnover of HOA boards, these agencies have and/or are considering charging HOAs fees to manage these facilities themselves rather than see these facilities cease to function. Planning for tree maitenance should take these experiences into account to ensure tree survival and growth.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Permit and Fee Exemptions on Land Owned or Maintained by the City and Within the Public Right of Way: B Maintenance code states that no permit is required for regular maintenance or minor tree pruning for trees on public properties and rights-of-way. This seems to apply implies that a permit may be required for minor tree pruning in other situations. Based on our reading of this outright exemption, anyone (adjacent landowner or private citizen) can prune trees in street right-of-ways or on public lands. We assume that the city does not intend to authorize anyone to do minor tree pruning for all trees on public land. This should be clarified. Perhaps in lieu of a permit for minor tree pruning, the City could require notification to the Urban Forester for any party wishing to undertake tree pruning in these settings (but not for private yard trees.)*	
Rob Reynolds	9/1/2021	16.32.042	*How do you cover 40% of your lot with tree canopy? It seems that the City is setting unrealistic expectations for our property and for our city property. What does a 40% canopy achieve? Why does the city want to set up another charge, why do they think we have more money to spend on programs that not everyone agrees with?*	The origination of the tree canopy goal for Milwaukie started with the community visioning process. Through an award-winning engagement effort, the Milwaukie Community Vision was created which states that by 2040, “Milwaukie nurtures a verdant canopy of beneficial trees, promotes sustainable development, and is a net-zero energy city”. From this direction, the city created the Climate Action Plan which established the 40% canopy goal. This 40% value was created as an aspirational target, using guidance at the time from the American Forests Institute (who now recommends a 40-60% canopy cover in forested states such as Oregon) but also community feedback and opinion. The Urban Forest Management plan, adopted in 2019, developed recommendations to achieve that goal, and the Comprehensive Plan (adopted in 2020) baked that goal into policy, also with robust community engagement. According to the most recent community survey, 78% of community respondents felt like Milwaukie’s urban forest was an important city investment.

				While 40% is a target value that the city has created, it's really just a number to represent the canopy needed to fully maximize the community benefits of trees. Our urban forest shades hot streets and sidewalks (reducing urban heat island effect), improves air quality, provides habitat, raises property values, decreases stormwater runoff and treatment costs, improves community health, and more. Especially after our record summer heat, these benefits are more important than ever! Many cities, neighborhoods, and lots in the Portland Metro region are at or above 40% cover already. You can check out some of this data here.
				In the proposed code, only newly developed properties and sites going through a development review process are required to meet the 40% canopy goal with new plantings and existing trees. Canopy cover of new plantings are based on their canopy at maturity, not on their current, young smaller canopy. There is nothing in the code that requires existing homes to plant up to 40%, though the tree fund may help with education, outreach and assistance to help homeowners who want to plant more trees on their property.
Teresa Bresaw	9/21/2021	16.32.042	*The city of Milwaukie should be putting their efforts in educating and encouraging citizens to plant the "right" tree, maintain, and protect trees on private property. The 40% lot coverage goal can't reasonably be done on the average sized lot. Trees should not be planted close to houses for fire prevention, ice and wind storms, damage to roofs and gutters. Trees are normally not recommended to be planted where there are utility easements. Large roots can cause damage to water lines, driveways and sidewalks. New construction with 3 car garages and the residential density that is encouraged again makes it difficult to get this 40% tree coverage. You would have better results concentrating on parks, green spaces (including wetlands that may be privately owned), public right of ways and city owned properties. If you want to compare the city of Durham to Milwaukie, in regards to the goal of 40% tree canopy, then you need to ask how many acres of parks and green spaces do they both have and the percentage? Also what percentage of land is residential and industrial in each? Durham is 262 acres with 50 acres in parks and green spaces. Milwaukie is 3200 acres and I suspect Milwaukie is way below average for parks. I personally love trees and recognize the importance of them. They are a huge expense, commitment, and lots of work! At least 7 neighbors have told me that they do not support mandating on their private property. I hope Milwaukie doesn't copy the city of Portland. I did review West Linns tree ordinance and agreed with many of their ideas. All 3 cities are completely different. We can increase tree canopy but mandating it on private property is not the way. Removal of nuisance trees should be decided by the property owner not the city that has zero responsibility. Having a city arborist on staff or on contract would be be a benefit to all. Possibly neighborhood grant money could help fund this. Large undeveloped lots likely have development standards relating to trees. There are many other ways to increase the tree canopy. Let's find places to actually plant these needed trees (with irrigation). Writing up more regulations is not the best way to do this. Furthermore tax dollars need to be efficiently used to increase this tree canopy which would create goodwill (not anger at government control, even though we need a certain amount). Milwaukie would be better served in helping residents plant the "right" tree in the "right" space with education on pruning, irrigation and preserving existing trees AND eradicating weeds like ivy!*	

eschutz (Engage Milwaukie)	9/12/2021	16.32.042	*In going through the documents I have seen incentives for utilizing native species mentioned and alternative plan options, such as solar. What I don't see is a penalty or strong incentive to remove plants such as ivy. Does our comprehensive plan already have staff and a budget to facilitate removing all the non-native pest plants to increase the native animal habitats?*	Thanks for participating in the conversation! The city does have code which prevents invasive species (species listed on the Oregon Noxious Weed List) on public property and in the right-of-way. Milwaukie has a small but mighty natural resources crew who goes around the city removing invasive species in public spaces and water quality facilities. Milwaukie also partners with organizations and non-profits like the North Clackamas Watersheds Council, Johnson Creek Watershed Council, Backyard Habitat Program and Friends of Trees to perform and promote habitat restoration on public and private property.
				The comprehensive plan calls for an analysis of the city's habitat connectivity (the connection of greenspaces across the city) and includes more robust natural resources policies. In later phases of the comprehensive plan implementation, when we look at natural resources code in more depth, the city can explore how to best incentivize or regulate invasive species. Thank you for the suggestion!
Emylou (Engage Milwaukie)	9/27/2021	16.32.42	*I think it might be useful to clarify "hazardous tree." For example, if a tree, limb, or any part of a tree already fell (due to storms, winds, non-human interaction), it would be good to clarify whether that would be considered a hazardous tree subject to removal permits or if it would be considered yard debris and no longer subject to removal permits.*	
Stephan Lashbrook	10/11/2021	16.32.42	*As we encourage more development on properties with trees, I am certain that a growing number of those trees will be damaged, especially where there is simply not enough room on a site to allow for adequate protection of tree roots. Roots are routinely cut because they are in the path of utilities or foundations. Roots are also often damaged by construction equipment driving over them or parking on them. I realize that tree protection is the subject of a continuation of this hearing but I felt it was appropriate to point out my concerns while the consideration of density standards is pending.*	
Paul Anderson	10/13/2021	16.32.42	*I wish to challenge the need for the Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees.*	
			As I look around the city of Milwaukie, I see an abundance of trees. I would guess the current canopy is around 20%. How did those trees get there? Was it because of some government edict? No, it was because people voluntarily planted them or let volunteer trees grow. Is there a big push by Milwaukians to cut them down so that the planning commission feels the need to preserve them? No, people like trees and will continue to plant them. This proposed ordinance looks to me like a solution to a nonexistent problem.	
			In the October 5, 2021 letter from you to the planning commission it is stated: trees "are a major contributor to the quality of life in Milwaukie", and they are "to be nurtured and protected". How is it that a planning commission can somehow know how to improve my, or anyone else's, quality of life? Last year I had a large tree in my front yard cut down, and guess what? Removing that tree increased the quality of life for me and my next-door neighbor. I no longer have to pay to have it trimmed. I no longer have to rake leaves for weeks and haul them away. I no longer have to worry about the tree's roots damaging my sprinkler system and plugging my roof drain piping (this happened a few years ago, causing water to back up in my yard and threatening my house's foundation). I don't have to worry about limbs breaking off in wind or ice storms and damaging my or my neighbor's house. My neighbor doesn't have to rake the leaves that fall or blow into her yard from my tree and her garden produces more now that it isn't being shaded by that tree. It is also nice to now be able to see some sky from my living room window.	

			The new ordinance would not have allowed me to cut down that tree, depriving me of improving my quality of life. Everyone's situation is different. The planning commission can't possibly know what is best for everyone or write an ordinance that would account for every possible situation. This country was founded on individual rights and freedoms and it has served us well for over 200 years. To switch to a mindset that we should subvert our individual rights and freedoms for what someone in the bureaucracy considers a common good would be a big mistake. We all know that socialism and communism don't work.	
			I also want to challenge the goal of increasing the tree canopy to 40%. Where did the 40% come from? It looks to be both arbitrary an unrealistic. To force new construction to have a 40% tree canopy doesn't make sense. My lawn covers about 40% of my lot. If I also had a 40% tree canopy, then none of my lawn would ever get any sunshine and it would feel like I live in a forest. I don't want to live in a forest. I also noticed that the Hillside development that is in the process of being approved has only a 29% tree canopy, and yet it looks like plenty to me.	
			Is the 40% canopy goal somehow related to preventing global warming? If so, does the planning commission really think that adding approximately one square mile of tree canopy over the next 20 years is going to have an effect on global warming? In contrast, Oregon now loses 1,300 to 1,500 square miles of forest to fires every year, which, over the next 20 years would add up to at least 26,000 square miles. If we really wanted to reduce global warming, we would go back to managing forests like we did 20 to 40 years ago when we only lost about 100 square miles per year to forest fires.	
			Most importantly, the proposed tree ordinance goes directly contrary to the goal of providing more affordable housing in Milwaukie. The ordinance adds another layer of red tape, requiring builders to hire a certified arborist to write a tree preservation plan, build fencing to protect the trees during construction, plant more trees, and pay increased fees. All of this adds to the cost and ultimately the price of housing. The planning commission needs to set priorities. Which is more important, reducing global warming by an infinitesimal, unmeasurably small amount, or providing affordable housing? I would say that providing affordable housing is far more important.	
				Finally, any time the government increases regulation it adversely affects small businesses more than large businesses. So, unless the planning commission likes the idea of driving out small contractors from our area in favor of big builders, they should scrap this ordinance.

Fida Hurlock	10/16/2021		*I am unable to attend the Milwaukie Planning Commissions hearing later this month and was hoping to email my testimony instead.* *I have grown up in Milwaukie nearly most of my life. I love Milwaukie and have seen it change and grow in so many ways. I think one of the beautiful things in this city is the greenery, especially during the summer and fall months. Currently I own my home in Milwaukie as well as work for the CIty! Originally my home had two enormous silver maple trees in the backyard. Prior to us purchasing the home, one of those tree's ended up splitting in 3 and destroyed the neighbors shed, truck and garden and eventually fell on my house and smashed half of it. After we lived in our home for about a year we noticed that the soil was very poor and whenever it rained it flooded the backyard, side and front yard. We have spent thousands of dollars trying to fertilize and treat our soil in order for it to absorb and grow tree's to no avail. Sadly our only remaining silver maple rottened and was infested with termites. It was no longer safe for us to keep the tree as it swayed on windy days and we feared if it fell it would crush my husband and I in our sleep (as it was hovering over our bedroom) with 3 small children we couldn't let that happen. We removed it as fast as we could.* *We have since then tried, unsuccessfully, to plant other trees only for their growth to be stunted and die. Again this summer we spent thousands of dollars to finally strip, grade and remove soil and lay partial asphalt gravel in our side and back yard. All of our neighbors have the same problem, many of them do not have any trees especially in the back yards. We all live a few blocks away from Johnson creek and though the flooding that occurs there doesn't reach us the water naturally flows from our homes to that direction. Our homes were built entirely on river rock with some top soil added. If you dig 2 feet down you will always hit river rock.* *Although having people replant trees is a novel idea, I urge you to please consider zoning this requirement to those that have proper soil and can safely replant a tree. Additionally, requiring a permit to cut down a tree is not appropriate for homes that have safety issues such as ours did. It can be costly and unattainable for many people that need to ensure the safety of their family and homes first and foremost and use those fees to pay a professional to remove the tree in question. After speaking to many neighbors that are originally owners I have learned that the City of Milwaukie is aware of this issue, as they had many years ago sent a City employee that graphed the natural flow of the water in our area. I urge you to reconsider.*	Hi Fida, Thank you for your comment, and it has been added to the record. I encourage you to reach out to Courtney Wilson, our urban forester, to talk more about what you can do on your site. Sounds like you've put a lot of thought and care into it already! The proposed tree code establishes approval standards for tree removals, including dead/dying/hazardous trees, which streamline the permitting process. No removal fees beyond the initial permit application fee (which may be waived for some circumstances) will be required. What the permit process allows is a chance for Courtney to reach out to the homeowner to discuss the tree removal and see if there's an opportunity to help. I will add your suggestion for additional considerations for site limitations such as soil quality to the list of code revision suggestions. Thank you again for reaching out, and please let me know if you have any other questions! Thanks! Natalie

Charles Bird	10/18/2021		*Thank you for considering this.* *Consider adding and incentive for growing, conserving and maintaining large trees. I recommend $50 per tree larger than 6" DBH per year to all land owners for each of their trees. This could be in the form of a property tax credit. As the new tree ordinance is coming into play as a deterrent to unnecessary tree removal this would offer an incentive to maintain and add new large trees on private property.* *Further consider upping the tax reduction by $5 per year per inch DBH as time passes. Yes there would be work for the urban forester to audit the trees on a property however as Milwaukie is committed to trees this cost could be easily included in the budget.* *It could also be a deterrent to developers and the planning department to issues permits for developments that propose to remove old trees. If a developer unnecessarily cuts these large trees the permit would be cancelled for a period until the tree(s) are replace by new trees with a 6" DBH tree hopefully natives.* *Charles L. Bird, P.E.* *ARO KG7OJJ - GMRS WQZJ967* *12312 SE River Road* *Milwaukie, Oregon 97222* *503.318.5065*	
Bernie Stout	10/20/2021	16.32.42	*Are lots developed by developers exempt from the 40% canopy requirement?*	All residential lots, whether as part of a development or not, would be subject to the new tree code. The 40% tree canopy applies to lots under development – there is an entire section in the proposed code that includes the standards and requirements for trees during a development project.
			Will there be an option to purchase "off site trees"?	The draft code does offer an option for a fee in lieu of replacement.
			Will inappropriately planted trees be removed?	The draft tree code does not force anyone to remove trees on private property. It is up to the property owner to determine if a tree needs to be removed. Significant infrastructure damage, hazardous trees, sick or dying trees are just a few of the many approval standards for a removal permit.
			Will there be a program through the City of Milwaukie to help people remove invasive species?	Staff are working on developing a streamlined process for the removal of invasive species. The tree fund, expanded through the draft code, may be a source of funding for incentives and financial assistance for removal of these species.
			What does PGE require for tree distance?	PGE requires vegetation to be a safe distance away from powerlines. They perform their own trimming and pruning to ensure this distance is met. For more information, visit https://portlandgeneral.com/outages-safety/safety/tree-maintenance

			What about solar panels and the 40% canopy goal?	The 40% canopy standard only applies to development situations, and not existing properties looking to remove a tree for landscaping. The city will work with developers when they want to install solar panels to chose appropriate trees and placement. Your neighbor will not need to plant any trees that block their existing panels. If they are looking to plant a tree, our urban forester can help them choose an appropriate species. Nothing in the tree code precludes a neighbor from planting a tree that in time may affect the adjacent property – we encourage property owners to work together to choose an appropriate site and tree species to prevent these situations. New construction may utilize the solar access for new development code (MMC 19.1203).
			Who pays for structural damage from trees on private property?	The property owner is responsible, and should contact their homeowners insurance.
			Who pays for the leaf clean up?	This comes out of the stormwater utility funds.
Daniel Stahlnecker	10/19/2021		*This is a noble goal but a clear case of government overreach. It's really none of the cities business how many trees I have on my property. Another complicated permitting process is unacceptable.* *This will also hamper development while we're already having an affordable housing crisis. Requiring 40% of a property to be canopy will require large lot sizes in order to develop. Residents buying these lots will have to deal with hazard trees and root damage since developers will be trying to cram as many trees as possible as close as possible to houses.* *Want more trees? Start with parks and school property.* *Any members of the council that vote in favor of this have lost my vote.*	
Kari Liebert	10/20/2021		*HI,* *I would like to be added to those in favor of the Tree Proposal for City of Milwaukie.* *Thank you,* *Kari Liebert 5800 SE King RD Milwaukie, OR 97222* *(I am reside in unincorporated Clackamas County, but work in Milwaukie part of the year. I also want to speak towards positive tree management and what it requires to keep our tree line in good standing in Milwaukie and why it is good.)*	

Kevin Stahl	10/21/2021		*To whom it may concern,* *I am writing to express my concern regarding the proposed mitigation fees. It does not include any information regarding income assistance or sliding scale for property owners. The ice storm earlier this year caused many issues for Milwaukie residents. Many of the trees in the area were left unsafe and well over the 6 inches in diameter at breast height (DBH) as proposed. My concern is that for property owners that cannot afford the costs of unsafe removal and the additional mitigation fees will be a barrier to protecting adjacent properties. I would like to see a revised draft with additional information for these scenarios.* *Additionally, many of the businesses along McLoughlin Blvd have little or no landscaping including tree canopy coverage. I think planting trees and landscaping needs to be included in future permitting and land use requirements.* *I appreciate your consideration in these matters.* *Regards,* *Kevin Stahl* *12374 SE 43rd Ave* *Milwaukie, OR 97222* *503-799-5580*	Low income assistance is included in the draft code. Dead/dying/hazardous trees are included in the approval standards and do not incur additional fees.
Dolores Julien	10/22/2021		*Dear Ms. Rogers,* *Having received the Notice regarding the Hearing Date of November 9, 2021 I have read the summary of Proposed changes. The second point states the establishment of a minimum tree canopy of 40% per lot. What does this mean?* *My property at 3725 SE Harvey St. has a very tall colonnade crabapple tree, several small fruit trees and medium sized trees such as Rhamnus, crape myrtle, pomegranate,* *Pinus Parviflora and Abies Koreana. By intent there are no large trees as the whole property is garden and therefore covered with plants and bushes.* *I do not want a tree canopy to shade out the property. Surely the garden provides the oxygen producing plants to provide the equivalent of the canopy suggested.* *What will this new proposal mean therefore in this case?*	The draft tree code does not require planting trees outside of development situations and a 1 for 1 tree removal in non-development situations. In addition, there are alternatives to mitigation proposed in the draft code in development situations, including habitat preservation or improvements.
Nico Varela	10/22/2021		*Hi Natalie,* *In the proposed changes it says "Establishes minimum tree canopy of 40% per lot"* *No where does it address how this might affect existing lots that might be below 40%. From my understanding there won't be any impact unless a tree is to be removed. Is that correct?*	Correct, there is no requirement for residents to plant trees unless a tree is removed or a lot is being developed.
Erica Talarico	10/23/2021		*Hello,* *As a resident of Milwaukie, I am in favor of protecting our existing trees and having clear guidelines for tree canopy on developing lots. As someone who owns an old property with trees that were planted very close together/crowded, I would like to add a comment about tree removal. It would make sense if the tree removal process allowed for some removal without fees or replacement, depending on the size of the lot. If that is not already written in, I would like that to be considered. As someone who treasures trees, I have removed a couple on my property due to crowding which was damaging the health of the surrounding trees. But in respect to my lot size, I still have a lot of tree coverage.*	Removals for the approved standards, inlcuding thinning, do not incur additional fees beyond the application fee for the permit. Thinning removals do not require replacement.

Gail Jenkins	10/24/2021		*To the planning committee,* *40% canopy for established residences is an unfair and unrealistic requirement for these reasons:* *There are many variables from one home to another.* *A storm or other severe incident could change the canopy in a matter of minutes.* *Older homes often have older trees which must be removed.* *It takes 15 years or longer for a young tree to mature.* *It is highly unlikely that the City of Milwaukie could measure or enforce a 40% canopy requirement.* *Homeowners should have as much freedom and responsibility for their own trees as feasibly possible.* *On the other hand, some Milwaukie trees are being* *•severely trimmed,* *•or incorrectly trimmed* *•or removed without good reason.This is wrong and should be stopped.* *I agree that there should be rules for trees over 6 inches in diameter.* *But the rules need to be as fair and reasonable as possible for the homeowner.* *The homeowner shouldn't need a permit if the tree is:* *•a non-native invasive species.* *•diseased* *•severely damaged by storm or other incident.* *•causing damage or at risk of damaging his or his neighbor's property.* *If your goal is to reduce the effects of global warming, why not, instead of targeting homeowners of established residences,* *make rules for tree goals for new construction of homes and businesses and for refurbished parking lots which, without adequate foliage, reflect a tremendous amount of heat into the atmosphere.*	40% canopy standard only applies to development sites. The canopy standard includes calculation consiterations for newly planted trees, facturing their size at maturity. Non-development residential tree removals do not require replanting up to 40% canopy, only 1:1 replacement in most situations. Significant outreach will be performed for tree care in the community. Permits will be required for dead/diseased/invasive, however, they will be streamlined and fees potentially waived.
Susanne Richter	10/24/2021		*Dear Ms. Rogers,* *I saw the abbreviation DBH in the notice of land use regarding trees on residential properties and wanted to know what is the exact height of DBH, Imperial System and/or metric.* *Thank you for your help,*	Hi Susanne, DBH stands for the diameter at breast height. It is a measurement of a tree trunk’s diameter (in inches) that is taken from 4.5 feet up from the highest point of the ground. Let me know if you have further questions.

Corliss McKeever	10/25/2021		*A few days ago I became aware of your implementation project focused on tree preservation. Of particular concern are the following discussion points:* *a. Require a permit for non-development tree removal if the tree is equal to or greater than six inches in diameter breast height (DBH), if the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code.* *b. The code establishes mitigation fees and replanting requirements for healthy tree removal. The code further establishes approval standards to waive mitigation fees for trees which are dead, dying, or a hazard For these trees replanting is required.* *c. No permits are required for removal of agricultural trees (i.e., a Christmas tree farm does not need a permit to remove each tree). The City Manager may exempt property owners from the permit and replanting fees when the owner demonstrates household income at or below 80% of median household income for the Portland-Vancouver-Hillsboro Metropolitan Statistical Area.* *d. Commissioner Rogers stated, " ways to waive permit costs are being considered for trees on the noxious weed list. And " permit costs are intended to cover much of the labor necessary to process the permits."* *I agree with point c above, where you've exempted the agricultural population along with household incomes at or below 80% of median household income. However, I was very disheartened that I did not find mention of specific efforts to avoid financial* *hardships and/or burdens on the average homeowners. Or, pn most vulnerable property owners, which are our disabled seniors.* *Also, adding a way to charge fees on a homeowners land resulting from a newly implemented tree code feels like double dipping. Especially living in one of the highest property tax areas in the state of Oregon that covers the dwelling and land. Are the trees not a part of the land we are already taxed on-of course they are. So if a new mandate is not required for longtime residents their trees should either be grandfathered in. Or have their property taxes reduced by whatever costs are incurred, including permit costs and labor costs, in order to meet the new tree codes.*	
			That is only fair. You have considered the huge impact this tree code potentially has to group c. But those of us long-term residents (16 yrs, 10 months) who have worked 19 years and saved for retirement are close to being pushed out of the neighborhood. Not because we cannot afford our mortgage payments. But, because we cannot afford the property taxes and potential fees prosed. Even if I was mortgage free, Id still face paying an almost $1000 monthly payment for property taxes and insurance alone. Adding new costs outside of those costs is not something easily accepted.	
Bernie Stout	10/31/2021		*For example: I receive an annual annuity payment every Oct 1st. This year, 50% ($10.000) went to my property taxes, 20% ($4000) to Fed taxes, 10% ($2000) to Oregon State taxes. Thus., out of $20000, $16000 went to various taxes leaving a $4000 balance. So, the thought of paying additional costs is extremely stressful and disturbing. Especially, when one of my main property attractions was the trees. Had this tree code been in effect 16 years ago I would have chosen to pass buying in Milwaukie Therefore, in addition to feeling like the trees are already included in the cost of my property taxes. It also feels a little "big brother-ish" with some of my personal preference being taken.*	
			I understand the intent of your tree preservation efforts. However, it should not cause an undue hardship on your most vulnerable population, who are already at-risk of being run out of the neighborhood. As stated we have paid our dues over the years and chose to live on our property due to personal choice. It should not be taken away.	

			New developers, and individual homeowners will have the choice to move into the area with the tree code in place. We deserve that same right Since we do not have the choice to move into an area with the tree code in place At the very least we should be grandfathered-in. Or have our property taxes reduced by any cost we incur having to meet the new tree code.	
			4. PORTLANDS HAS DEVELOPED MORE <u>DETAILED FLYERS</u> ABOUT VARIETIES.	
			With changes in climate and severity of storms Milwaukie needs to consider future damage and the ability of the trees on the current list being able to tolerate severe conditions	
Dwight Dillon	11/4/2021		*Natalie Rogers, C & N Resource Manager* *The Proposal for Tree Canopy needs additional thoughts.* *Trees on or over City R/W should be Thought About. Current City Clearence to Roadway is 12 feet. Garbage Trucks and RV's have Trouble with the 12 feet Canopy. New RV's especially 5th Wheel models (as example) body's are near 12 feet +/- before Air Coditioners units on the Roof which add another 12 inches +/-.* *Currently the City is not Monitoring the Hang Over of the R/W which should have12 Feet Plus Clearence to Street and continues to be a Problem to these Higher Rigs which is legal for Public Rightway.* *Additional Thoughts need to be inplace on New Housing on the New Lots of minimal square feet and above that the City has Approved to increase Population. These Lots should have multipal Trees that have an existing trunk of greater than 4 inches Diameter (near the 5 height level) installed in the Landscaping for the New Installation. This would increase the City's Canopy.* *If these are not Part of New Proposal then the City is Falling Short of the Canopy Needed.* *Thanks for allowing Input.* *Dwight* *11815 SE Stanley*	Hi Dwight, Thank you for sharing this, I'll add it to our testimony tracker. For the public right-of-way clearance, per the city code, the adjacent property owner is responsible for maintaining clearance over sidewalks and roads. The city has decided to help out in these efforts on the street side of the right-of-way, though it's still encouraged that property owners maintain the street trees in front of their homes and businesses. Our natural resource crews will be pruning street trees for clearance over the next few months which will help with traffic safety and ROW compliance. Thanks again, please let me know if you have any other input or questions, Natalie **Tree stock for planting with larger DBH are more expensive and show lower survival rates.**
Elvis Clark	11/4/2021		*Hey, Natalie.* *I think we are close on the proposed tree code!* *What I would like to see is waiving of tree permit fee for those non-development property owners (residential) who are maintaining four mature trees (18 inch plus diameter DBH) and/or have four new trees planted in the last year (for instance, Friends of Trees plantings) and these are still growing in place (both of these conditions being post removal of the one healthy tree less than 18 inches allowed per year).* *This is in recognition of the City of Portland's granting of water bill relief for four mature trees for the purposes of helping with the City's storm water (and there being no such relief in the case of Milwaukie). But also this waiving of permit fee provides encouragement for residents to plant and maintain trees - rather than just being all "stick (penalty, that is)."* *I am still developing my testimony for this coming Tuesday's Planning Commission hearing on this issue.* *FYI,* *Elvis*	

Anthony Allen	11/9/2021		*Hello City of Milwaukie,* *I am writing to express my strong opposition to amending the existing tree code. I have several reasons for my opposition, the first being your proposal of regulating any tree on private property seems completely ludicrous when the City frequently mismanages its own properties, including the removal of many mature trees in Kronberg Park a few years ago to install a pathway that is rarely used by resident expect high school students looking for a place to skip school classes, and the very infrequent cyclist or pedestrian. That project cost taxpayers millions of dollars, has displaced a multitude of wildlife, and has also increased noise levels in the Lake Road neighborhood. None of this has improved the quality of life for Milwaukie residents, though it has increased revenues for City coffers and the various contractors involved.* *Another strong objection I have is that the City wants to regulate trees on private property that are over 6 inches in diameter at chest level. The fact that the PNW has several weed and noxious tree species growing here means that many properties have trees that are either planted or otherwise seed themselves in places, especially in very close proximity to houses, that outgrow your proposed 6-inch diameter in a very few short years, frequently causing either damage to homes or property, or causing undesirable effects such as the creation and accumulation of moss, mold, and other conditions that not only decrease the value of properties but also causes health problems. There is a wild cherry tree in my yard that most likely grew from a bird dropping. This was 9 years ago. The tree is far too close to the house, perhaps 4 feet away, and is over the 6-inch diameter you are proposing. The tree will soon be removed since its ultimate size would cause major problems in its current location. There are many people who are completely unaware that they have misplaced trees on their property until the tree is well beyond your proposed size of regulation. It will already cost upwards of $1000 to have a moderately sized tree professionally removed. To include City generated fees on top of that is completely unfair, and really, it only makes residents feel as though it is yet another way for the City to fill its coffers while its employees are paid higher than deserved wages (considering most of their training, or lack thereof) while many residents struggle to pay their mortgage or rent. I find it offensive that the City thinks it could be a better steward of this or any property than either myself or the property owner. Again, I've seen several instances of mismanagement on the part of the City of Milwaukie in the almost decade that I have lived here.* *While the stated reasoning behind this proposal is not lost on me, I think the proposal is ultimately misguided. I also*	Invasive species incur no permit fee. Unmitigable infrastructure impacts included on approval standards for simple type 1 tree removal permit (no removal fee).
Vivian Scott	11/9/2021		*Dear Planning Commissioners:* *Please address how large, mature Arborvitae hedges will be treated under the proposed tree code amendments. The mature, 40 year old, 20-foot-tall Arborvitae hedge on my property runs about 100 linear feet, with at least 60 trees, the majority of which are more than 6-inch DBH. The current code amendment language states that when such trees are removed, they are to be replaced with 5-foot-tall conifers. When our current hedge needs to be removed, a purchase of that magnitude will constitute a significant financial burden, is cost prohibitive, and is therefore not feasible. We have already consulted a certified arborist about the estimated expense involved in replacing the hedge. Other alternative privacy screens and/or fencing are reasonable considerations and should be accounted for in the tree code amendments.* *Thank you for addressing this concern.* *Vivian Scott* *vsncsb@msn.com* *503.956.9815*	Staff looking to exempt hedge or 'linearly planted trees'

Susan Wherry	11/19/2021		*Hi!* *As a Milwaukie resident, I hope that the codes for urban forest protections as presented by the Milwaukie Planning Commission are adopted. The trees in my neighborhood helped cool and protect my family during the summer's hottest days, particularly during the heat dome, and were one of the main reasons we decided to move to this town. I'm so encouraged that other people in the community are fighting for their protection.* *Sincerely,* *Susan Wherry and family*	
Michael Ossar	12/4/2021		*Hi Ms Kolias--* *I just have a couple of comments on the draft tree code.* *I hope that permits allowing people to remove one healthy tree/year will not be routinely approved but only when there is a compelling reason to do so.* *Maybe I'm not paying enough attention, but does the sentence "Property owners only need to plant a tree if they . .. pay a fee in lieu of replanting" make sense?* *~~~~~~* *Michael Ossar (pronouns: who, this, whose)* *13505 SE River Road #7203* *Portland, OR 97222* *(971) 347-1213 landline* *(503) 754-4634 cell* *mossar@gmail.com*	Must pay fee in leiu if NOT replanting a tree

Written testimony for, Agenda item 6.2, Public Hearing as pertaining to Proposed Tree Code Amendments

Planning Commission Meeting, November 9, 2021

Hello: Chair Looseveldt, Vice Chair Edge, commissioners Hemer, Erdt, Khosroabadi, Sherman; Senior Planner Kolias, and Urban Forester Rogers

I *Oppose* the proposed Tree Code for Non-Development, private property.

The proposed language for Type 1 Tree Removal (citation in packet, 6.2 page 174) is too costly and burdensome for homeowners, failing to provide a fair balance between personal freedom and community interest.

I recommend modifying the proposed Type 1 Tree Removal code to strike a better balance between the personal freedoms of the homeowner versus the interests of the community.

1. Recommend exempting removal of one healthy tree per year with diameter of less than 12 inches from ISA Best Management Practices - 2.a.[1], 6.2 page 174.

I infer ISA Best Management practices means having to hire or consult with tree expert/ services.

The narrower a tree becomes below 12 inches, generally there becomes a fair chance the homeowner can physically remove such tree on their own, avoiding the increasingly costly tree services and allowing the homeowner more pride of managing their own property.

The **City of Portland**, by comparison, **does not regulate private property, non-developmental trees with less than 12-inch diameters.**

There are several good reasons for not making one tree removal per year as onerous as proposed in the language of 6.2 page 174 with its "Best Practices" provision in the case of trees less than 12 inches DBH (Diameter at Breast Height):

(1) Such restrictions on a homeowner managing their property's trees will discourage the homeowner from trying to stay within the spirit of the City's tree preservation efforts. **As a tree becomes narrower towards six inches, enforcement in the case of violation becomes spottier**; and relies increasingly on neighbors filing complaints against their own neighbors, potentially making for bad relations among neighbors.

(2) **As a tree becomes wider than 12 inches, the odds are much more certain the homeowner will need the assistance of tree experts/services anyways** for removing the tree.

(3) Given the weight of the proposed permit fees, removal fees and restrictions; the best practices provision for small trees not much bigger than 6 inches in width, I suspect will deter many homeowners from growing new trees in the first place.

(4) The monies a homeowner can save on small tree management, by avoiding costly tree services, are monies thus available to the homeowner for managing other more mature, larger trees.

2. Drop the Type 1 Permit Fee to zero for the removal of one healthy tree in a year in cases in which the homeowner maintains at least four mature trees; or has planted and is growing four new trees in the last year.

Related to this recommended modification, I note the City of Portland provides a water bill credit for those homeowners maintaining four large, mature trees on their property.

As proposed, the tree code changes for non-development private property trees do not provide enough **'carrots' in encouraging homeowners to plant and grow news trees**; and dropping the permit fee for type 1 healthy tree removal for those already managing and caring for several trees would be a form of acknowledging *their* applied success in tree growing practices.

Also, even a permit fee of $50 is consequential enough to tempt homeowners to try evading the permitting process altogether, particularly for narrower trees in the 6-to-12-inch range (more physically removable by homeowner than wider and larger trees).

And lastly,

3. Modify the replacement tree provision for tree removal - I.(3) 6 page 175; so that homeowners are exempted from it, if they have recently already planted and are growing four or more trees on their property, or are already maintaining four large, mature trees on their property.

I believe these three modifications of the proposed tree code for non-developmental, private property are very necessary to lessen the burden on homeowners of tree regulation and strike a better balance between individual liberties and community interest.

Sincerely,
Elvis Clark,
Ardenwald neighborhood,
Milwaukie 97222

To: Milwaukie planning commission
Re: In support of private tree code
Date: 11/9/21

I am writing today in support of the development and non development private tree code.

I am a volunteer member of the tree board. Over the last year we have worked with consultants to craft and refine the code to meet the unique needs of Milwaukie.

I am also an ISA board certified master arborist with knowledge and experience in tree protection and the many constructive alternatives to tree removal.

I want to highlight the importance of protecting *healthy* trees on private property.

Think back to the heat dome off this past summer. Extreme heat is the most deadly form of climate change. Residential trees help to cool homes. Preservation of existing healthy trees on private property is a first line of defense against future extreme heat events.

The informational notice sent to all residents in advance of this hearing states that regulation of private trees *may* affect property values. A well regarded US Forest Service study (conducted in Portland) agrees: mature healthy trees *increase* home values 10-20%.

Our city has set ambitious climate action goals including increasing canopy coverage to 40% throughout the city. Currently the city enjoys 23% canopy coverage, yet 80% of trees are located on private property. Regulation of trees on private property can help to meet climate action goals which help all of us.

It is important to not conflate regulation with prohibition; the code allows tree removal for a number of circumstances, including a provision to allow one healthy tree removal per property per year. Regulation is needed as a check to deter excessive and unwarranted removal of healthy trees.

We need only look at the events of last week at the Monroe street development to see the need for strong development tree code. The Mission park debacle of a few years ago provides even stronger evidence that trees need standing protection from development.

Tree protection is not incompatible with development. We need both. Preservation minded arborists have the tools and technology to help builders work around existing trees. As the city pursues the important goal of increasing middle housing, we need accompanying tree code to compel developers to partner with arborists to protect trees on development sites.

On non development private property the code asks property owners to seek professional counsel from a certified arborist and to explain their reasoning for tree removal as part of the permit application process. This is a reasonable request, not dissimilar from requirements for

other types of private property permits. More information is not a bad thing. Professional consultation and city review will identify and facilitate removal of unhealthy trees and ensure that healthy trees are retained.

Surely many will have written to oppose the code as government overreach. From my perspective as a tree professional, I suggest viewing the code as proactive community support. Helping trees helps people.

Thank you,
Jon Brown

3023 SE Malcolm Street
Milwaukie Oregon 97222

Sightline Institute is an independent think tank working to advance sustainability in the Pacific Northwest. We believe it exists at the intersection of environmental health and social justice.

We're writing to offer feedback on Milwaukie's comp plan implementation process. Our perspective is informed by our past work helping assess, inform and in some cases urge amendments of the recent middle housing legalizations in Portland, Eugene and Hood River, as well as House Bill 2001 and its subsequent state rulemaking process.

Our animating interest in these issues is simple. **Small homes and attached homes are green**; they make it easier for people to use less stuff and burn less energy. (An Oregon Department of Environmental Quality life-cycle analysis found that more than 80 percent of the lifetime energy consumption of a home occurs from heating and cooling.) **Giving people the option to live close to each other is green**, too; proximity is a key ingredient to creating walkable, bikeable-transit rich neighborhoods that offer lots of amenities within a short distance.

The policy work of environmentalism can be gloomy. In many cases, leaving a healthy planet for our grandchildren and their peers requires trying to get people to do things they don't want to, or to stop doing things they like.

Greening our zoning laws is a happy exception. Here's how it works: **people who want to reduce their own energy consumption get the option to do so.** In some cases, lowering the invisible walls in our zoning codes also gives *more* people the option to save energy. For example, we can broaden access to low-energy living when we allow multiple households to divvy up the cost of valuable urban land, or when we stop forcing people to pay for parking spaces they don't need.

Those who don't want to change their energy consumption, meanwhile, aren't forced to.

With these proposals, especially including the recent amendments by the planning commission, Milwaukie proposes to join many other cities in Oregon and elsewhere by ending its bans on less expensive, less energy-intensive housing types.

After listening to much of the Planning Commission's deliberation so far, it seems worth commenting specifically on three subjects: the likely pace of change, the role of parking mandates, and the potential for size or unit-count bonuses for projects that offer regulated affordability.

The pace of change

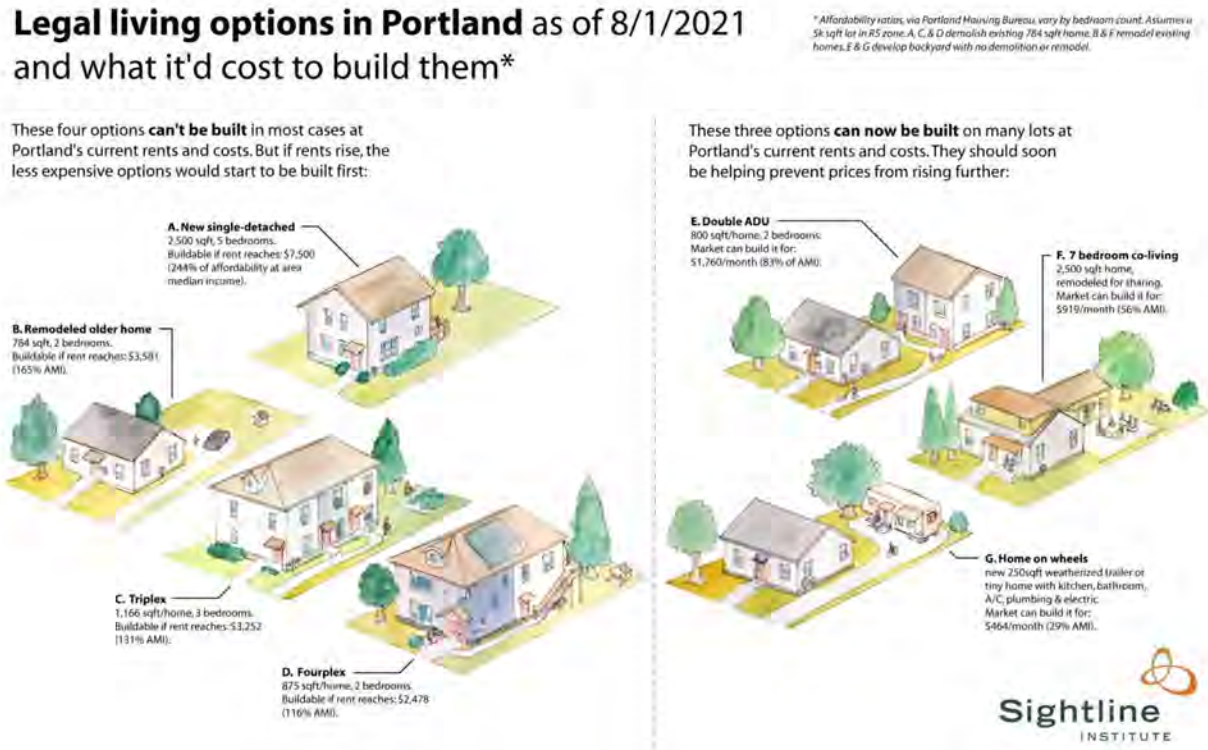
Every quantitative analysis of middle housing we're aware of suggests that, for better or worse, re-legalizing middle housing options will change a city quite slowly.

Economic analysis of Portland's recent reform to its low-density zones concluded that the vast majority of additional homes created over the next 20 years would result not from a higher rate of redevelopment, but from the fact that when a project happens, it would probably create a triplex rather than a oneplex. The effects of such a shift are to:

- sharply reduce the market price of the typical newly built home in lower-density zones (mostly because the triplex units would tend to be smaller)
- modestly increase the total number of units in the city
- barely increase the overall redevelopment rate

Notably, this shift toward triplexes was found to be likely *only* after Portland chose to incentivize duplexes and triplexes by allowing them to be a bit larger than a oneplex. Before the city introduced this sliding-scale size cap, the same calculations (by the local firm Johnson Economics) had found that many redevelopments would be oneplexes despite the fourplex legalization.

Sightline followed up on this analysis with one of its own that used a different method. If we gaze into the future of a $320,000 lot with a crumbling old home, what scenarios are likeliest? This approach suggested that in most cases, given the size constraints Portland put on all new structures (height limit of 30', floor area ratio of 0.7), the only additional housing that could be created at or below today's market prices would be options that don't require demolition of the existing structure – true "infill" options such as ADUs, remodeled group homes, and backyard homes on wheels. (Milwaukie's "flag lot" and "back lot" proposals would also fall in this category.)



However, these numbers also suggested that when a structure reaches the true end of its useful life, it will now be more likely to be replaced by a triplex or fourplex than by a oneplex.

These specific cost projections are unique to the size limits and rent conditions in Portland, but the basic principle applies in every city. New housing is more valuable than old housing, but rarely so much more valuable that it's worth demolishing a habitable building to create only a bit more of it.

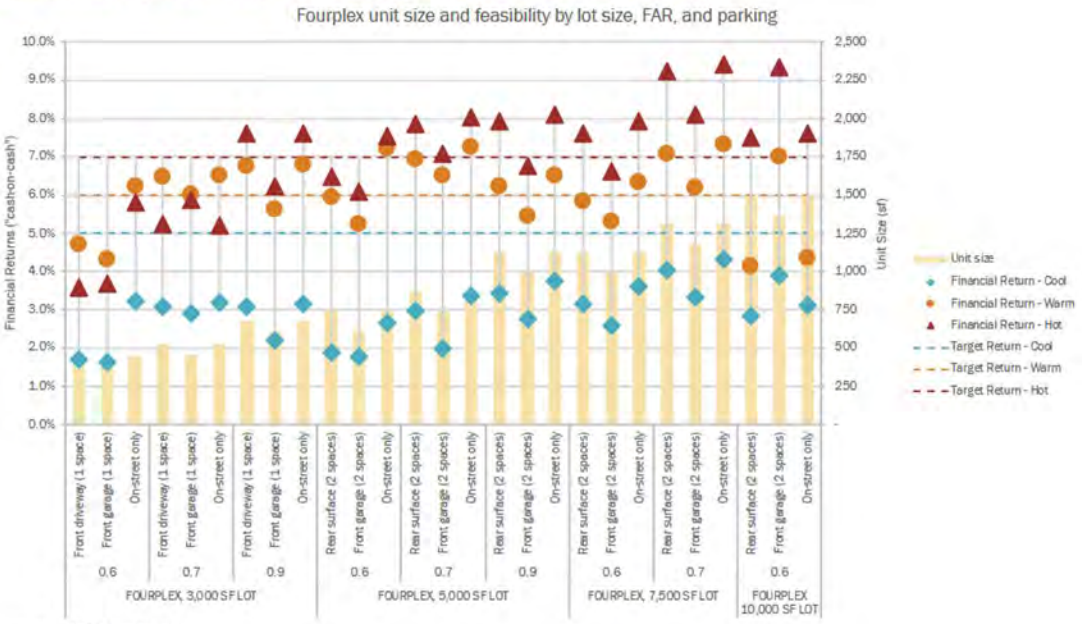
Parking and middle housing

When a jurisdiction makes parking mandatory with new residential or commercial projects, it has literally prioritized the creation of additional parking spaces over homes and jobs.

For the forseeable future, most newly built homes in most of Milwaukie will be built with off-street parking whether or not parking is mandatory. Most new commercial buildings will be, too. But if anyone ever *figures out a way* to create a home or a job without also creating a parking space, parking mandates would make it illegal for them to do so.

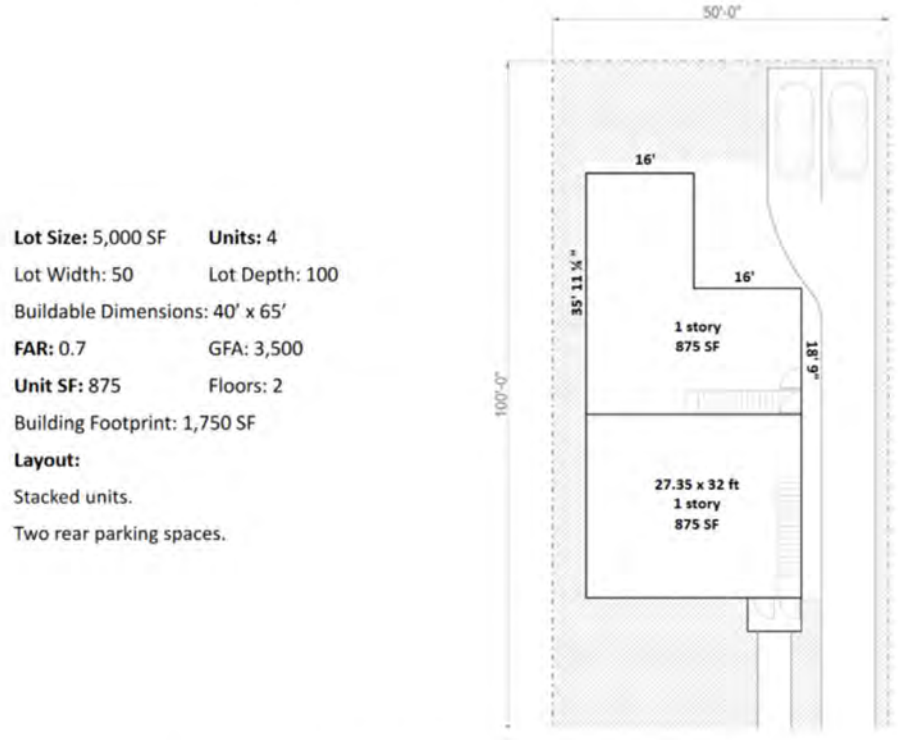
This tradeoff is very real. When calculating the relationship between parking and project viability to inform Oregon's rulemaking process for House Bill 2001, local firm ECONorthwest concluded that "on small lots, even requiring more than one parking space per development creates feasibility issues."

Exhibit 1: Fourplex Results Summary by Lot Size, FAR, and Parking



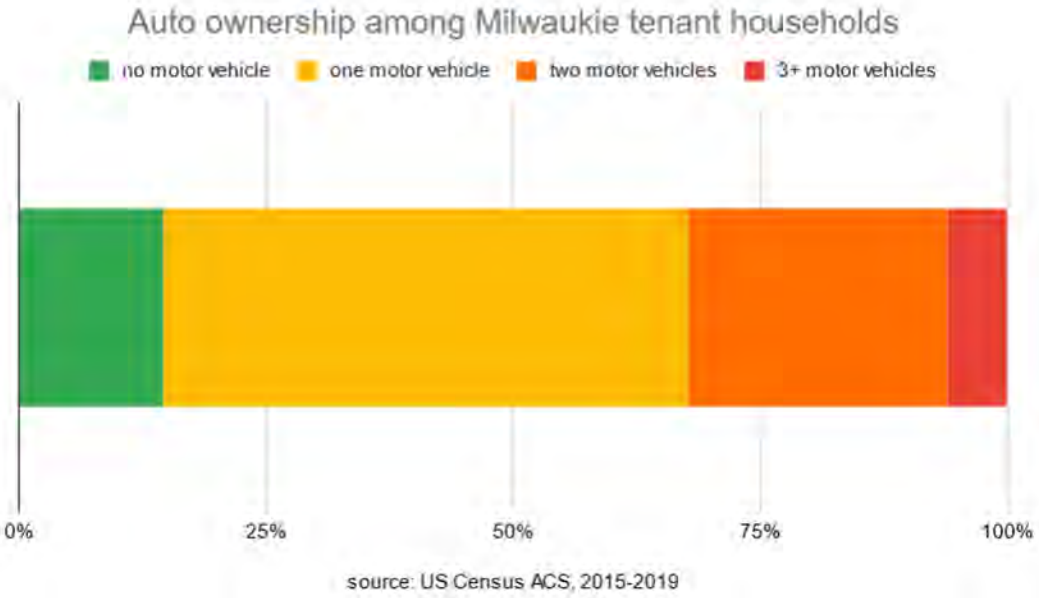
Source: ECONorthwest

The firm didn't even bother to model the cost of parking requirements above two spaces per lot, because it would make so many projects geometrically impossible.

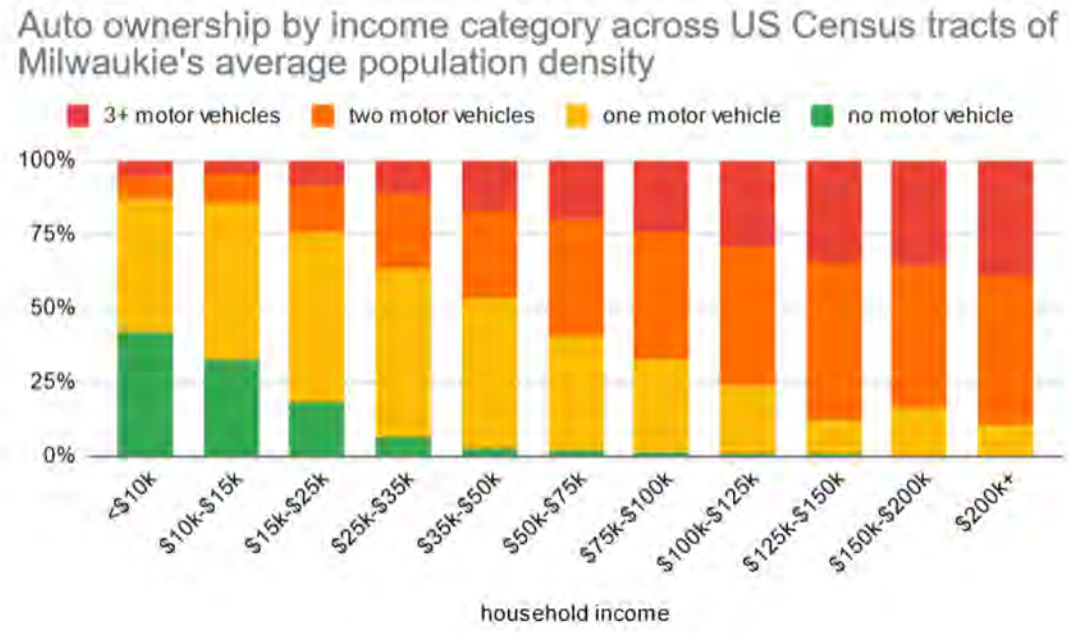


Parking mandates are a particular burden on tenants, especially lower-income tenants.

Though many Milwaukie households have multiple cars (and many Milwaukie homes offer multiple off-street parking spaces), many households do not. Fully two-thirds of the city's tenant households own either zero or one car.



There isn't great city-level data on auto ownership by income bracket. But in places across the United States that have population density similar to Milwaukie's, the 2017 National Household Transportation Survey shows that households with zero or one car are overwhelmingly, though not exclusively, lower-income:



Removing parking mandates – which is to say, letting Milwaukie residents decide for themselves how many parking spaces they want to pay for when they're looking for a home – is an incremental reform with potentially large long-term effects.

In the short term, again, this reform is likely to have very little effect. As in Tigard, which effectively removed its parking mandates from low-density zones in 2018, most new construction will continue to include on-site parking. Most people in cities like Milwaukie or Tigard own cars, and those that do tend to find a home slightly less valuable if it doesn't have on-site parking.

The effect of ending parking mandates, however, is to allow new homes to also occasionally be optimized for households that own fewer cars, or for sites that already offer plenty of parking nearby.

A final consideration about parking is aesthetics. Here is an example of a recently built fourplex with two off-street parking spaces:



Photo: Kol Peterson

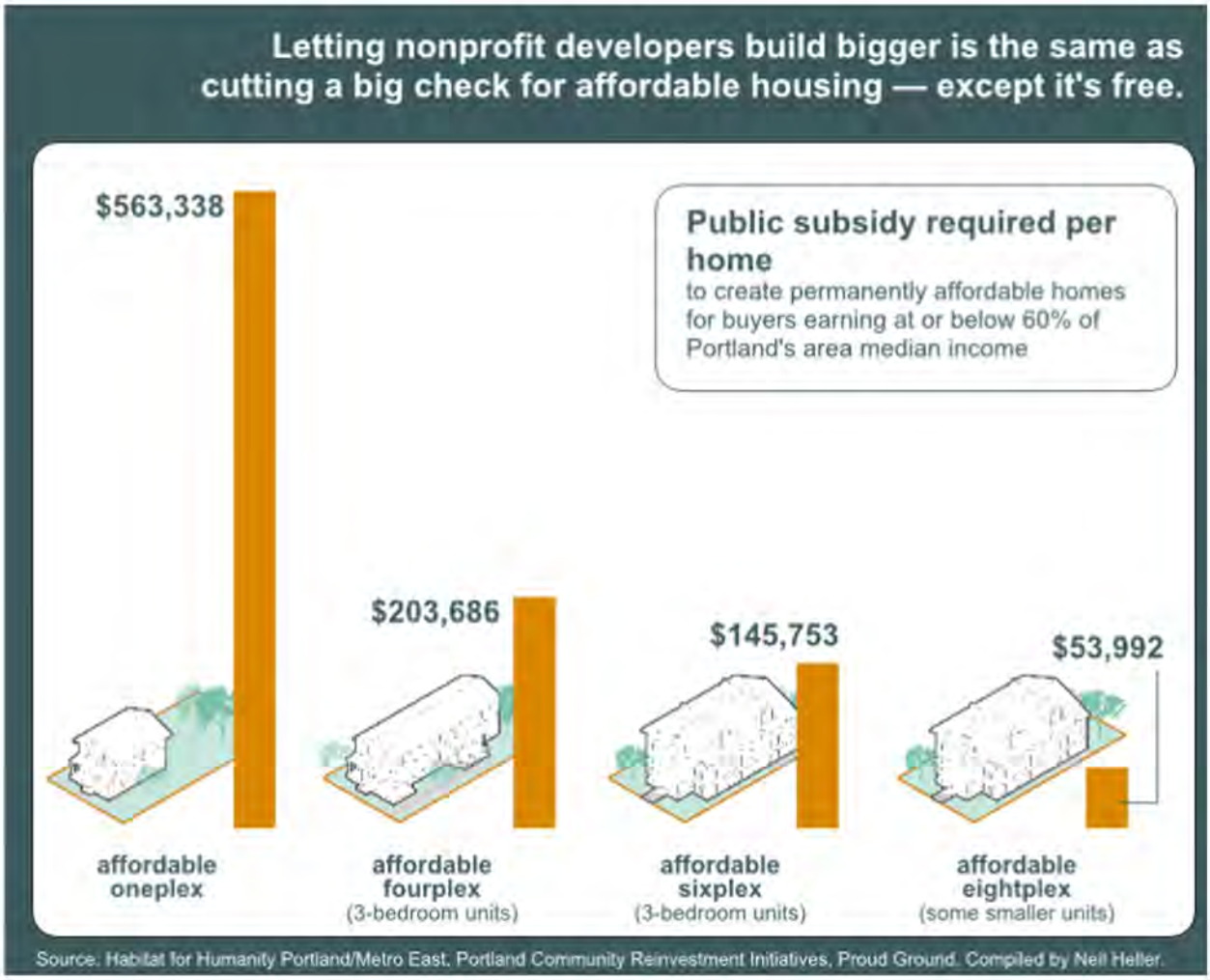
And an older fourplex with none:



In both cases, the low parking ratios help allow room for street trees and street-facing windows – not to mention for curbside parking spaces, since each additional curb cut removes a public parking space (essentially privatizing it).

Regulated affordability

A key feature of Portland's middle-housing legalization is sometimes referred to as the "deeper affordability option." It was based in part on research by Sightline showing the significant per-unit savings that allowing higher unit counts can bring to an affordable housing project by an affordable middle-housing developer like Habitat for Humanity.



This is the same function, of course, that allows market-rate plexes with higher unit counts to pencil at lower price points; in both cases, more households are divvying up the fixed costs, such as land. In the case of affordable housing, allowing more units (and proportionally larger buildings) is the financial equivalent of cutting a large check to a project for no additional cost.

Cities also have many options for how to structure what is essentially an inclusionary zoning bonus. Though the graphic above assumes that all homes are price-regulated, Portland ultimately decided to further encourage their construction by allowing up to half the homes in its "deeper affordability" projects to be market rate.

One important note here is that on any Oregon lot where the state requires a fourplex to be legal, state law doesn't allow affordability to be a condition for any of the first four units. This makes it somewhat complicated for a city like Milwaukie to make affordability a condition for the fourth unit in any structure.

Theoretically, a city could make fourplexes legal by right on enough parcels to comply with state law, then allow fourplexes on other parcels only if they meet affordability covenants. More straightforward is Portland's method of allowing up to four units by right on all lots and allowing the deeper affordability option for projects of four to six units. Another approach is for a city to allow up to four units regardless of price, but allow larger sizes for projects meeting affordability thresholds.

Conclusion

With the Planning Commission's amendments so far, Milwaukie is considering one of the greener and more pro-housing zoning reforms in Oregon. We are glad for the chance to help inform the city about some of the issues this discussion has raised, and would be happy to offer further information that might help inform this process.

Michael Andersen
senior researcher, housing and transportation
michael@sightline.org

From:	Jill B
To:	Vera Kolias
Subject:	Housing and Osrking
Date:	Tuesday, November 9, 2021 7:39:50

This Message originated outside your organization.

To the Planning Commission,

It is vital to allow at least one parking space per living unit. If you disregard the wishes of most probably the majority of Milwaukie citizens, and pass the zero parking space per unit, you are absolutely not serving the city, you are making Milwaukie an undesirable place to live, not only for property owners, but also for potential renters in the multiple unit dwellings.

I beg you to preserve the quality of life we enjoy in Milwaukie and allow a MINIMUM of one parking space!

Sincerely,
Jill Bowers
--

From: Aine Seitz McCarthy
To: Milwaukie Planning
Subject: Support!
Date: Tuesday, November 9, 2021 8:37:34

This Message originated outside your organization.

Hi there,
I can’t make the meeting tonight bc I have kiddos but I would like to express my strong support for protecting and growing trees, and also housing affordability in Milwaukie. I’m an ardenwald local, on Olsen st .
Thank you for your hard work!
Aine
--
Aine Seitz McCarthy
ainesmccarthy@gmail.com

From: OCR
To: Vera Kolias
Cc: OCR
Subject: RE: One Half Verse One Parking Spot Requirement
Date: Tuesday, November 9, 2021 9:20:59

From: Bernie Stout <usabs1@nethere.com>
Sent: Tuesday, November 9, 2021 7:41 AM
To: koliasv@milwaukieor.gov
Cc: OCR <OCR@milwaukieoregon.gov>
Subject: One Half Verse One Parking Spot Requirement

This Message originated outside your organization.

To: City of Milwaukie Oregon

- One Half – Verse – One Parking Spot Requirement
- Lack of infrastructure – Pavement, sidewalks, Complete Greenways and Complete Multi-use paths, and more Buses

If future growth in Milwaukie is going work we need to Plan Better.

- One Half Verse One Parking Spot Requirement will collide into the lack of infrastructure to support the goal of getting people out

  of their vehicles, gas or electric. We are building out and not giving the citizens alternatives. The city is talking about taking out pavement rather than

maintaining it. People will be

less inclined to bike or walk in that environment.

We do not have enough buses in Milwaukie but, we have no control of that. Get more buses then consider this.

- First the city needs to complete the Railroad Avenue **Multi-Use Path** from SE 37th up to SE Linwood. The Kiel Crossing at SE 42nd has completed their portion and it

  looks great. **Separate from traffic** and much safer route connecting to the current Clackamas County Sunnyside Road/Multi-Use improvements (much wider overpass at Hwy

  205). Also install **all the features** to complete the **Monroe Street Greenway.**

  The Monroe Apartments (started last week), Milwaukie Market Place, Hill Top, and the Murphy site are in the center of Milwaukie and are creating more growth. The impact will be tremendous.

  Please do not go below one parking space per unit built.

  Thank you,

  Bernie Stout

Renee Moog
Planning Commission Meeting Nov 9th, 2021
Public comments to read

Relying on street parking is not a "one-size-fits-all" proposition because parking supply and demand varies from one type of street to another. Our code changes need to consider hyper-local needs as well as safety and equity issues.

One day last week, my driveway was blocked by two work vehicles. I asked if there was a problem and one of the drivers said the gate next door where they had a service call was closed and said, "there is literally no place to pull over." He couldn't have said it better – "There is literally no place to pull over."

Future parking needs may shift but currently and in the foreseeable future, on-site parking is a critical need to many people and something that should not exclusively be available in certain neighborhoods to certain populations based on the type of housing they are able to afford. Our code must consider that on-street parking is not an equitable option for all units and will need to include distinct modifications for minimum required parking for distinct types of streets.

Several commissioners justified eliminating on-site parking requirements based on the premise that current on-street parking capacity will accommodate all future parking needs. I question this premise and ask that commissioners, city council and the public take a more critical and thorough look at the data.

In the October 26th meeting it was stated:

"Milwaukie has 765 buildable lots. At 3% market absorption rate for getting middle housing on new lots, we are (only) looking at 24 new dwellings of middle housing city wide."

I question these numbers:

- By "24 dwellings" did you mean 24 lots or units? Is this per year or over 20 years?
- If it's lots, has the potential number of units that could be developed been calculated and considered?
- Is it possible that the number of identified buildable lots will increase as properties are subdivided and middle housing is built on lots that were previously single family?
- Has the reduction of on-street parking supply based on planned street improvements been calculated and considered?
- Have you included the additional parking demand of approximately 1400 new units as detailed in November's Pilot article? (These units aren't necessarily middle housing but more units means more cars and will affect parking supply and demand.)

Besides discussing the quantity of on-street parking, have you discussed quality issues related to safety, livability, traffic flow due to increased number of parked cars?

And finally, have you discussed equity issues? By incentivizing housing density near transit, minimizing or eliminating on-site parking for middle housing and income-restricted housing, our policies are effectively driving those with limited housing options to forego equitable access to on-site parking. Our community vision puts an emphasis on equity issues but proposed policy is not supporting equitable opportunity for all groups.

I would ask that you adequately discuss parking as an integral component of our new code before making any recommendations. Please take the time needed to consider a wider framework and put forth an equitable, informed and data supported recommendation. Thank you.

From:	Jay Panagos
To:	Vera Kolias
Subject:	1 unit=1parking space
Date:	Tuesday, November 9, 2021 10:59:20

This Message originated outside your organization.

Hello,
I believe 1 parking space should be provided for 1 unit. Ideally, in order to control vehicle emissions which affect our health and planet, alternative modes of transportation should become more prevalent (bikes, scooters, buses, trains,etc). However, alternative modes of transportation will not always fit the circumstances.

Jay

Sent from my iPhone

From:	David Aschenbrenner
To:	Vera Kolias
Subject:	Planning Commission Comments
Date:	Tuesday, November 9, 2021 11:13:07

This Message originated outside your organization.

Dear Planning Commission,
As a citizen of Milwaukie and one that has been involved in Milwaukie for many years, Please reconsider the parking requirements for middle housing. As you know many of Milwaukie streets are not built out to a standard that allows for on street parking and in some neighborhood where parking on street is allowed, there is no space to add more on street parking.
As an example the street I live on, Home Ave., will be adding sidewalks to the west side of the street which will remove all the present parking that is possible on the west side. The rebuilt street width will not allow for parking on most of the west side as the street is it will be to narrow to allow emergency vehicles to access the area if cars are parked on the west side.

Milwaukie is not a city that has a grid network of streets that allows for more places to park. Milwaukie is not Portland, look at the problems and conflicts that has raised over parking in establish neighborhoods in Portland.

Please reconsider your decisions, Listen to the groups that have spend hours looking into this topic. There needs to be some off street parking.

Thank You for your time on the Planning Commission

David Aschenbrenner
11505 SE Home Ave.
Milwaukie, OR

Sent from Mail for Windows

City of Milwaukie Planning Commission 11-9-2021 Public Tes

Milwaukie Middle Housing, Tree Code, and Residential Parking
RE: Proposed Code Amendment 19.605 - Vehicle Parking Quantity Requirements

Dear City of Milwaukie Planning Commission:

While we support the City's goals to reduce carbon emissions by increasing density, we do not support the City of Milwaukie's revision to the Proposed Code Amendments for middle housing parking requirements without concomitant increase in muliti-modal infrastructure.

SUMMARY

Over much of this year a group of Milwaukie citizens participated in the Comprehensive Plan Implementation Committee (CPIC), which addressed changes to housing development, trees, and parking requirements for our city that must be made due to Oregon House Bill (HB) 2001.Online community surveys were conducted to request citizens' preferences for housing code, tree protections, and parking requirements. **Now we ask for your consideration of the following 5 key points:**

1. We do not yet have the multi-modal infrastructure to support such a significant reduction in Middle Housing parking occupancy requirements.

2. The Planning Commission has disregarded CPIC (Comprehensive Plan Implementation Committee) and Engage Milwaukie participants' points of view in their decision making process.

3. We need a phased-in, incremental approach based on neighborhood specific criteria to establish a timeline for reducing Middle Housing parking requirements from 1 off-street parking spot per unit to .05 parking spots, then 0 parking spots.

4. We propose an additional Planning Commission meeting for public testimony to further consider the data, discussions, and public testimony specific to Middle Housing parking requirements before the PC submits their recommendations to Council.

5. We wish to further explore impacts of proposed parking requirements specific to lower income households and their need for automobile transportation.

The development of parking code amendments, as part of a comprehensive code review process including specific to Middle Housing, heritage tree protection, and parking occupancy is a community wide decision making process and must continue to reflect that in the diversity of opinions from within the community by the Planning Commission as the consider their final recommendations to City Council.

INTRODUCTION

In the absence of significant pedestrian and bicycle infrastructure, reducing minimum residential parking requirements below 1 per unit for middle housing does not make sense and is NOT supported by a majority of Milwaukie citizens who participated in surveys and committees.

As long as people need cars to get things done, and public transit is insufficient, inconvenient, and deemed unsafe, people will continue to choose to own and drive personal cars. The recommended revisions to proposed code amendments below, from the upcoming 11-9-21 Planning Commission meeting packet, are completely unacceptable.

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	**Minimum Required**	**Maximum Allowed**
A. Residential Uses		
3. Middle Housing		
a. Duplexes	0	1 space per dwelling unit
b. Triplexes	0	1 space per dwelling unit
c. Quadplexes	0	1 space per dwelling unit
d. Town Houses	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit

This would mean that a new du- tri- or fourplex or a would have a minimum requirement of ZERO on-site parking spaces. **Yet the possibility of a minimum zero parking space requirement has *never* been discussed with the community as a potential code amendment.**

In fact, the following documents support the need for a minimum off-street residential parking requirements requirement of one space per unit for Middle Housing:

1. Proposed Code Amendments
2. Residential Parking Occupancy Study
3. CPIC Community Survey #1 Summary
4. Planning Commission Meeting on 10/26/21

1. PROPOSED CODE AMENDMENTS - SEPTEMBER 2021

In September 2021, the City of Milwaukie published and proposed Chapter 19.600 which regulates off-street parking and loading areas on private property outside the public right-of-way.

*The purpose of Chapter 19.600 is to: **provide adequate**, **but not excessive, space for off-street parking;** support efficient streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of*

parking areas; and minimize environmental impacts of parking areas.

Proposed code amendments 19.605.1 Off-street Parking Requirements for Middle Housing Units are a minimum of 1 space per dwelling unit and a maximum of 1 space per dwelling unit.

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	**Minimum Required**	**Maximum Allowed**
A. Residential Uses		
1. Single detached dwellings, including manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings	1 space per dwelling unit.	2 spaces per dwelling unit.
3. Middle Housing a. Duplexes b. Triplexes c. Quadplexes d. Town Houses e. Cottage Clusters	 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit	 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit
4. Residential homes and similar facilities allowed by right in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
5. Accessory dwelling units	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

2. RESIDENTIAL PARKING OCCUPANCY STUDY - CITY of MILWAUKIE

As part of the **Comprehensive Plan Implementation Committee (CPIC)** the City of Milwaukie hired Rick Williams Consulting to perform a Residential Parking Occupancy Study - link here.

As stated in the **Executive Summary of the Residential Parking Occupancy Study**

- *Data from the occupancy study suggests the City take the minimum compliance approach to meet State mandate for parking requirements for new middle housing projects. According to the new regulations, a city may not require more than a total of* ***one off-street parking space per dwelling unit.*** *(Where minimum compliance equals one off-site parking spot per unit.)*

- Total parking supply averages approximately 4.05 stalls per residential unit across all four neighborhoods. Within this average, Lewelling has the highest parking supply total of 4.93 stalls per residential unit: Ardenwald the lowest at 3.13 stalls per residential unit

- **Minimum parking demand averages approximately 1.99 vehicles** per residential unit at the peak hour across all four neighborhoods; this includes both the on and off-street parking systems. Within this average, Lake Road has the highest demand for parking at 2.05 vehicles per residential unit: Lewelling the lowest at 1.89 vehicles per residential unit.

- *Much on-street parking is unimproved,* ***which could reduce on-street supply*** *if improvements are made.*

This conclusion is further supported by the Summary table below, which suggests that Milwuakie's neighborhoods are currently designed to support 1.99 total vehicles per unit.

Summary Table: Residential Peak Parking Demand per Unit by Neighborhood and by Combined Average

		Lake Road	Lewelling	Ardenwald	Island Station	Total
	Residential Units	190	154	171	131	**646**
Supply	**On-Street Stalls/Unit**	2.37	2.64	1.20	2.18	**2.09**
Supply	**Driveway Stalls/Unit**	1.75	2.29	1.68	1.82	**1.87**
Supply	**Surface Lot Stalls/Unit**	-	-	0.25	0.14	**0.09**
Supply	**Total Stalls Studied/Unit**	4.12	4.93	3.13	4.13	**4.05**
Demand*	**On-Street Vehicles/Unit**	0.89	0.29	0.29	0.36	**0.48**
Demand*	**Driveway Vehicles/Unit**	1.16	1.60	1.58	1.48	**1.44**
Demand*	**Surface Lot Vehicles/Unit**	-	-	0.18	0.11	**0.07**
Demand*	**[1]Total Vehicles/Unit**	2.05	1.89	2.05	1.95	**1.99**

*All demand observations shown represent the 2:00 AM overnight peak hour.

Yet even planning for one off-street parking requirement per Middle Housing unit may exacerbate current parking, transportation, and public safety problems due the lack of uniformity and unique constraints that are present in Milwaukie's neighborhoods.

Per HB 2001, the State of Oregon has already mandated a maximum requirement of 1 on-site (garage, driveway) per Middle Housing dwelling unit as stated in the Proposed Code Amendment 19.605 Vehicle Parking Quantity Requirements.

Reducing parking requirements to the HB 2001 maximum on-site parking requirements is already a significant reduction, given that many households have 2 or more vehicles (including RVs, boats, other recreational vehicles) and the parking study noted that a "notable number of households have 3 or more vehicles." The reduction of the 1 parking space to 1 dwelling unit parking requirement may actually serve to limit who can choose to live in these middle housing neighborhoods if they need on-site parking that is not available to them (such as the elderly, the disabled, and people with children), some of the very people "middle housing" is aimed to provide shelter for.

3. CPIC COMMUNITY SURVEY #1 SUMMARY

It is not clear that CPIC made any determination with regards to Middle Housing parking requirements. However the Engage Milwaukie survey summary link here (95 participants total) clearly states that **reducing parking requirements appeared to be of the greatest concern** to the survey respondents.

People identified more negative impacts than benefits to reductions in on-site parking requirements, and were concerned about the availability of parking and the lack of safe multi-modal (pedestrian & bicycle) networks.

Perceptions of reducing parking requirements

People were asked to identify perceptions about reducing parking requirements they might have. On average, people identified between two to three perceptions. The lack of good networks for walking or biking and availability of transit in existing neighborhoods was mentioned the most, followed by streets not being able to accommodate on-street parking, a concern that the reduced parking requirements will not reflect actual demand, and a lack of on-street parking close to people's destinations.

Other perceptions related to reducing parking requirements included:

- Resistance to bike parking requirements
- Immediate neighbors might be impacted by reduced parking requirement for multi-unit complexes
- Streets would not safe or friendly for pedestrians and cyclists – poor lines of sight and lack of sidewalks make it dangerous
- Negative impacts on lower economic groups because they rely on their car for work
- Concerns about electrical vehicles charging stations

10/26/21 10/26/21 Planning Commission meeting- Middle House Code Continued Hearing #2

As Commissioner Massey clearly states during the 10/26 PC meeting, it is incumbent on the Planning Commission to carefully consider the opinions of our community members who participated as CPIC volunteers, submitted surveys, and public comments during the public hearing process, and not just rely on the characterization of CPIC by a minority of PC commissioners (2) who participated in the CPIC meetings.

And during this Planning Commission meeting, Ms. Kolias presented findings related to the Residential Parking Occupancy study, but did not have time to represent the CPIC findings, nor the Engage Milwaukie surveys nor the open house comments. (Nor was she requested to do so by a majority of the Planning Commissioners).

Planning Commissioners are not appointed by Council to selectively determine which findings are most important, while ignoring community surveys and open house comments which may contradict their views.

Yet this is exactly what transpired on October 26, first with Commissioner Edge and followed by at least 4 other Planning Commissioners who joined together in a hastily coordinated series of votes to reach a determination that does not also reflect the findings of the CPIC, results of community surveys, or even the independent parking consultant's recommendations.

Notably very few CPIC members,or any members of the community, were present during the final hour of the 10/26/21 PC meeting discussion, which was facilitated by Planning Commissioner Edge, and focused almost

entirely on his own calculations related to parking supply relative to findings of the Residential Occupancy Study.

The impunity with which Commissioner Edge makes determinations about how members of the CPIC would interpret the findings of the Residential Parking Study, and the impression that he is somehow authorized to summarize the opinions of that group and other community members who participated, is exceedingly disturbing as it undermines the integrity of the community involvement process.

As stated in the MMC, the PC is the governing body responsible for engaging the citizens around matters of community development, specifically Middle Housing and the impacts it will have on neighborhood safety and traffic impacts, and also serves as the Citizen Involvement Advisory Committee (CIAC).

How does the Planning Commission propose to recommend any Middle Housing requirements below the initial Proposed Code Amendments of one off-site parking spot per unit, without further informing members of the broader engaged community that such significant changes are under consideration?

As stated in Milwaukie Municipal Code (MMC) Comprehensive Plan Part 1. Fostering Community, Culture, and Belonging, Section 1: Community Engagement Goals and Policies:

OVERARCHING SECTION GOAL

Engage in inclusive, *collaborative, transparent, accountable,* and equitable decision-making through a broad range of strategies that inform and involve a full spectrum of community members, in particular those traditionally left out of the planning process.

GOAL 1.1 - FOSTER BROAD, EFFECTIVE, AND COLLABORATIVE COMMUNITY PARTICIPATION

> Implement and encourage practices that increase community participation by providing detailed information, consulting with the community, and fostering collaborative partnerships.

Based on these MMC Community Engagement Goals as stated above, the Planning Commission has not acted in a collaborative, transparent, and accountable fashion with regards to recommendations it made to City Staff relative to specific Middle Housing parking requirements and revisions to the Proposed Code Amendments.

With what right does the Planning Commission ignore the recommendation for minimum compliance with HB 2001, and expect to represent the views of the previously engaged Milwaukie community, and *also state during this meeting that an in-depth conversation to discuss the data had never happened in the past?*

This state of mind, of a majority of Planning Commissioners as they made their recommendations to City Staff, represents a conflict of interest and potentially violates the Planning Commission's charter's requirements in their role as the Community Involvement Advisory Committee per MMC goals.

CONCLUSION

We, the named below, unanimously agree that Middle Housing is required for the City of Milwaukie by the State of Oregon and that it will have both positive and negative outcomes for residents of our neighborhoods.

We agree that there is a need to increase density, to mitigate climate change, promote a 40% tree canopy, and reduce the cost of construction to make Middle Housing more affordable. However, we also feel that an incremental approach to Proposed Code Changes should not deviate from the minimum standard as defined by HB 2001, and any attempt to do so represents a significant distortion of the community engagement process.

As the impacts of requiring 1, 0.05, and 0 off-site parking spaces have the most impacts at the local level, specific to already burdened intersections and streets subject to cut-through traffic, and as there have been no studies presented to the community relative to the impacts of reducing parking requirements at the local level during any stage of the community engagement process, it is extremely disingenuous for the Planning Commissioners to deviate in any way from the Proposed Code Changes as stated in Section 1 above.

As Stephan Lashbrook, a CPIC member, commented re: the 19.605 proposed code amendment:

Reducing the parking standard for residential developments still concerns me because there is so much variation in available parking from one block to another.

I realize that the State has mandated a reduced parking standard and I suppose that the best I can do is simply say that there will be problems when residents discover that the on-street parking they have relied on for years is now occupied by overflow parking from other properties.

I wish we had frequent transit service in every neighborhood and a thoroughly connected sidewalk and bike system all over town. We do not and we probably never will.

Without those alternative transportation improvements, we are going to create parking problems for some people in some parts of town.

Yet, despite citizen concerns of limiting Middle Housing residential parking requirements to the HB2001 maximum allowed 1 minimum required parking spot per unit for middle housing, BURIED on page 388 of a 423 page meeting packet, there is now a recommendation of ZERO on-site parking spaces required per unit of new Middle Housing built.

Given the City of Milwaukie's engagement with the community, participation of CPIC members, data derived from the Residential Parking Occupancy Study, and it's own proposed code change amendments 19.605.1 as of September 2021, it is imperative that the Planning Commission accept and approve the proposed Middle Housing off-street parking minimum requirement of 1 space per unit, and not the revised requirements of 0 parking spaces per unit.

Public Comment Supporters and City of Milwaukie residents

	First Name	Last Name	Neighborhood
1.	Chris	Ortolano (Author)	Hector Campbell
2.	Clodine	Mallinckrodt	Hector Cambell
3.	Bernie	Stout	Hector Campbell
4.	Michael	Bishop	Hector Campblell
5.	Linda	Keating	Hector Campblell
6.	Janice	Pearlman	Ardenwald
7.	Gwenn	L. Alvarez	Lake Road
8.	Vincent	Alvarez	Lake Road

	Signature	Printed Name	Neighborhood
9.		JEFFREY MUMFORD	ARDENWALD
10.		DIANA GREGG	ARDENWALD
11.		Stacy Gregg	ARDENWALD
12.		DAVID SILVERMAN	ARDENWALD
13.	John Kirk Phillips	JOHN KIRK PHILLIPS	ARDENWALD
14.	Elvis Clark	Elvis Clark	Ardenwald
15.	Renee Moog	Renee Moog	Ardenwald
16.	Lisa Gunion-Rinker	Lisa Gunion-Rinker	Ardenwald/JC
17.	Matt Rinker	MATT RINKER	AJC
18.	Michelle E Greeley	Michelle Greeley	AJC
19.	Mitch Miguel	Mitch Miguel	AJC
20.	Ronelle M Coburn	Ronelle Coburn	AJC

Milwaukie Middle Housing, Tree Code, and Residential Parking
RE: Proposed Code Amendment 19.605 - Vehicle Parking Quantity Requirements

Dear City of Milwaukie Planning Commission:

On Friday it was brought to our attention that suddenly there is a 0 parking space per 1 dwelling unit proposed recommendation buried on page 388 of tonight's 423 page meeting packet based on a late night Planning Commission vote on 10/26, that completely disregards this year's countless hours of service by the Comprehensive Implementation Committee, the community surveys conducted through the new Engage Milwaukie website, and also in direct contradiction to the independent parking consultant's report and final recommendation of maintaining 1 on-site parking space for each unit of forthcoming Middle Housing for du-tri- and quad-plexes.

Furthermore, Cottage Cluster & Townhouse parking requirements have been reduced to 0.5 on-site parking spaces per 1 unit...something that also has not been presented to the Milwaukie Community at any time this year.

At this moment, the proposed amendments to the Housing, Parking, and Trees portion of the new Comprehensive Plan, posted on the Engage Milwaukie website, all refer to 1 on-site parking space per 1 dwelling unit for ALL forms of Middle Housing.

As this issue is of crucial concern to many citizens, due to the impact of cars on our streets due to a preponderance of unimproved and derelict street conditions, lack of safe and efficient bicycle and pedestrian facilities, and radically differing conditions from street to street, we set up an online survey that went up midday on Saturday and ran for just 72 hours before sending in this public testimony.

Clearly citizens are very concerned about the possibility of a zero parking requirement and the Planning Commission's late night decision to blatantly override this year's citizen input.

It is clear in the 10/26 meeting that at least some of the commissioners who voted, against the community's evident documented wishes, have little knowledge of the outcomes of this year's citizen engagement processes and that an actual in-depth review of community surveys, CPIC discussions, and the parking consultant's recommendations is needed for a more substantive conversation amongst the PC members.

It seems incumbent upon the Commission to be fully informed and to choose to represent the greater Milwaukie community BEFORE voting on such a vital matter. Also: <u>any substantive changes to what has already been presented should be RE-presented to the larger community before such a small body as the Planning Commission takes it upon itself to make decisions on behalf of the rest of us.</u>

With all due respect on behalf a significant number of OUR city's residents:

Ronelle M Coburn

Ronelle Coburn
Ardenwald Resident
Milwaukie RIP

And by proxy:

Chris Ortalano
Hector Campbell
Milwaukie RIP

ONLINE PETITION & RESULTS AS OF 11-9-21 @ 12noon
RUNTIME: 72 Hours

CITY OF MILWAUKIE PARKING BAIT & SWITCH

Milwaukie's Planning Department is playing a game of bait and switch with its citizens by IGNORING both independent parking consultant's and residents' surveyed preferences over new proposed residential on-site residential parking requirements. They must be stopped and we need your support NOW before the Planning Commission meets this Tuesday, November 9th.

Over much of this year a group of Milwaukie citizens participated in the Comprehensive Plan Implementation Committee which addressed changes to housing development, trees, and parking requirements for our city that must be made due to Oregon state mandate HB2001 which aims at allowing multiplex housing development (du- tri- & four-plexes, cottage clusters and townhouses) in what have historically been single family residential zones (SFR). SFR zoning has been abolished in all communities with 25,000 residents or more and in metropolitan areas and this type of multiplex "middle housing" or "residential infill projects" (RIP) will now be allowed throughout the mandated cities.

Online community surveys were also conducted to glean citizens' preferences for housing form code, tree protections, and parking requirements.

The clear conclusion drawn regarding citizen preferred on-site parking requirements was for 1 on-site (garage, driveway) per 1 dwelling unit. Also, the hired consulting firm concluded that the MINIMUM average demand for parking across all of our neighborhoods is 2 vehicles per unit with a "notable percentage of residential untis with multiple vehicles (3 or more) parking on-site."

Despite the consensus amongst CPIC, the private consultant, and a majority of survey respondents, Milwaukie citizens desire the highest number of on-site parking spaces be required for new middle housing construction. Per the state mandate, HB2001, the maximum number of allowable parking spaces is 1 on-site space per 1 dwelling unit.

*So WHY??? BURIED on page 388 (of a 423 page meeting packet), is city staff suddenly recommending a requirement of ZERO on-site parking spaces per unit of new housing built? This would mean that a new du- tri- or fourplex or a would have ZERO on-site parking. Just do a little simple math and then think of whether or not there will be anywhere enough street parking to handle the load as our city urbanizes? And is it realistic to think that enough people will decide to take the currently cumbersome transit or ride a bicycle/walk when we lack a comprehensive walking or bicycling network that is safe or convenient and there are no plans to create and build such a network?

Also, it's proposed that new cottage clusters or townhouse properties with 8 or more units would have only 0.5 on-site parking spaces per unit built.

As it is, even with a maximum allowable of 1 on-site parking space per 1 dwelling unit MANY properties will get reductions due to being either within 1,000 feet of a Max line stop (25% reduction) or within 500 feet of a bus line with service intervals of 30 minutes or less (20% reduction).

Given the big picture of multiplex infill development coming our way, it is vital to require 1 onsite parking space per 1 dwelling unit as recommended by the professional parking consultant, the CPIC committee, and as supported by the majority of citizens who have taken the online surveys put out on the Engage Milwaukie website by the city. Even with this standard, in time, our streets will be beyond flooded by cars long before our streets are improved, mass transit is viable for many, and long before alternative transportation networks exist (if they ever do).

It is beyond outrageous and incredibly disrespectful that our own city staff are trying to slip a fast one past us at the last moment, on the last page of a huge packet, AND at a meeting that is presented as being focused on the new Tree Code! A zero minimum on-site parking requirement was never presented in the public outreach efforts of the city and should not be making a last second appearance now.

PLEASE JOIN US in OPPOSING anything less than a minimum 1 on-site parking space to 1 dwelling unit ratio for residential parking in Milwaukie's moderate density neighborhoods.

AND please consider participating in Tuesday's Planning Commission meeting with either your quick written comments (send to KoliasV@milwaukieoregon.gov) and/or 3 minute or less verbal testimony. Details for the zoom conference meeting are here: https://www.milwaukieoregon.gov/bc-pc/planning-commission-84

PLEASE SHARE WITH YOUR NEIGHBORS

WITHOUT YOUR VOICE MILWAUKIE WILL BECOME A PLACE YOU DON'T WANT TO LIVE!

Questions? Please feel free to contact us at milwaukierip@gmail.

3-DAY SURVEY RESULTS & RESPONSES

64 Milwaukie resident signatories | SEE TABLE pp. 5-6
Petition shared 25 times from change.org

Online petition comment responses to the question, "Why did I sign?"

"I'm signing because the parking spaces are not guaranteed to be sufficient relative to construction expansion."

"When the citizens speak as-to what they want, which was 1 parking spot minimum per dwelling, your responsibility is to listen, not go against what the consultants and the citizens have stated. We, as citizens do not want dwellings with no parking."

"I was perfectly happy with the change to one parking spot per house but I am NOT ok with zero parking. I lived in Portland for many years and watched this become huge problem. People in milwaukie mostly can't get by without cars. We don't need to fill the streets with parking. Many places here don't even have sidewalks, now cars will take up space where people need to walk safely."

"It is not realistic to have no place for residents to park. This is guaranteed to create congestion in our neighborhoods. Doing this will only benefit builders. This type of building is not responsible."

"I moved out of Portland due to infill, no parking, and City leaders who did/do not listen. I went to some of the Milwaukie meetings prior to COVID and still felt they didn't listen and only a few concerned people were there to voice concerns on infill. I don't want to live next to apartments or six tiny houses. They are paving over the good things about Oregon and it sucks. If I wanted California I would live there."

COMMENTS FROM SOCIAL MEDIA

Karen Havran
Thank you for leading this. I've been commenting on lack of parking in city planning for a long time, going to open houses, leaving comments, etc. You're right, it falls on deaf ears. We don't all ride bikes like some of our elected officials but they seem to assume we do because they leave adequate parking out of planning. I will enthusiastically sign!

Like · Reply · 2d 1

Mary Zellharie
I Agee, we need to have a minimum of 1 parking place.

Like · Reply · 2d 4

Mike Mick Miller
I agree we need 1for 1

Like · Reply · 2d 3

Mike Mick Miller
Another case of sticking it to car owners who pay the bills for these roads and parking. It shows disrespect for older people who cannot go places without parking spaces.



Like · Reply · 2d 5

Kiersten Wolfe
Amy Erdt I really appreciate you linking the video. I did not watch it previously, because I choose to help the community in other ways and nobody has time to keep an eye on everything. Why else do we have a democratic republic where we elect officials to represent us? As a curiosity. I'm happy they encourage public participation, but it shouldn't be necessary for everybody to watch when the people's desires have been surveyed. In fact, when the CPIC majority opinion was brought up, they couldn't say what the consensus was. One man expressed genuine surprise that they didn't have that data.

So please everybody, if this is an issue you feel strongly about, we need to stay on them about it. That being said, if you are participating in the community in other ways and don't have time to take on another issue, it is understood. When it's time, remember to vote to represent your beliefs.

Pamela Brooks Rook
This is no longer the Milwaukie I moved to when I was in college. I'm not a fan of this one at all with it's apparent disregard for citizens and its own history.

Like · Reply · 1d 2





SURVEY SIGNATURE DATA as of 12noon 11-9-21

	Name	City	State	Postal Code	Signed On
1.	Ronelle Coburn	Milwaukie	OR	97222	11/6/21
2.	Chris Ortolano	Portland	OR	97222	11/6/21
3.	Mysty Dionne	Portland	OR	97222	11/6/21
4.	Anthony Allen	Portland	OR	97206	11/7/21
5.	Jean Shannon	Milwaukie	OR	97222	11/7/21
6.	Jill Bowers	Portland	OR	97222	11/7/21
7.	Theresa Hawkins	Portland	OR	97222	11/7/21
8.	Mary Meier	Milwaukie	OR	97267	11/7/21
9.	Renee Stilson	Milwaukie	OR	97222	11/7/21
10.	Kristine Pearl	Milwaukie	OR	97222	11/7/21
11.	Jessica Soares	Milwaukie	OR	97222	11/7/21
12.	Anita Christensen	Portland	OR	97222	11/7/21
13.	Kari Schumacher	Portland	OR	97222	11/7/21
14.	David Smith	Milwaukie	OR	97222	11/7/21
15.	Barbara-Lee Orloff	Milwaukie	OR	97222	11/7/21
16.	Tracy Hokanson	Milwaukie	OR	97222	11/7/21
17.	Sarah Powers	Portland	OR	97222	11/7/21
18.	Leah Stone	Milwaukie	OR	97222	11/7/21
19.	Donna Smith	Milwaukie	OR	97222	11/7/21
20.	Mollie Thorniley	Portland	OR	97212	11/7/21
21.	Maryruth Storer	Milwaukie	OR	97222	11/7/21
22.	Charles Meeker	Portland	OR	97222	11/7/21
23.	Rebecca Ray	Portland	OR	97222	11/7/21
24.	Cindy Thurman	Milwaukie	OR	97222	11/7/21
25.	Julie Fagan	Milwaukie	OR	97222	11/7/21
26.	Steven Fagan	Portland	OR	97222	11/7/21
27.	Will Sellars	Portland	OR	97267	11/7/21
28.	Kathleen Meyer	Eugene	OR	97402	11/7/21
29.	Justin Brandon	Portland	OR	97222	11/7/21
30.	Deborah Trudeau	Portland	OR	97222	11/7/21
31.	Jim Collias	Portland	OR	97222	11/7/21
32.	Nancy Pierce	Portland	OR	97267	11/7/21

33.	Laurie Palmer	Portland	OR	97222	11/7/21
34.	Pamela Denham	Milwaukie	OR	97222	11/7/21
35.	Audrey Trubshaw	Portland	OR	97222	11/7/21
36.	Jason Smith	Milwaukie	OR	97222	11/7/21
37.	Burrell Palmer	Portland	OR	97222	11/7/21
38.	Natalie Jones	Portland	OR	97267	11/7/21
39.	Melinda Stanfield	Milwaukie	OR	97222	11/7/21
40.	Mary Potter	Portland	OR	97222	11/7/21
41.	Krystina Thomas	Portland	OR	97206	11/7/21
42.	Marietta Metteer	Portland	OR	97222	11/7/21
43.	Sean McCoy	Portland	OR	97222	11/7/21
44.	David Hedges	Milwaukie	OR	97222	11/7/21
45.	Sarah McCoy	Milwaukie	OR	97222	11/7/21
46.	Jerilyn Lindquist	Milwaukie	OR	97222	11/7/21
47.	Geenie Yourshaw	Milwaukie	OR	97222	11/8/21
48.	Austin Brown	Milwaukie	OR	97222	11/8/21
49.	Erik Yourshaw	Milwaukie	OR	97222	11/8/21
50.	Siri Bernard	Milwaukie	OR	97222	11/8/21
51.	Mary Blount	Portland	OR	97222	11/8/21
52.	Shana Ralls	Portland	OR	97222	11/8/21
53.	Sarah Smith	Portland	OR	97222	11/8/21
54.	J Vasi	Portland	OR	97222	11/8/21
55.	Carla Buscaglia	Portland	OR	97222	11/8/21
56.	Mikayla Forkner	Portland		97213	11/8/21
57.	Sharon Konsa	Portland	OR	97222	11/8/21
58.	David Thomas	Portland	OR	97222	11/8/21
59.	Judy Schribman	Milwaukie	OR	97222	11/9/21
60.	Margaret Jamison	Portland	OR	97222	11/9/21
61.	Andrea Hopkins	Portland	OR	97206	11/9/21
62.	MaryEllen Edwards	MILWAUKIE	OR	97222	11/9/21
63.	Pamela Joslin	Portland	OR	97222	11/9/21
64.	Zina Seal	Portland	OR	97222	11/9/21

From:	sarah@thegardensmith.com
To:	Vera Kolias
Subject:	Comments on ZA-2021-002 Trees, minimum setbacks, and Parking
Date:	Tuesday, November 9, 2021 14:11:36

This Message originated outside your organization.

I applaud the Cities work on improving our tree canopy. I'm concerned about allowing smaller setbacks in new development, smaller setbacks leave less room for trees to grow. I'm in favor of a minimum 15 foot setback and 10 foot side setbacks.
The proposal for zero parking spaces is concerning. While some people don't need a vehicle, there are many who do. Mobility challenged people may need parking close to their homes. And public transportation is not available in many of our neighborhoods. I would like to see one parking space per dwelling.
Thank you for considering my comments.

--
Sarah Smith
SE Washington St
Milwaukie, OR 97222

Re: 6.2 Middle Housing Code
Dear Planning Commissioners of Milwaukie,

I am writing to you as a subject matter expert on the topic of parking policy and as the father of two children who live in the Portland Metro Region. I am the co-founder of the Parking Reform Network, an international non-profit organization with a mission to educate the public about the impact of parking policy on climate change, housing affordability, and traffic violence, a co-founder of Portland: Neighbors Welcome, a housing advocacy organization, and the founder of Portlanders for Parking Reform.

I understand that you are considering the tough political position of recommending middle-housing options for HB2001 implementation without any costly car parking mandates, and I applaud you and strongly encourage you to stay the course. If you succumb to pressure and impose costly parking mandates on these housing types, you will all but ensure that many homes will not be built and the ones which are built will be more expensive.

Furthermore, your decision will contribute to the imposition of car dependency upon future generations of the region, making it harder, if not impossible, for my children, and yours, to live low-carbon lifestyles and remain near their parents and grandparents.

This is not hyperbole, already your own commissioned study shows a massive amount of parking available in the neighborhoods of Milwaukie. It's nearly impossible that every household will need parking for 3 or four cars in 15 years, if we're still arguing over parking at that point, all hope is lost. I am truly puzzled why a consultant would recommend taking the route of minimal compliance here. The trend in the region is to build housing, not car storage. This consultant's advice is not in line with anything I have heard from mainstream planners in my recent experience. Even the Institute of Traffic Engineers (ITE) no longer recommends costly parking mandates. The conclusion of this consultant is outdated.

What is even the point of doing such a survey if not to plainly state the obvious, there is plenty of parking in Milwaukie, what is lacking is political willpower and courage to say enough is enough.

You are members of the planning commission, what future are you planning for? Your job is not to plan to continue to accommodate the currently disastrous levels of car ownership and drive alone trips, it's to guide your community to meet its climate action and housing goals and to leave this world in a better place than it would be without your actions.

Be strong, your first instinct was correct. Future generations will thank you. Do not impose costly parking mandates on middle housing.

All the best,
Tony Jordan
971.207.1348

From:	Milwaukie Planning
To:	Vera Kolias
Subject:	FW: Tree preservation plan
Date:	Tuesday, November 9, 2021 15:29:56

BRETT KELVER, AICP
Senior Planner
he • him • his

From: chinaconsulting@gmail.com <chinaconsulting@gmail.com>
Sent: Tuesday, November 9, 2021 3:28 PM
To: Milwaukie Planning <Planning@milwaukieoregon.gov>
Subject: Tree preservation plan

This Message originated outside your organization.

My name is David Kohl. I live at 12006 SE McLoughlin Blvd. This is the historic Birekemeir-Sweetland estate.
I am very much in support of tree preservation and further tree propagation. My family is involved in forest management in a non-commercial manner.
We engage in woodland maintenance to have healthy forests.
That said, I am curious about hazard trees. How does this change affect forest maintenance for safety and sustainable growth of other trees?
Thank you,
David W Kohl

Sent from Mail for Windows

From:	Pamela Denham
To:	Vera Kolias
Subject:	Table 19.605.1 Off-street Parking Requirements
Date:	Tuesday, November 9, 2021 15:58:35

This Message originated outside your organization.

Dear Ms Kolias,

I am unhappy to see that the minimum, which is what most developers will do, is zero off street parking per dwelling unit.

Milwaukie is not ready for SE Division Street type developments with no parking on site pushing residents and visitors into the neighborhoods. Our roads are not equipped to handle all the off street parking, not to mention the impact of residents who own homes in the area.

Please reconsider table 19.605.1 to at least 1 off street parking spot per dwelling unit.

Pam Denham
Milwaukie

From:	Gary & Sharon Klein
To:	Vera Kolias
Cc:	Richard Recker; k1ein23@comcast.net; milwaukierip@gmail.com
Subject:	Parking issues in downtown MILWAUKIE
Date:	Tuesday, November 9, 2021 18:07:43

This Message originated outside your organization.

MILWAUKIE,
We are having an issue with parking in downtown MILWAUKIE from time to time. Also at the same time we are loosing places to park. Also new buildings have very reduced internal parking, like Coho Point. The property that is now know as Coho Point was originally bought for a future site of a parking structure because MAX (light rail) was most likely coming to Milwaukie. Also phase two of Milwaukie Bay Park was being finalized too. But because at that time light rail (MAX) was going to stop here, not at Park Avenue as it does now. So the parking was reduced in Milwaukie Bay Park to the current numbers that it is now. The current parking in Milwaukie Bay Park is Insufficient for that park and especially when phase 3 is completed in the near future. We (The River Front Board, which I was part of) thought with the parking structure on McLoughlin Boulevard and Washington Street by Milwaukie Bay Park, we would have ample parking. Plus at that time before McLoughlin Boulevard was redone it had parking in downtown Milwaukie area on both sides of the street.
Then it all changed! McLoughlin Boulevard now has NO Parking in the down town area. Now Coho Point is not a parking structure. Coho Point is getting an over size structure (by Milwaukie code standards) with very very limited parking.
Things (parking areas) are not going right and folks in homes, condos and apartments around The Historic MILWAUKIE neighborhood are loosing out. Businesses in Milwaukie may be loosing customers too. Things need to change before we are a ghost town with a parking problem.

MILWAUKIE Historic 2nd generation home owner,
Gary E. Klein
Sent from my iPhone

From:	Steve Klingman
To:	Milwaukie Planning
Subject:	Enhanced Rules for Tree Removal
Date:	Tuesday, November 9, 2021 18:30:14

This Message originated outside your organization.

There are lots of things to consider here. My main concern is that where there are trees, no matter what size, that are a nuisance or a danger, the homeowner is allowed to remove them without penalty. Certainly the cost of removal, assuming they are the homeowner's property, will be their responsibility. But there should be no kind of a penalty.

Also, there should be a consideration for tree removal in a place where there are a plethora of trees.

THanks.

--
Steve Klingman
National Design Advisor
Presentation Design Group
steve.k@pdgdesign.net
541.556.9376 (direct)
541.344..0857 (studio -not currently used due to COVID)
www.pdgdesign.net
www.giftmap.com

NORTH CLACKAMAS WATERSHEDS COUNCIL

2416 SE Lake Road, Milwaukie, OR 97222 - 503-550-9282 –northclackamaswatersheds.org

Testimony on Tree Code, Middle Housing, and Parking
Milwaukie Planning Commission
Neil Schulman, Executive Director
11/9/2021

Overall: The City is to be commended on a tree code that meets the needs of watersheds and people

I remember looking at my thermometer outside the Council office on 6/28. It read 114 degrees. We all know that we'll see more of that. That's why this decision is vital.

The Codes Proposed is forward looking on several fronts for which the City should be commended, and which we strongly urge the Planning Commission to adopt. Even if these things may be unpopular with some folks, they are smart and will make Milwaukie a leader in small cities in our region.

1. Reaching the 40% canopy goal is key to so many aspects of livability: respiratory health, climate resilience, equity, carbon sequestration, healthy streams, and reduced flooding, to name a few
2. Considering Trees, Middle Housing, and Parking together.
3. We strongly support proposal to remove parking requirements below cottage clusters. The two huge needs Milwaukie has is for more housing, and more trees. This is an essential step to having room for both. The PC is to be commended for this proposal and we strongly support it.
4. We strongly support the protection of trees above 6"dbh. Without protecting small trees, they won't have a chance to grow to big ones
5. Taking a broad view of mitigation, and having it off site. This will allow us to be sure that all parts of Milwaukie have good tree cover and reach the City's equity goals.

In the code itself, and the future tree plan, there are several gaps that the Commission should address:

1. The first and best way to a tree canopy to protect trees that already exist and are big enough to provide value. This means it is vital that the City's code, and practices, engage with proposed developers early, so that tree preservation is part of initial designs rather than an afterthought. City Arborist & tree staff need to be engaged at the preconference phase.
2. The Fee Schedule must be high enough to incentivize keeping existing trees, rather than just thinking of mitigation funds as "the cost of doing business". Current Fee Schedule ($2,700 fee for removing an 18" dbh tree) is too low. Most folks will just pass that on in the cost of the development. This needs to be assessed to incentivize keeping existing trees in place.
3. The development of a Tree Plan/Manual that helps chart a course to a 40% canopy, where trees are in all neighborhoods, and plantings are done strategically to meet human and watershed health targets. This should follow the approval of the code

<u>There are also some issues in the code that need to be addressed, as they will likely have the opposite of the desired effect:</u>

16.32.042.B: Tree Preservation Standards and Affordable Housing
Milwaukie should not have a lesser standard for site canopy coverage than other housing. People of limited incomes need tree cover more, not less, than others. This flies in the face of the City's equity goals; low income neighborhoods and communities of color have 26% less park space than median neighborhoods. (Trust for Public Land). These populations also carry a higher disease burden and vulnerability to the Urban Heat Island Effect (EPA)
We should use other incentives for affordable housing: height bonuses, less parking. The Council supports the reduced mitigation.

16.32.042.E. Variance Procedure:
This section should be struck. The techniques described, while good, only provide one benefit- stormwater, efficient building, etc.. However, they do not provide the multifunctional benefits that a healthy canopy does. Furthermore, they are challenging to assess with rigor, and don't apply when the city is trying to reach tree, climate, and equity goals together.

2.a(2)(k)Non-Development Permits:
This section creates a loophole that allows the removal of a healthy tree a year up to 18" DBH with no mitigation. This should be removed. It's is loophole for losing a lot of very large trees. An 18' dbh tree is large enough to provide benefits – shade, habitat, stormwater interception-across property lines, and an 18" oak, for instance, is a very old tree that won't grow again in our lifetimes. The Commission should close this loophole. At the *very least*, it should be restricted to a 6" dbh size.

I'm reminded of a while back, when Elon Musk offered a $100 million prize for an invention that removed CO2 from the atmosphere. That technology already exists. It called a tree. We have them. We just need to keep them and plant more.

From:	Vera Kolias
To:	Adam Khosroabadi; Amy Erdt; Greg Hemer; Jacob Sherman; Joseph Edge ; Lauren Loosveldt; Robert Massey
Cc:	Laura Weigel; Justin Gericke
Subject:	FW: CPIC/Parking Requirement Planning Commission discussion
Date:	Tuesday, November 2, 2021 7:24:00

Good morning all,

Below please find a public comment that was submitted after the PC packet was posted.

-Vera

VERA KOLIAS, AICP
Senior Planner
she • her • hers
503.786.7653
City of Milwaukie
6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

Please note that my work schedule is Monday – Thursday from 6 a.m. – 4:30 p.m.

From: Joel Bergman <jwbpdx@hotmail.com>
Sent: Monday, November 1, 2021 3:37 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: CPIC/Parking Requirement Planning Commission discussion

This Message originated outside your organization.

Planning Commissioners:

I was just able to review the Planning Commission discussion on Comprehensive Plan and the parking requirements discussion on 10/26. As a CPIC member, it should be noted that the parking question was never framed to the CPIC as asking for "less than one-space-per-unit". There may have been some general discussion about what other options (both MORE & LESS) would mean, but my understanding was that the recommendation to the Planning Commission from STAFF would be "one-space-per-unit". I'm sure the Planning Commissioners have their own opinions on this, but in the context of what the CPIC was to recommend, I think there should be some consistency.

It is also very important to note that this Planning Commission discussion really highlighted how ineffective & impotent the CPIC process was as it relates to actual policy recommendations. This was made crystal clear when early in the discussion, Commissioner Massey asked "what the CPIC recommendation was?" Vera accurately answered that basically there wasn't one; some members felt one way, some another, etc...there was never any vote or official recommendation made by the CPIC body as a whole during the entire process. I understand we took some "polls" throughout the meeting schedule, but those mostly amounted to requests for more information or further clarification on topics. We didn't make any concrete decisions

or debate any issues with opposing viewpoints and it's being dramatically highlighted by these discussions during the Planning Commission.

The stated committee goal of the CPIC was "advises city staff and consultants on Phase 1 of the Comprehensive Plan Implementation Project that focuses on housing, residential parking and urban forestry." The staff & consultants did a great job presenting the information to our committee during the meetings and there was both robust & sometimes redundant discussion about the concepts presented, but there was no process or opportunity for the committee members as a group to make a formal recommendation to staff that would be shared with the Planning Commission or City Council. It was not what I had expected and I'm not entirely sure what purpose our CPIC truly served to further the implementation of the Comprehensive Plan other than it's members perhaps having a deeper understanding of the guidance provided by city staff & consultants. This has put the entire process of the Comp plan implementation at a disadvantage in my opinion, as it was my understanding the CPIC was meant to provide meaningful policy recommendations that could be easily digested by the Planning Commission, City Council and residents of the City of Milwaukie; yet we only yielded interpretations of discussions.

I hope that the future CPIC process is re-tooled, with the goal to provide clear policy recommendations & those that are not unanimously made, have the polling data of the CPIC members available to those interpreting the information.

Regards,
Joel Bergman

From: Bernie Stout
To: Vera Kolias; Natalie Rogers
Cc: OCR; corrin@chapeltheatremilwaukie.com; Sarah Smith; cdortolano@gmail.com
Subject: Land use #ZA-2021-002 TREES
Date: Sunday, October 31, 2021 8:46:41
Attachments: image001.png
image002.png
We sent you safe versions of your files.msg
TREES 2019 DROUGHT.docx

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

This Message originated outside your organization.

Sunday, October 31, 2021

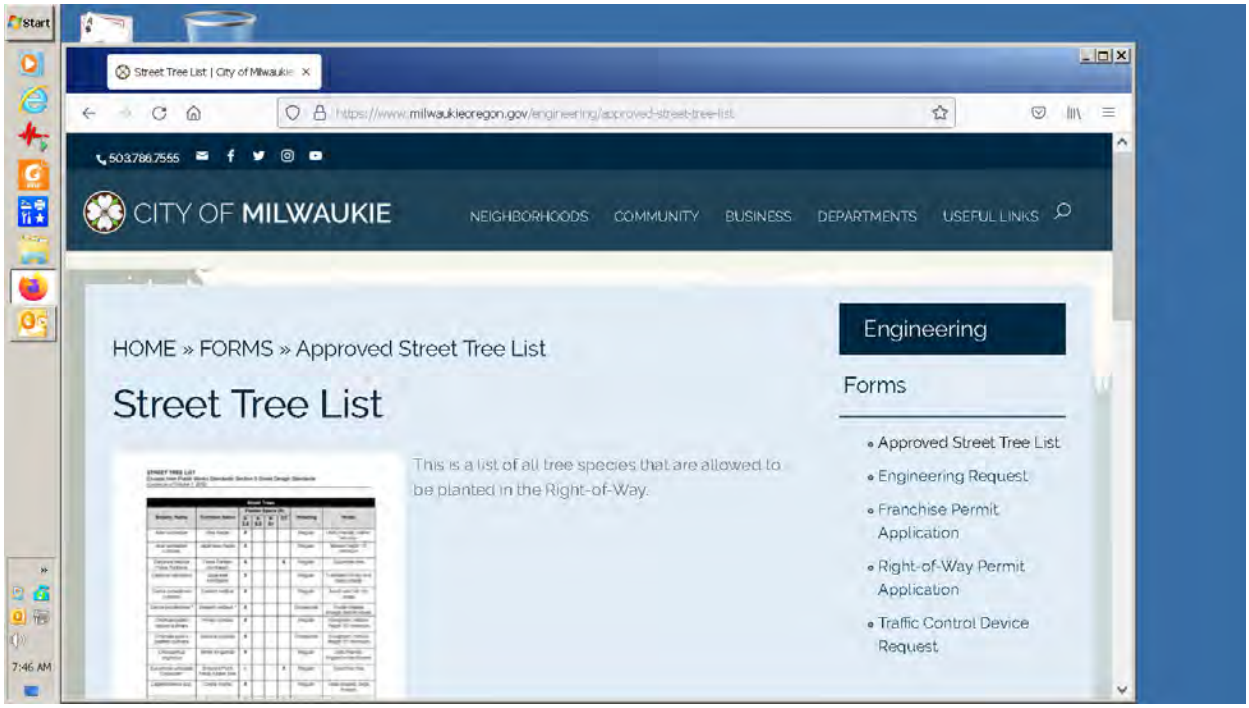
Am writing in regards to: Land use #ZA-2021-002

1. ESTABLISH FUND TO HELP HOME OWNERS WITH EXPENSE OF PLANTING OR REPLACING TREES. REMOVAL, NEW TREES, AND MOST IMPORTANTLY INSTALLATION OF **ROOT BARRIER** WITH CONFIRMATION OF INSTALLATION WHEN INSPECTION IS DOCUMENTED.
2. TREE ON MILWUAKIE'S LIST NOT ALLOWED IN PORTLAND.
3. AREAS THAT HAVE POWER LINES NEED MORE DIRECTION REGARDING IF THE TREE WILL MATURE TOO HIGH. THE CITY NEEDS TO ENFORCE THIS BETTER. IT WILL HELP WITH STORM OUTAGES.

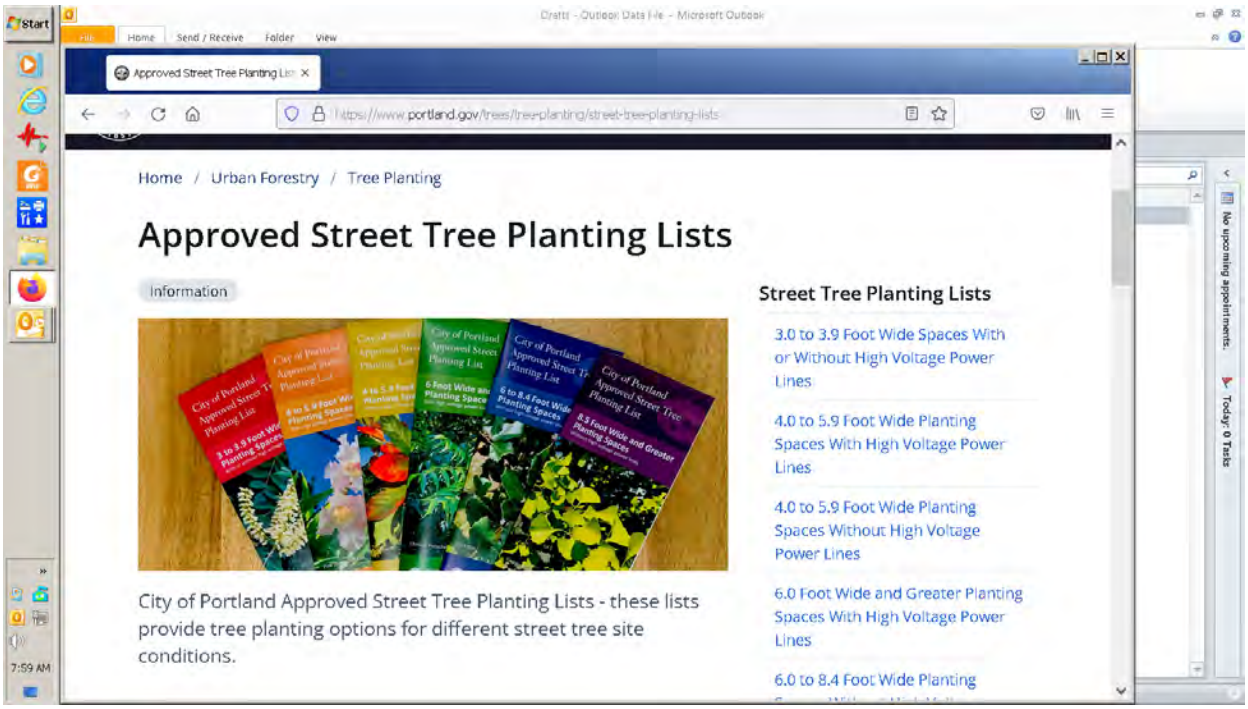
4. PORTLANDS HAS DEVELOPED MORE DETAILED FLYERS ABOUT VARIETIES.

   With changes in climate and severity of storms Milwaukie needs to consider future damage and the ability of the trees on the current list being able to tolerate severe conditions.

   Please see attached article -



https://www.milwaukieoregon.gov/engineering/approved-street-tree-list



Right Tree, Right Place - Find Your Tree!

The best street tree is one that fits well in the available space, or "right tree, right place." To help property owners choose the right tree, the City maintains Approved Street Tree Planting Lists based on the width of the planting strip and the presence or absence of overhead high voltage power lines. Click on any of the following links to explore street tree planting options for different sites:

- 3.0 to 3.9 Foot Wide Spaces **With** or **Without** High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces **With** High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces **Without** High Voltage Power Lines
- 6.0 Foot Wide and Greater Planting Spaces **With** High Voltage Power Lines
- 6.0 to 8.4 Foot Wide Planting Spaces **Without** High Voltage Power Lines
- 8.5 Foot Wide and Greater Planting Spaces **Without** High Voltage Power Lines

Street Tree Planting Lists

- 3.0 to 3.9 Foot Wide Spaces With or Without High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces With High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces Without High Voltage Power Lines
- 6.0 Foot Wide and Greater Planting Spaces With High Voltage Power Lines
- 6.0 to 8.4 Foot Wide Planting Spaces Without High Voltage Power Lines
- 8.5 Foot Wide and Greater Planting Spaces Without High Voltage Power Lines
- Identifying High Voltage Power Lines
- Street Tree Planting List FAQs

https://www.portland.gov/trees/tree-planting/street-tree-planting-lists

Thank you,

Bernie Stout

From:	Barbara McGinnis
To:	Vera Kolias
Subject:	Parking 24 7 Llewellyn
Date:	Saturday, October 30, 2021 19:05:17

This Message originated outside your organization.

Hello Vera,
I live @ 2336 SE Llewellyn and have for about 40 years. When the Waldorf school opened the parking on the street got very difficult if not impossible during school hours, although the school administration had promised not to let the teachers & students park in the neighborhood We also have a large apartment in our back yard @ 23 & Llewellyn. They charge for a parking space there so many tenants park on the street as well. These people are not paying the $42360.76 property taxes, I am, but I could never count on being able to park on the street or have my guests park anywhere close. Now the city thinking of cutting the parking space per apartment requirement from 1 down to 1/2 space??? Please consider us home owners in the close in neighborhoods.
thank you, Barbara McGinnis

From:	Bradley Bondy
To:	Milwaukie Planning
Subject:	Comments for the October 26th Planning Commission Meeting regarding middle housing code
Date:	Monday, October 25, 2021 16:31:55

This Message originated outside your organization.

Please allow for all middle housing types on 3,000sqft lots, as well as for reducing the required parking to .5 spaces per home. Both of these changes would help to create an abundance and variety of housing options in Milwaukie. I also feel that Milwaukie has made a strong commitment towards advancing affordability in it's comprehensive plan, and adopting the bare minimum to comply with state law doesn't scream "doing all we can to advance affordability."

Please also approve the changes for set back requirements for income restricted housing, and further expand that change to apply for all housing regardless of deed restrictions on affordability. It's ok for homes to have smaller setbacks. Many neighborhoods in the region have similar setback requirements, and they're all perfectly pleasant places to live.

Thanks for your time,
Bradley Bondy

From: Corliss
To: Milwaukie Planning
Subject: Tree Preservation Meeting
Date: Tuesday, October 26, 2021 6:24:07

This Message originated outside your organization.

Dear Planning Committee:

A few days ago I became aware of your implementation project focused on tree preservation. Of particular concern are the following discussion points:

a. "Require a permit for non-development tree removal if the tree is equal to or greater than six inches in diameter breast height (DBH), if the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code.
b. The code establishes mitigation fees and replanting requirements for healthy tree removal. The code further establishes approval standards to waive mitigation fees for trees which are dead, dying, or a hazard For these trees replanting is required.
c. No permits are required for removal of agricultural trees (i.e., a Christmas tree farm does not need a permit to remove each tree). The City Manager may exempt property owners from the permit and replanting fees when the owner demonstrates household income at or below 80% of median household income for the Portland-Vancouver-Hillsboro Metropolitan Statistical Area.
d. Commissioner Rogers stated, " ways to waive permit costs are being considered for trees on the noxious weed list. And " permit costs are intended to cover much of the labor necessary to process the permits."

I agree with point c above, where you've exempted the agricultural population along with household incomes at or below 80% of median household income. However, I was very disheartened that I did not find mention of specific efforts to avoid financial hardships and/or burdens on the average homeowners. Or, pn most vulnerable property owners, which are our disabled seniors.

Also, adding a way to charge fees on a homeowners land resulting from a newly implemented tree code feels like double dipping. Especially living in one of the highest property tax areas in the state of Oregon that covers the dwelling and land. Are the trees not a part of the land we are already taxed on-of course they are. So if a new mandate is not required for longtime residents their trees should either be grandfathered in. Or have their property taxes reduced by whatever costs are incurred, including permit costs and labor costs, in order to meet the new tree codes.

That is only fair. You have considered the huge impact this tree code potentially has to group c. But those of us long-term residents (16 yrs, 10 months) who have worked 19 years and saved for

retirement are close to being pushed out of the neighborhood. Not because we cannot afford our mortgage payments. But, because we cannot afford the property taxes and potential fees prosed. Even if I was mortgage free, Id still face paying an almost $1000 monthly payment for property taxes and insurance alone. Adding new costs outside of those costs is not something easily accepted.

For example: I receive an annual annuity payment every Oct 1st. This year, 50% ($10.000) went to my property taxes, 20% ($4000) to Fed taxes, 10% ($2000) to Oregon State taxes. Thus., out of $20000, $16000 went to various taxes leaving a $4000 balance. So, the thought of paying additional costs is extremely stressful and disturbing. Especially, when one of my main property attractions was the trees. Had this tree code been in effect 16 years ago I would have chosen to pass buying in Milwaukie Therefore, in addition to feeling like the trees are already included in the cost of my property taxes. It also feels a little "big brother-ish" with some of my personal preference being taken.

I understand the intent of your tree preservation efforts. However, it should not cause an undue hardship on your most vulnerable population, who are already at-risk of being run out of the neighborhood. As stated we have paid our dues over the years and chose to live on our property due to personal choice. It should not be taken away.

New developers, and individual homeowners will have the choice to move into the area with the tree code in place. We deserve that same right Since we do not have the choice to move into an area with the tree code in place At the very least we should be grandfathered-in. Or have our property taxes reduced by any cost we incur having to meet the new tree code.

Sincerely,

Corliss Mc Keever

From:	Urban Forest
To:	Vera Kolias
Subject:	FW: Land use proposal
Date:	Tuesday, October 19, 2021 14:54:03

Are we adding these to the spreadsheet, or are we keeping track elsewhere?

NATALIE ROGERS
Climate and Natural Resources Manager
she • her • hers
P: 503-786-7668
CITY OF MILWAUKIE
6101 SE Johnson Creek Blvd • Milwaukie, OR 97206

To learn more, visit Milwaukieoregon.gov/sustainability

From: Fida Hurlock <peaceloveandpalestine@gmail.com>
Sent: Saturday, October 16, 2021 12:17 PM
To: Urban Forest <UrbanForest@milwaukieoregon.gov>
Subject: Land use proposal

This Message originated outside your organization.

Hello,

I am unable to attend the Milwaukie Planning Commissions hearing later this month and was hoping to email my testimony instead.

I have grown up in Milwaukie nearly most of my life. I love Milwaukie and have seen it change and grow in so many ways. I think one of the beautiful things in this city is the greenery, especially during the summer and fall months.

Currently I own my home in Milwaukie as well as work for the CIty! Originally my home had two enormous silver maple trees in the backyard. Prior to us purchasing the home, one of those tree's ended up splitting in 3 and destroyed the neighbors shed, truck and garden and eventually fell on my house and smashed half of it. After we lived in our home for about a year we noticed that the soil was very poor and whenever it rained it flooded the backyard, side and front yard. We have spent thousands of dollars trying to fertilize and treat our soil in order for it to absorb and grow tree's to no avail. Sadly our only remaining silver maple rottened and was infested with termites. It was no longer safe for us to keep the tree as it swayed on windy days and we feared if it fell it would crush my husband and I in our sleep (as it was hovering over our bedroom) with 3 small children we couldn't let that happen. We removed it as fast as we could.

We have since then tried, unsuccessfully, to plant other trees only for their growth to be stunted and die. Again this summer we spent thousands of dollars to finally strip, grade and remove soil and lay partial asphalt gravel in our side and back yard. All of our neighbors have the same problem, many of them do not have any trees especially in the back yards. We all live a few blocks away from Johnson creek and though the flooding that occurs there doesn't reach us the water naturally flows from our homes to that direction. Our homes were built entirely on river rock with some top soil added. If you

dig 2 feet down you will always hit river rock.

Although having people replant trees is a novel idea, I urge you to please consider zoning this requirement to those that have proper soil and can safely replant a tree. Additionally, requiring a permit to cut down a tree is not appropriate for homes that have safety issues such as ours did. It can be costly and unattainable for many people that need to ensure the safety of their family and homes first and foremost and use those fees to pay a professional to remove the tree in question.

After speaking to many neighbors that are originally owners I have learned that the City of Milwaukie is aware of this issue, as they had many years ago sent a City employee that graphed the natural flow of the water in our area.

I urge you to reconsider.

Thank you for your time
Warmly,
Fida Hurlock
971-340-6320

--
"I remember", said Milo eagerly. "Tell me now"
"It was impossible", said the King, looking at the Mathematician.
"Completely impossible", said the Mathematician, looking at the King.
"Do you mean....." stammered the bug, who suddenly felt a bit faint.
"Yes, indeed", they repeated together;" but if we'd told you then, you might not have gone-and, as you've discovered, so many things are possible, just as long as you don't know they are impossible."

"The Phantom Tollbooth"
By Norton Juster 1961

From:	Paul A.
To:	Vera Kolias
Subject:	Proposed Tree Preservation Ordinance
Date:	Wednesday, October 13, 2021 13:46:38

This Message originated outside your organization.

Hi Vera,

I wish to challenge the need for the Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees.

I posted the following comments online on the engage.milwaukieoregon.gov website but also am sending them to you to make sure they get passed on to the planning commission members.

As I look around the city of Milwaukie, I see an abundance of trees. I would guess the current canopy is around 20%. How did those trees get there? Was it because of some government edict? No, it was because people voluntarily planted them or let volunteer trees grow. Is there a big push by Milwaukians to cut them down so that the planning commission feels the need to preserve them? No, people like trees and will continue to plant them. This proposed ordinance looks to me like a solution to a nonexistent problem.

In the October 5, 2021 letter from you to the planning commission it is stated: trees "are a major contributor to the quality of life in Milwaukie", and they are "to be nurtured and protected". How is it that a planning commission can somehow know how to improve my, or anyone else's, quality of life? Last year I had a large tree in my front yard cut down, and guess what? Removing that tree increased the quality of life for me and my next-door neighbor. I no longer have to pay to have it trimmed. I no longer have to rake leaves for weeks and haul them away. I no longer have to worry about the tree's roots damaging my sprinkler system and plugging my roof drain piping (this happened a few years ago, causing water to back up in my yard and threatening my house's foundation). I don't have to worry about limbs breaking off in wind or ice storms and damaging my or my neighbor's house. My neighbor doesn't have to rake the leaves that fall or blow into her yard from my tree and her garden produces more now that it isn't being shaded by that tree. It is also nice to now be able to see some sky from my living room window.

The new ordinance would not have allowed me to cut down that tree, depriving me of improving my quality of life. Everyone's situation is different. The planning commission can't possibly know what is best for everyone or write an ordinance that would account for every possible situation. This country was founded on individual rights and freedoms and it has served us well for over 200 years. To switch to a mindset that we should subvert our individual rights and freedoms for what someone in the bureaucracy considers a common good would be a big mistake. We all know that socialism and communism don't work.

I also want to challenge the goal of increasing the tree canopy to 40%. Where did the 40% come from? It looks to be both arbitrary an unrealistic. To force new construction to have a 40% tree canopy doesn't make sense. My lawn covers about 40% of my lot. If I also had a 40% tree canopy, then none of my lawn would ever get any sunshine and it would feel like I live in a forest. I don't want to live in a forest. I also noticed that the Hillside development that is in the process of being approved has only a 29% tree canopy, and yet it looks like plenty to me.

Is the 40% canopy goal somehow related to preventing global warming? If so, does the planning commission really think that adding approximately one square mile of tree canopy over the next 20 years is going to have an effect on global warming? In contrast, Oregon now loses 1,300 to 1,500 square miles of forest to fires every year, which, over the next 20 years would add up to at least 26,000 square miles. If we really wanted to reduce

global warming, we would go back to managing forests like we did 20 to 40 years ago when we only lost about 100 square miles per year to forest fires.

Most importantly, the proposed tree ordinance goes directly contrary to the goal of providing more affordable housing in Milwaukie. The ordinance adds another layer of red tape, requiring builders to hire a certified arborist to write a tree preservation plan, build fencing to protect the trees during construction, plant more trees, and pay increased fees. All of this adds to the cost and ultimately the price of housing. The planning commission needs to set priorities. Which is more important, reducing global warming by an infinitesimal, unmeasurably small amount, or providing affordable housing? I would say that providing affordable housing is far more important.

Finally, any time the government increases regulation it adversely affects small businesses more than large businesses. So, unless the planning commission likes the idea of driving out small contractors from our area in favor of big builders, they should scrap this ordinance.

Thank you,

Paul Anderson

503-753-9852

October 10, 2021

Vera Kolias, AICP
Senior Planner
Milwaukie, Oregon

Dear Vera:

Please accept these comments and provide them to the Planning Commission for its consideration during the public hearing on code amendments that is about to begin. I will start by thanking you and your team for all of your work on this project.

For those who don't know me, I suppose it is pertinent to point out that I am a retired city planner with over 45 years of professional experience and I served on both the Comprehensive Plan Advisory Committee and the Comp Plan Implementation Committee.

My comments are mostly of a general nature, with just a few specific suggestions. That said, I am generally supportive of the document now under consideration. I believe it will do much to help the community achieve the Future Vision it has embraced, while also addressing the requirements of House Bill 2001. Here are my general concerns:

* I fear that we are not doing enough to protect solar access for energy production and for gardens. I know this requires a careful balance between tree canopy goals and building height/setback regulations and my guess is that we are about to sacrifice solar access in some cases for other goals. I am not prepared to offer specific suggestions except to say that I have long felt that building setbacks and height standards on the north side of a property that adjoins other developed or developable properties should be regulated to protect solar access on those adjacent properties.

* As we encourage more development on properties with trees, I am certain that a growing number of those trees will be damaged, especially where there is simply not enough room on a site to allow for adequate protection of tree roots. Roots are routinely cut because they are in the path of utilities or foundations. Roots are also often damaged by construction equipment driving over them or parking on them. I realize that tree protection is the subject of a continuation of this hearing but I felt it was appropriate to point out my concerns while the consideration of density standards is pending.

* Reducing the parking standard for residential developments still concerns me because there is so much variation in available parking from one block to another. I realize that the State has mandated a reduced parking standard and I suppose that the best I can do is simply say that there will be problems when residents discover that the on-street parking they have relied on for years is now occupied by overflow parking from other properties. I wish we had frequent transit service in every neighborhood and a thoroughly connected sidewalk and bike system all over town. We do not and we

probably never will. Without those alternative transportation improvements, we are going to create parking problems for some people in some parts of town.

Now to more specifics:

One question — are the standards intended to apply to a quadplex the same as for a cottage cluster of four units? If not, I think they should be the same.

One suggestion — rewrite the definition of a "half story" used in the current Code (following) and carried forward in the recommended provisions. Here is the current language:

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

That definition consists of two distinct thoughts that have little to do with one-another. The first sentence of that definition, although somewhat challenging to track, does seem relevant to the height standards for residential structures set at "2 1/2 stories or 35 feet, whichever is less."

My complaint lies with the second sentence, which applies only to basements or under-floor spaces. It does nothing legitimate to help in the regulation of building height and only serves to potentially reduce the amount of floor space that might be developed on a residential property. Let me be more specific.

In the Lewelling Neighborhood, where I live, there are many ranch style homes constructed in the 1950s, many of which look very much like one-another. Some of the homes have full basements, others do not. Very few have daylight basements, but some do. Other than the homes with daylight basements, the other homes with basements cannot be distinguished from those without basements from a street view. However, the second sentence of the definition of "half story" would impose a more strict height standard on the homes with a conventional basement than those without. What is missing from the definition is a more specific application to homes with daylight basements, because they tend to appear, from at least one side, to be taller than nearby homes without daylight basements.

I will leave it to the decision-makers to decide whether more strict height standards are needed for homes with daylight basements. For homes with conventional basements, I would urge you to amend the rules to treat them just like visually similar houses without basements. Please delete or restructure the second sentence of the definition.

One final suggestion — add more graphics to the Code. This could be the perfect time to do it because the design experts at UrbsWorks are extremely talented in creating such graphics. If it were up to me, I would have more graphics and a lot fewer words in the Code.

Thank you for your consideration of my comments and for all of the volunteer work you do for this community. I would be happy to answer any questions that you may have about my comments.

Sincerely,

Stephan A. Lashbrook, AICP retired
4342 SE Rockwood Street
Milwaukie 97222
drampa82@gmail.com
(503) 317-0283

From:	Tim Taylor
To:	Milwaukie Planning
Subject:	Testimony for potential housing code changes
Date:	Tuesday, October 26, 2021 7:05:47

This Message originated outside your organization.

Hello,

My name is Tim Taylor, I'm a resident of Milwaukie, a small business owner, and I helped contribute to the most recent election for Milwaukie's newest Commissioner.

I'm writing to express my support of the proposed changes to reduce parking minimums to 0.5 spaces per unit for middle housing (duplex, triplex, and quadplex). This change will prioritize Milwaukie's housing affordability and climate action goals, instead of putting car parking ahead of those goals.

I believe Milwaukie should be focused on providing housing for people and space for tree canopy, not cars. As a young professional, I have friends who are interested in moving to Milwaukie but haven't due to a lack of affordable housing. These are individuals who may not be able to afford a single-family home, but would likely be able to afford a duplex.

I love living in Milwaukie, but I also want to see it grow. I want small businesses to move here, but as a business owner myself, Milwaukie is not yet a desirable location to expand or start a new business. There is simply not enough people in certain areas to support a new brand.

Thank you for considering my opinion on this matter and thank you for caring about the future of our beautiful city.

Tim Taylor

Christopher and Ruth Burkett

RECEIVED
By Vera Kolias at 9:23 am, Oct 01, 2021

October 12, 2021
Milwaukie Planning Commission

Good evening,

The proper function of government is the preservation of property, not the taking of property.

Private ownership of property is the very foundation of freedom. These proposed changes subjugate our private property ownership and take away the freedoms which are guaranteed by the Constitution of the United States.

Let us not be under any illusions. When individuals are harmed through bureaucratic depredation, society is harmed. "The public" is merely a group of individuals. The idea that "the public interest" supersedes private interests and rights can only mean that the interests and rights of some individuals take precedence over the interests and rights of others. You cannot harm individuals and claim a greater good for society.

We will be heavily impacted and harmed if these regulations are approved. With the help of ISA certified arborists, we have carefully maintained hundreds of trees on our two properties for over twenty years. We have planted many new trees, integrating new trees into a mature landscape, with plans based on 20, 50 and 100 year time frames.

It is crucial for us to be able to make our own aesthetic and practical decisions to insure a cohesive and healthy landscape in accordance with our long range plans. This would be utterly prohibited under these regulations, as our aesthetic decisions and long range design plans are specifically excluded from consideration. Our idyllic properties and our quality of life will be seriously harmed if these regulations are approved. No good can come from this.

Therefore, we cannot consent to your claim of authority of our forested land. We plead with you to allow us to continue to live undisturbed on our land, at peace with our neighbors and in harmony with nature.

Sincerely,

Christopher and Ruth Burkett

4512 SE Ryan Court, Post Office Box 22[illegible] Milwaukie, Oregon 97222 • (503) 970-2309

Dear Milwaukie Planning Commission:

As a teacher in Milwaukie and property owner, we strongly support the changes in the code to allow middle and cottage cluster housing in the new R-MD zone. We believe this will strengthen the ability of housing developers to meet the need for missing middle housing in Milwaukie and produce walkable, bikeable, desirable neighborhoods, which foster community connections.

We do have some comments on the proposed codes that we think would help achieve the goal of providing additional missing middle housing in Milwaukie.

1. Parking
   We strongly support the proposal to reduce required parking numbers through several methods, including tree preservation, via a Type II parking modification. The summary of "key amendments," however, suggests a more flexible arrangement of parking for middle and cottage cluster developments than is specified in the code language and we would support the more flexible language in the summary, including allowing parking in some of the required setbacks. We also want to advocate for a more flexible approach to parking in general. For example, requiring parking for cottage cluster developments to be in a common area would create a large, paved surface vs. having parking spaces placed individually, some even associated closely with individual units, which seems more in keeping with the character of surrounding neighborhoods. These additional requirements for parking, including placement, limits the number of housing units on a lot, which restricts affordability.

2. Detailed Design
   While we understand that the intent of the Detailed Design standards is to have housing that is appropriate for the neighborhood, we would note that the 15 listed features do not constitute a known style and adhering to them would not necessarily produce esthetic housing or housing compatible with the neighborhood. We support the inclusion of porches and several other non-stylistic features, but, for example, bay windows, changes in roof height and other façade offsets add construction costs to units that are meant to be affordable and decrease energy performance (impacting climate and operational affordability). Additionally, the choice of wood shingles for roofs or walls is problematic, as these are a fire hazard. More consideration could be given for alternative materials. We realize that applicants may go through a Type II variance application to avoid compliance with 5 out of the 15 features, but an alternative would be to reconsider the list of required features so that more developments could forgo the variance application, which increases development timelines, housing cost and inhibits design innovation.

3. Cottage Clusters
   We understand that the definition of a cottage is one home/house. However, if a duplex cottage (two units) can meet the maximum footprint of 900 sq. ft. and the massing (height, roof slope, etc.) requirements for a single cottage, we would advocate for the code to allow for that type of cottage within a cottage cluster.

We appreciate the consideration of these comments for inclusion in the proposed code updates.

Sincerely,

Wibke and Mark Fretz

From:	Lisa Batey
To:	_City Council; Vera Kolias; Laura Weigel; Steve Adams; Jennifer Garbely; Luke Strait
Subject:	food for thought on street design, density and parking requirements
Date:	Tuesday, December 21, 2021 10:28:37

All: [Scott, Vera, please add to comments for the housing/tree code package]

The discussion two weeks ago about the designs for the "Ardenwald North" streets, coupled with the upcoming discussions of the housing code, prompt me to send along three photos as food for thought ahead of those discussions. I hope we can find a good street design for Ardenwald North (or really Ardenwald Northwest), which does seem an area with the short streets that really work for thinking about pedestrians first, but how that works with discussions of reducing off-street parking creates a number of questions.

Although we have a 19th Avenue shared street (let's use that term that Jennifer Garbely used, rather than "woonerf," please) "design," so to speak, none of that has ever been built. As far as I know, we have only two short segments of alternative low-volume street which have been built -- one on Eagle Street in Island Station, and one off Stanley in Lewelling, near the Springwater Corridor path. And neither were built to the specifications we discussed in the 19th Avenue process. Attached is a photo of the former -- a one-block stretch which serves three homes all on the same side of the street (the WES plant property is on the other side). I actually find this curbless design problematic where, as here, it doesn't involve building a swale to catch run-off -- given the slope, we're encouraging road runoff down into a natural area. Moreover, both sides of the road are labeled to prohibit parking. The homes all have garages and driveways, so on a day-to-day basis, the parking restriction is not a big deal, apart from deliveries. But when one of them has guests, it becomes problematic, as the two adjacent blocks have little open on-street parking availability, either. The residents of the block get along, and normally give each other advance notice of any gatherings, but a busybody neighbor on 20th Avenue regularly calls the police if anyone parks on the road. It's not really clear to me why parking should be banned on *both* sides. On a street with homes on both sides, the prohibition would be even more problematic.

The other attached photos come from a friend's neighborhood in Camas. The lots are smaller than 5,000 square feet (my friend's is 3,400) and thus the driveways are very close together, leaving very little on-street parking. The homes in this area all have two-car garages and driveways which can hold two cars, but again, when people have visitors it becomes problematic, with cars blocking neighbors' driveways, increased police calls, etc. [As an aside, the streets are built with nice meandering curves, which does seem to have some traffic calming impact.]

Thanks,

Lisa


NO
PARKING



RS275



From:	Scott Stauffer
To:	Mark Gamba; _City Council; Vera Kolias
Subject:	RE: Proposed Draft Code
Date:	Tuesday, December 21, 2021 10:03:00

Good Morning – the email below and the attachments will be included in the record of the 12/21 WS.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
City of Milwaukie
p: 503.786.7502

From: Mark Gamba <mark@markgamba.com>
Sent: Tuesday, December 21, 2021 5:56 AM
To: Scott Stauffer <StaufferS@milwaukieoregon.gov>; _City Council <CityCouncil@milwaukieoregon.gov>
Subject: Fwd: Proposed Draft Code

Please add this to the record.

All the best,

Mark Gamba
971-404-5274

All typos courtesy of Android voice type.

---------- Forwarded message ---------
From: **Nile Hagen** <nilehagen@gmail.com>
Date: Mon, Dec 20, 2021, 6:44 PM
Subject: Proposed Draft Code
To: Mark Gamba <mark@markgamba.com>

Hi Mark,

Hope that you are well and thriving! I wanted to send a quick follow up because I believe you are going to be voting on the draft code tomorrow to finalize what is proposed and I know there is a possibility council will make some minor modifications when it votes. I sent you a quick email previously detailing some changes that could help people like me maximize the opportunity to add housing units to the region and I wanted to send a photo of a duplex a friend just finished in Wilsonville to give you a sense of how changing setbacks could practically impact future development. In context, I am referencing this document that was released on November 9th at the last planning meeting I could find.

https://www.milwaukieoregon.gov/sites/default/files/0.01_pc_packet_11.09.2021.pdf

Below is a photo of the duplex, which has approximately a 2,200 SF total footprint. As you can see, the front setback is six feet and the side is 5 with the rear being 8-10 feet. The proposed code in Milwaukie that I have seen would require 20 foot front setbacks, 15-20 foot rear and 5 foot side yard setbacks. In practice, those setbacks for a 1,500 SF townhome/attached housing unit would limit the size of footprint to 600 SF or 40% lot coverage even though 45% max coverage is allowed. It will similarly impact a 3,000 SF lot built as a single residence, where you will face similar challenges with lot coverage ratios and footprint sizing.

I completely understand the need for setbacks larger than the six feet shown in the photograph below, but I think that making the front setback 10-15 feet and the rear 10 feet would help all parties attempting to build the missing middle we all know is needed.

Relatedly, increasing the lot coverage percentages by 5-10% per housing type would also make it easier to add additional units moving forward.

I know how hard you and the city council have worked on this, so thank you for your efforts. Also, thank you for taking the time to discuss and to walk the Johnson Creek property. I look forward to seeing what is passed tomorrow and also to sitting down again after the holidays.

Thanks again for your time and I trust this finds you well.

Warmly,
Nile Hagen

--
Nile Hagen | Photographer
www.nilehagen.com

From:	Scott Stauffer
To:	Mark Gamba; _City Council; Vera Kolias
Subject:	RE: Thanks again for meeting
Date:	Tuesday, December 21, 2021 10:04:01

Good Moring Again – this one has also been added to the 12/21 WS record.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
City of Milwaukie
p: 503.786.7502

From: Mark Gamba <mark@markgamba.com>
Sent: Tuesday, December 21, 2021 5:59 AM
To: Scott Stauffer <StaufferS@milwaukieoregon.gov>; _City Council <CityCouncil@milwaukieoregon.gov>
Subject: Fwd: Thanks again for meeting

Please add this to the record.

All the best,

Mark Gamba
971-404-5274

All typos courtesy of Android voice type.

---------- Forwarded message ---------
From: **Nile Hagen** <nilehagen@gmail.com>
Date: Sun, Nov 21, 2021, 10:26 PM
Subject: Thanks again for meeting
To: Mark Gamba <mark@markgamba.com>

Hi Mark,

Thanks again for meeting me on site yesterday. I just sent Eli Spevak an email and I look forward to speaking with him this week. If you have time to send information about the proposals that LCDC is making regarding higher density and 9 story height limits that would also be appreciated. I searched on their website but have yet to find the relevant material.

Regarding the latest draft code, I have been reading the version released on November 9th, which I believe was the last to be presented.

https://www.milwaukieoregon.gov/sites/default/files/0.01_pc_packet_11.09.2021.pdf

I was going through the issues we discussed, namely the lot coverage ratios, required setbacks and parking minimums. When I look at pages 93/94 for lot coverage and required setbacks I believe they have remained the same at 35-45% and 20 feet for front and rear yards (save for the rear yards of townhomes).

On page 96/97 it appears to state that lot coverages may be increased by 10% for the primary story of a building but must conform to the lower percentage of lot coverage above the first story. While that is helpful, it would be even more helpful to allow for an extra 10% lot coverage for all stories of the structure.

When we look at our site, I think it would be very helpful to have an additional 5-10% lot coverage for missing middle housing types, and combining that possibility with shortened required front and rear setbacks (between 5-15 feet apiece, especially in the rear yard, as the front yard will allow for on site parking without a garage) would allow us more flexibility and higher density. Relatedly, I see an allowance for an additional 5% lot coverage for a detached ADU but it appears as though that allowance does not apply to attached ADUs.

Regarding parking, I read the new proposals on page 155 to require 1 spot per dwelling unit but on 157 and 158 there appear to be potential reductions for our site, particularly because it is located next to the bus line. That could allow for a 20% reduction and perhaps a bike parking area and some shared vehicles could allow for an extra 20% reduction.

I will continue reading through things to see what else might relate directly to our projects, and I thank you again for your time and conversation.

Thanks again and I hope this finds you well.

Warmly,
Nile Hagen
--
Nile Hagen | Photographer
www.nilehagen.com

Scott Stauffer

From: tbresaw50 <tbresaw50@gmail.com>
Sent: Thursday, January 13, 2022 10:10 PM
To: OCR
Subject: Tree code and parking standards

This Message originated outside your organization.

Hello!
I was on the Planning Commission for 8 yrs and understand the many hours in arriving at decisions and finding time to adequately study the proposed codes and the public comment. You (Tree Board, planning staff, city employees, Commission, Council) must weigh all comments and represent the citizens of Milwaukie.
It is easy to be idealistic and go along with trends and simplistic answers (i.e. trees can help with climate change, affordable housing should be available to all). But the comments of experienced people can temper the idealism with practical and realistic suggestions and should be carefully considered.
Specifically comments for Nov. 9th Planning Commission from Chris Ortolano, the author (and 63 others who signed along with other comments collected) need to be reviewed. Please read them carefully and respond to their points.
I really don't want a tree code as I am a gardener and can't afford more costs to maintain a house and yard along with taxes. We have trees and take pride in our yard. My pet peeve is poorly maintained yards with weeds and people who refuse to plant a tree. The proposed tree code does not address this; however, I could go along with the tree code if Chris Ortolano's suggestions were included. It is a compromise that some may be able to accept.
Other valuable concerns were made by Renee Moog, David Aschenbrenner, Elvis Clark, Gary Klein etc. I see very little response in addressing them.
Reducing parking down to 1 offsite parking is enough for now. On Monroe Street with many small lots and no curbs, parking is atrocious. In the Lake Road neighborhood there are people with 3 vehicles, trailer, and boats to park, so the overflow goes on the street. Unfortunately this overindulgence is an eyesore.
A few neighbors say the city will do what they want and they really don't care and city planners don't even live in the city. Please prove them wrong! If you can't respond to each comment then you are rushing the decision making process.
Facts about trees: Trees do not give off oxygen at night; deciduous trees do not give off oxygen during the winter; shrubs and grass give off oxygen in the daylight only. And yes trees are very important, but most of the oxygen comes from the ocean.
Landscaping which includes trees and all plants are to be encouraged and creating a beautiful environment is most important (more important than city code).
Also the tree code on private property will cost more taxes as there is always PERS to add in, since the fees will not cover this. Do we really need to grow city government?
There are problems like ivy and Himalayan blackberries that are ignored along water ways. Is the city addressing this?
Do think with the zoom meetings because of the virus you have not received the majority responses that likely would be against the tree code (private property that even city of Portland doesn't have) and reduction of parking spaces. This is unfair to our citizenry.
Sincerely
Teresa Bresaw

Sent via the Samsung Galaxy A51, an AT&T 4G LTE smartphone

To: Milwaukie City Council

From: Paul Anderson

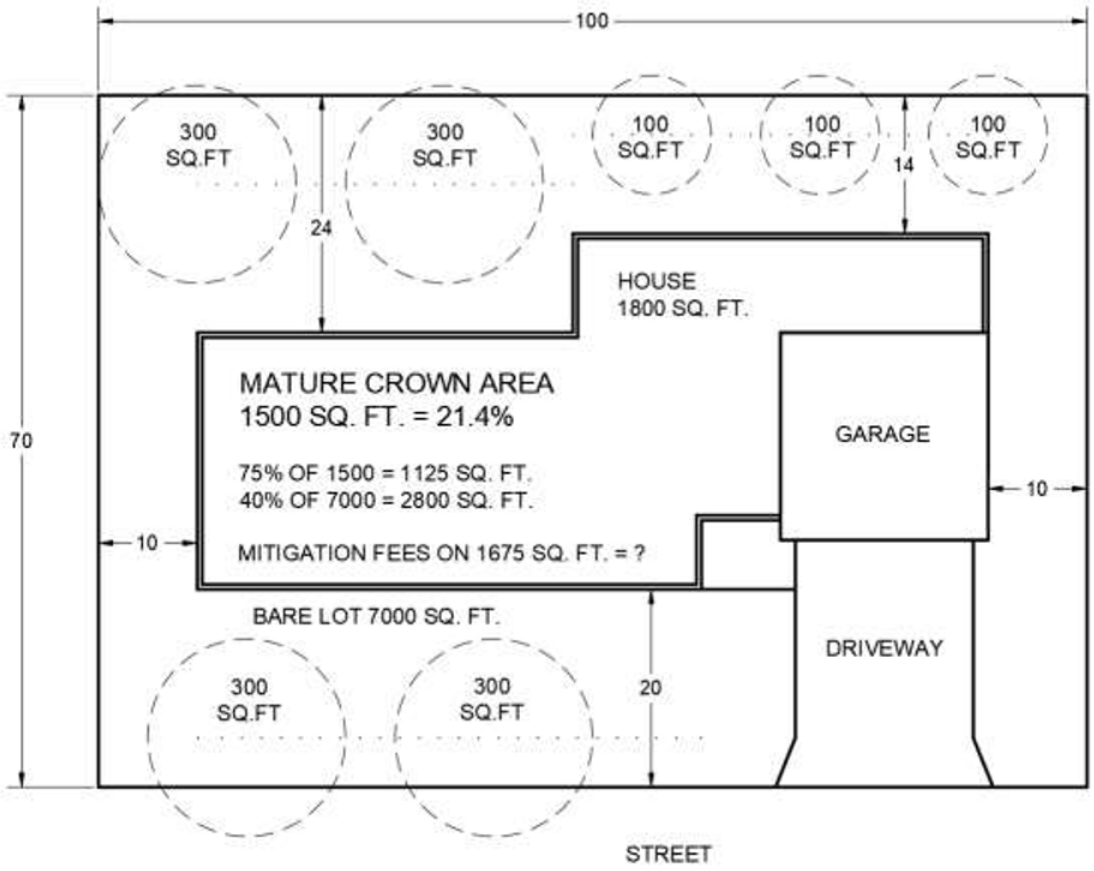
Date: 1/14/2022

Regarding: Proposed Tree Ordinance

When I read the proposed ordinance, I wondered where the 40% canopy goal came from and if it had been tested against reality. I decided to test it myself to see if it was workable.

The figure below is a scale drawing of an 1,800 sq. ft. one level home on a 7,000 sq. ft. lot. If the builder started with bare land (i.e. farm land) and followed table 16.32.042.H in the proposed code, the maximum mature crown area that would fit on the lot would be about 1,500 sq. ft. Because this would be new plantings, as per the proposed code, the builder would only get credit for 75% of the 1,500 sq. ft. which would be 1,125 sq. ft. The builder would therefore, as per the proposed code, have to pay mitigation fees on 1,675 sq. ft. (2,800 – 1,125) of the missing tree canopy.

Note that there is nothing unusual about this layout other than visually it appears to have too may trees. This is with only a 21% tree canopy. To get to a 40% tree canopy, you would have to double the number of trees, which would not be allowed based on table 16.32.042.H, and it would look like a forest.



As I have demonstrated, it is not possible to get to a 40% tree canopy on typical residential lots. Houses, garages, and driveways take up large portions of the lots, not leaving enough space to plant the number of trees required to get to a 40% canopy.

Milwaukie already has a 26% canopy. Trying to increase it by setting unobtainable requirements on residential development won't work. The city would get to collect a lot of mitigation fees, but it would never be able to achieve its 40% canopy goal. Hopefully that is not the real plan.

It is disturbing to think that no one took the time to see how the 40% tree canopy goal might work on paper, let alone in the real world. This ordinance will surely make new homes less affordable without any measurable benefit. It will also burden home owners with the costs and troubles of maintaining trees they may not have wanted in the first place.

I have looked at the 2014 City of Milwaukie Canopy Coverage map and can see that the only way to get to 40% coverage would be to focus on large open spaces. Though I don't know how the city could gain control of those spaces to plant more trees. Perhaps when these large spaces are turned into housing developments, large chunks of land could be set aside for urban forests or parks with ample trees. Another possibility would be to increase lot sizes to accommodate more trees, but that would conflict with the city's desire to increase housing density and put a burden on homeowners to maintain those trees.

Thank you for taking the time to consider my input.

Paul Anderson

4284 SE Somewhere Dr.
Milwaukie, OR 97222

Re: Written Testimony for **Agenda 7 B, Natural Gas Ban Resolution** and Agenda 8 A, Regular Session, January 18, 2021

Hello: Mayor Gamba, Council President Hyzy, and Councilors Batey, Nicodemus, Falconer; City Manager Ober and Natural Resources Manager Rogers

Please do not pass this Natural Gas Ban resolution, taking away a critical means of heating homes.

On March 8th, 2021, Mayor Gamba wrote me an e-mail in which he says at one point:

"I'm working with NWN to move towards green hydrogen, so we are not stopping natural gas infrastructure installation in new construction like other cities are doing."

I include this e-mail written to me (on the second page here-in).

This e-mail from the Mayor is prompted by written testimony I had submitted to Council after the City of Milwaukie like much of Clackamas experiences an Ice Storm knocking out power to many Milwaukie Homes, last February 2021. I wrote that maintaining **fuel diversity is of utmost importance, as without energy for space heating people can literally freeze to death and pipes freeze.**

The importance of fuel diversity for energy reliability is showing up most impactful in western Europe in the last year as western Europe experiences shortages of power and now the European Commission is considering qualifying conventional natural gas fuel power generation as part of meeting climate goals (New York Times, January 22, 2022).

Natural gas "fireplace" inserts (battery back-up ignition) were very helpful for keeping several of my neighbors warm in last February's Ice and snowstorm when their power is out. Natural gas is cleaner burning than wood in a wood stove, and the latter can cause serious particulate pollution when Milwaukie has inversions and air stagnates outdoors.

The operating cost of natural gas space heating is as much as 50% lower than the cost of electric resistance furnace space heating. The installation cost of natural gas furnaces is more than that of electric furnaces, but the payback for the lower operating cost natural gas furnaces is 5 years or less.

This resolution does not provide clarity as to whether natural gas stove top cooking and natural gas fireplace inserts are to be banned in new construction and dissuaded in existing homes after the year 2035.

I believe this Resolution is potentially very costly to Milwaukie Residents, and reflective not of free choice but socialistic planning. Even now, the oil and natural gas industries are researching ways to separate hydrogen from oil in oilfields, leaving in ground CO 2 and other greenhouse gases while drawing out hydrogen fuel. Prescribing one method only for obtaining perceived environmental benefits – like this Resolution intends – squashes innovative ways to achieve the intended environmental benefits while unnecessarily increasing the costs of operating a home and compromising peoples' ability to survive electric power blackouts. Additionally, it will leave Milwaukie families dependent on one utility (PGE) instead of two competing utilities (PGE & Northwest Natural) for home energy services.

p.s I have no financial interest in natural gas utilities, but just am wanting to have continued availability to the low cost of natural gas for heating my home.

Sincerely,
Elvis Clark
Ardenwald neighborhood
Milwaukie 97222

E-Mail full text from Mayor Gamba to me:

On Monday**, March 8, 2021, 10:18:54 AM PST, Mark Gamba <gambam@milwaukieoregon.gov> wrote**:

"Hi Elvis, you keep talking about walking and biking infrastructure as something we should focus on instead of other climate work. You must not be familiar with the SAFE program. Milwaukie is in the third year of major bike ped infrastructure investments that will take place over 9 years or so. When we are done with that project list, we will have the most bikeable and walkable city in Oregon. So - for all intents and purposes - what you are asking for is done at the council level.

I'm working with NWN to move towards green hydrogen, so we are not stopping natural gas infrastructure installation in new construction like other cities are doing. Taking the cities funds out of fossil fuel stocks has nothing to do with whether homes in Milwaukie will have another energy source. By the way, lots of people with NG furnaces were cold during the power outage because the fans that push that heat out are electric. We need to harden the electric system for the coming storms, not move everything to NG which only works a little with no electricity.

I would think you would be more interested in the municipal bank concept that would save the city millions in interest rates on our infrastructure bonds and loans. "

Sincerely,
Mark Gamba
Mayor of Milwaukie
971-

_____

I now move onto Agenda 8 A

Agenda 8 A, Tree Code. I Oppose the 6 inch threshold as too narrow.

I continue to believe the 6 inch diameter (DBH) threshold should be raised to 12 inches, in the case of private property not planned for development. Enforcement of such a narrow threshold will be much more half-hazard, highly dependent on uncordial neighbors turning on each other ("ratting out your neighbor").

6 inch threshold like so much of our governance these days seems based on idealism rather than realism/practicality.

Dear City of Milwaukie City Council members,

While I support the City's goal of attaining a 40% tree canopy, I feel the current plan places all of the responsibility and burden, including financial on individual property owners. These properties have contributed less to canopy loss than multi-unit apartment complexes, commercial, industrial, and City/County properties, all of which have had a considerable larger negative impact on our tree canopy than individual residential properties. Most of those entities also received tax breaks or incentives when they developed their properties, which in turn that loss of tax revenue has been passed onto individual residential tax payers. Many of these multi-unit apartment complexes and commercial and industrial businesses are making record profits, as can been seen by the current crisis of quickly escalating

mortgage and rent prices and rising cost of services from surrounding businesses. Considering the most egregious properties with little or no tree canopy are these multi-unit apartment complexes, commercial and industrial lots, and some City/County properties, it seems a misplaced effort for the City to now focus, at least initially, it's attention on individual residential property owners and not the properties that make up the majority of low-canopy lots. There are several ways these more offending properties can be "retro-fitted" to increase tree canopy on their properties. These include eliminating pavement in parking areas to include more trees, installing tree medians in 4 lane highways and other locations, planting trees on all public City/County land, and ensure the City of Milwaukie stops decreasing existing tree canopy as has been done in Kronberg Park, the small parks around the Post Office on Main St.,

and the other places the City unnecessarily eliminates trees. These are only a few examples that the most offending properties can implement in helping with the goal of a 40% tree canopy. As I pointed out, these properties received tax breaks/incentives and many are making record profits. I believe most Milwaukie citizens would prefer to see the responsibility of meeting climate goals via tree canopy be shared equally and fairly among all property owners. And while individual residential property owners will also need to address these issues, it seems unfair and even ill-advised to solely place the responsibility and burden on this group, as it does nothing to address the glaring multi-unit apartment complexes, commercial and industrial lots, and City/County properties that do not meet a 40% tree canopy. Therefore, I ask the City Council to reject this proposal until such a time as there is a plan to

address tree canopy for all types of properties in the City of Milwaukie.

I would like the City Council to consider increasing the size of tree a property owner is allowed to cut without a permit to 12 inches DBH. There are too many very fast growing species of tree that quickly surpass 6 inches, often leaving property owners with trees such as Douglas Fir and Cherry species to name just a couple, that are planted far too close to houses and other infrastructure before they even realize they have a problem on their hands.

By and large the residents of Milwaukie love their trees, and support the overall goal of the proposed percentage of canopy. Personally, I have planted dozens of trees on the property where I live, and as a landscaper I frequently encourage others to plant trees and other plants for

many reasons, including addressing climate. However, I would prefer to see all properties share in the responsibility in achieving the goal of a 40% tree canopy, including those properties with the least canopy, and would prefer to see those properties addressed first since they appear to most contribute to our canopy loss, benefited financially with tax incentives, and are making record profits.

Sincerely,

Anthony Allen
City of Milwaukie resident

Christopher and Ruth Burkett

January 18, 2022
Milwaukie City Council

The proper function of government is the preservation of property, not the taking of property.

Private ownership of property is the very foundation of freedom. These proposed changes subjugate our private property ownership and take away freedoms which are guaranteed by the Constitution of the United States.

Let us not be under any illusions. When individuals are harmed through bureaucratic depredation, society is harmed. "The public" is merely a group of individuals. The idea that "the public interest" supersedes private interests and rights only means that the interests and rights of a group of individuals takes precedence over the interests and rights of another group. You cannot harm individuals and claim a greater good for society.

We will be heavily impacted and harmed if these regulations are approved. With the help of ISA certified arborists, we have carefully maintained hundreds of trees on our two properties for over twenty years. We have planted many new trees, integrating new trees into a mature landscape, with plans based on 20, 50 and 100 year time frames.

It is crucial for us to be able to make our own aesthetic and practical decisions to insure a cohesive and healthy landscape in accordance with our long range plans. This is utterly prohibited under these regulations, as our aesthetic decisions and long range design plans are specifically excluded from consideration. Our idyllic properties and our quality of life will be seriously harmed if these regulations are approved. No good can come from this.

Therefore, we do not consent to your claim of authority of our forested land. We ask you to permit us to continue to live undisturbed on our land, at peace with our neighbors and in harmony with nature. It is not too much to ask, yet we know our request will fall on deaf ears.

Our property rights and individual freedoms are not compatible with your partisan ideologies. Milwaukie has moved from the kind and neighborly view of "Live and let live" to "Force all to comply with our agenda and use whatever means necessary to achieve our goals." It permeates these new regulations and the penalties therein.

Subjugation of people by force has never been a force for good, no matter the intent.

Sincerely,

Christopher Burkett
Ruth Burkett

4512 SE Ryan Court, Post Office Box 22108, Milwaukie, Oregon 97222 • (503) 970-2309

Scott Stauffer

From: Virginia Seitz <virginiaseitz84@yahoo.com>
Sent: Tuesday, January 18, 2022 5:44 PM
To: OCR
Subject: Tree Ordinance

This Message originated outside your organization.

I would like to provide this testimony. My husband planted at least 12 on our acre here in Milwaukie about 40 years ago. He has a portable sawmill and has planned on logging the wood from these trees for use on the sawmill. He makes boards that are in big demand right now.

We would like to request that the Council create an exception process from the usual code requirements that would apply when someone has planted trees with commercial intentions.

Virginia and Don Seitz
4591 SE Logus Road
Milwaukie, OR 97223

503-348-9307

Sent from my iPhone

To: Milwaukie City Council

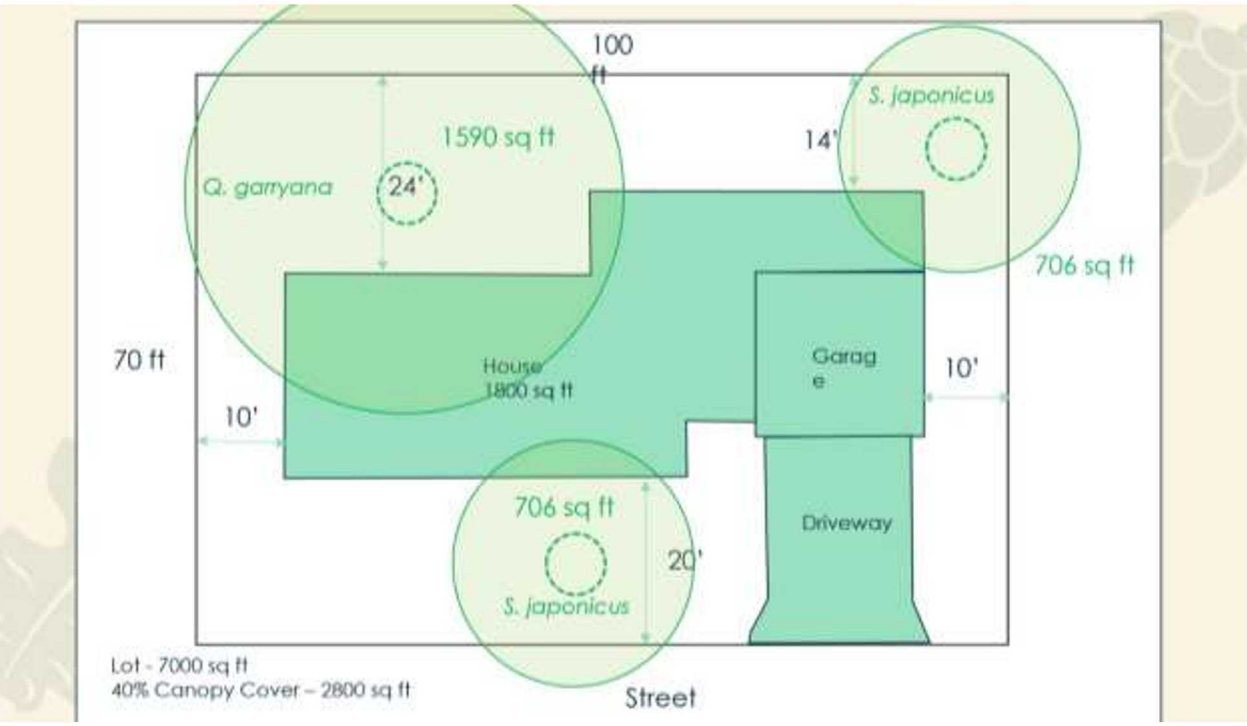
From: Paul Anderson

Date: 1/19/2022

Regarding: Proposed Tree Ordinance

I watched last night's city council meeting regarding the proposed tree ordinance and was greatly disappointed. First, by allowing representatives of outside special interest groups to hijack the meeting for an hour to promote their agenda, it took away the ability of actual Milwaukie citizens to voice their opinions on the main purpose of the meeting, which was to discuss the proposed tree ordinance. Those people should have been told that they are welcome to send their comments to the city council but that speaking time is reserved for actual Milwaukie residents.

Second, the drawing that I sent you last week was altered by staff and used in a way that was misleading. The total canopy area meets the 40% criteria, but based on the requirements of Table 16.32.042.H, the trees would not be allowed to be put in the locations shown. It appears the staff chose to ignore the table in order to give the impression that it would be easy to get to a 40% canopy.



The tree in the upper left is a large stature tree and must be placed at least 20 feet from the house. While it would be technically possible to do this by putting it 4 feet from the back property line, it would

prevent the lot behind from having any trees within 35 feet of it, depriving that lot of the ability to meet the 40% canopy requirement.

The tree in the upper right is either a medium or large stature tree which requires a minimum 15 or 20 ft setback from the house. Since the house is only 14 ft from the back property line and 10 ft from the side, it can't be placed there.

If the tree in the front yard is a large stature tree, then it can't be placed there since it would need to be 20 ft from the house and 4 ft from the street or sidewalk. This would leave the lot with just the one large tree in the back yard, resulting in a canopy of just 23%.

If the tree in the front yard is considered a medium stature tree, it would have to be placed 15 ft from the house, which places it within 5 ft of the street, where most utilities are run, which may not be allowed either. If it is allowed, then the total tree canopy would be 33%, still less than the 40% required.

I say "if" regarding the stature of the front yard tree because the proposed ordinance does not define the sizes of small, medium, and large stature trees. This needs to be fixed.

Here is another example of staff ignoring Table 16.32.042.H.

Residential Development – Canopy Standards

- Tree canopy goals of 40% canopy cover by 2040
- Canopy standards ensure **intentional preservation and planting** on development sites to achieve canopy goals
- 40% tree canopy coverage required on completed development sites through **existing tree canopy** or through **future mature canopy of new plantings**
- Mitigation is performed if unable to meet canopy standards



Tree Location	% Canopy Credit
Existing onsite	100%
Planted onsite	75%
Existing ROW	50%
Planted ROW	50%

10% Site Canopy after Removal

- 7000 sq ft lot
- 700 sq ft existing canopy
- Needs 2800 sq ft to meet canopy standard

New plantings:
2 white oak
2000 sq ft at maturity
x 75% Canopy Credit
x 2 trees
= **3000 sq ft canopy credit**

3700 total site canopy coverage
52.8% Final Canopy Coverage

Alternatively…
1 Oak @ 1500 sq ft credit
2200 total site canopy coverage
600 sq ft mitigation required

The proposed locations of the two new trees are less than the required 35 ft apart, and the lower one is less than 35 ft from the existing tree. There really is only room for one new large stature tree on this lot, not two, giving it a total of only 2200 sq. ft. which means they would have no choice but to pay mitigation fees.

As I stated in my letter last week, it is disturbing to find out that no one took the time to determine if the 40% canopy goal is obtainable on residential developments. The first drawing is just theoretical and shows that the 40% goal is iffy at best. The second example shows again that 40% is probably not possible.

This should not be the end of the discussion. Have the staff pull up the plans for the Cereghino Farms development off of Lake Road and, using Table 16.32.042.H and proper setbacks for utilities, have them show you how much of a tree canopy can be achieved in a real residential development. I predict that it will be less than 26%, which is what the current tree canopy is in Milwaukie, showing that the 40% goal is unrealistic and therefore not legitimate.

Thank you for your time. I look forward to your response.

Paul Anderson

Scott Stauffer

From: Lisa Batey
Sent: Wednesday, January 19, 2022 4:57 PM
To: Scott Stauffer; _City Council
Subject: Fwd: Regarding the Natural Gas Ban

Scott, please add to the record. I also see only four council members copied, so copying all.

Sent from my iPhone

Begin forwarded message:

> **From:** Alex <milleralex972@gmail.com>
> **Date:** January 19, 2022 at 4:21:13 PM PST
> **To:** Mark Gamba <GambaM@milwaukieoregon.gov>, Angel Falconer <FalconerA@milwaukieoregon.gov>, Lisa Batey <BateyL@milwaukieoregon.gov>, Kathy Hyzy <HyzyK@milwaukieoregon.gov>
> **Subject: Regarding the Natural Gas Ban**
>
> Mayor Gamba and City Council members,
>
> My name is Alex. I recently moved back to the area after spending 10 years in the Navy. I am in the process of renovating my childhood home. I love some of the changes I have seen in our city. I love the new sidewalks along Lynwood between King Rd, and SE Harmony Rd. I remember walking to Great American Video as a kid and having to walk in the ditch, so the sidewalks are fantastic.
>
> I was sad to see many tall trees being cut down, and was immensely excited about your action to save our community's large trees from further destruction. Thank you for doing that. I understand that you are taking actions to reduce pollution and improve our community's environment, and that involves meeting goals in line with a Climate Action Plan.
>
> I am emailing you today not just to thank you for what was mentioned above, but to ask you to reconsider the banning of new natural gas construction. One aspect of why I believe the natural gas ban would be a mistake has to do with emergency preparedness and response. During the last big ice storm many people relied on natural gas to heat their homes when electricity could not. I am concerned that enacting this proposal would negatively impact our communities ability to ensure residents can heat their homes during such events.
>
> More prominently I have known Milwaukie as a blue collar town, then and now. My neighbors are union plumbers, painters, electrical workers...etc. Banning new natural gas construction would increase home heating costs and price out the very people who have made this community a home for so long. Many of my neighbors' families are working multiple jobs just to afford to keep things going. Raising heating costs will only worsen these problems. Please do not forget the people who make Milwaukie home.
>
> I understand the importance of action to protect our environment. While deployed at sea I saw how much plastic has inundated our oceans, and know that action must be taken. However In our pursuit to make these improvements we have to be careful of how these changes could do harm. Please reconsider the natural gas ban. Thank you for your time.

- Alex Miller



Virus-free. www.avast.com



Comprehensive Plan Implementation Project – Proposed Code Amendments

City Council Hearing #1

January 18, 2022

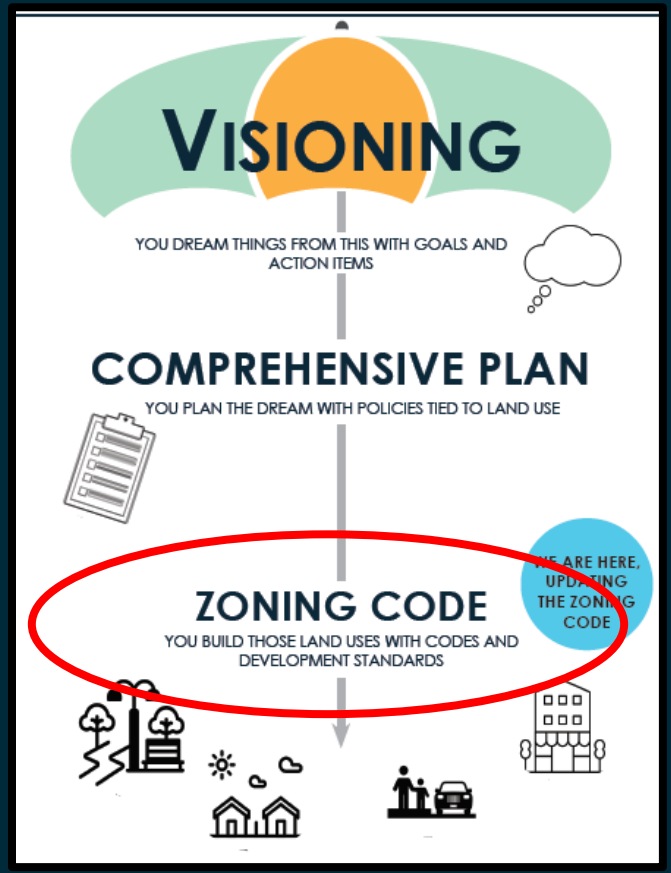
Natalie Rogers, Climate and Natural Resources Manager

&

Vera Kolias, Senior Planner

Project Background

- Implements Comprehensive Plan update
  - Update adopted August 2020
- Implements Oregon House Bill 2001 (HB2001)
  - Expanded housing options
- Focus: Housing, Trees and Parking

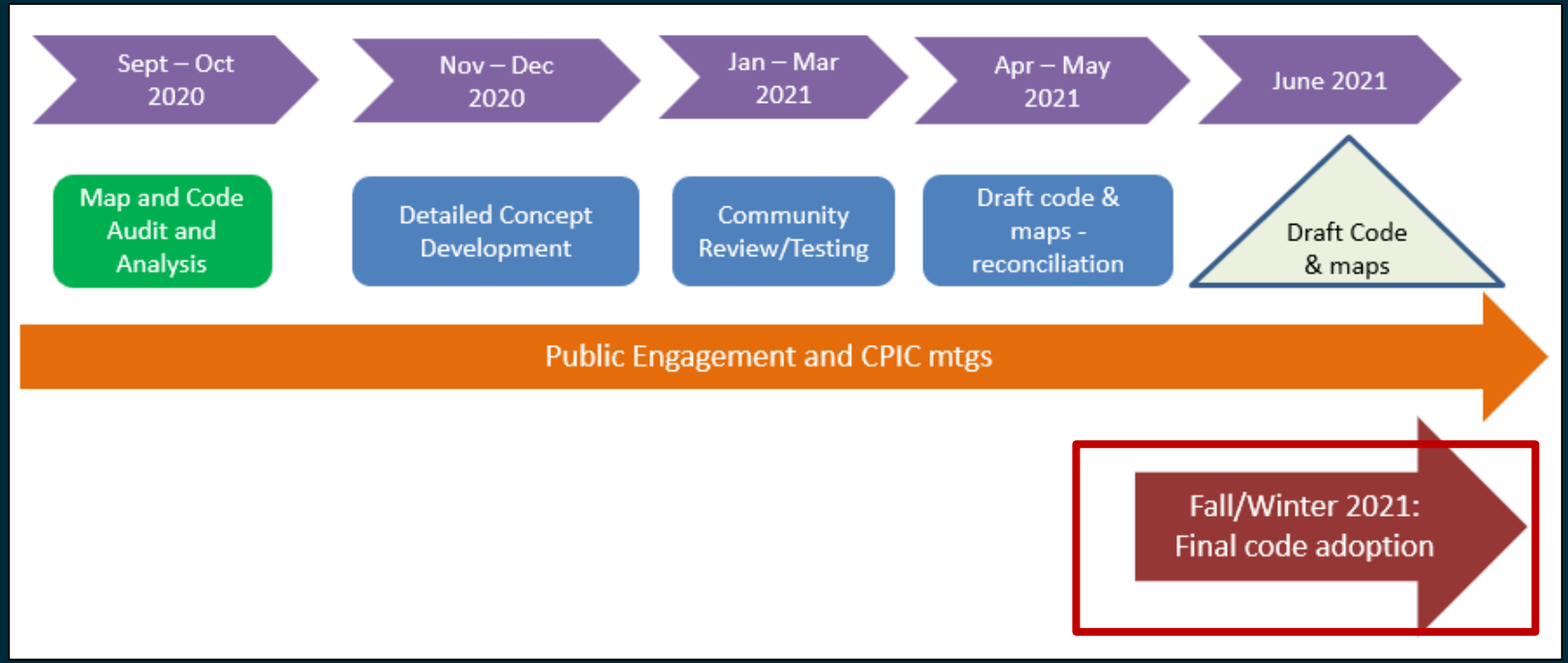


Comprehensive Plan - Policy Mandates

- Increase supply of middle housing; provide housing choice
- Increase the tree canopy and preserve existing trees; support the goal of 40% tree canopy
- Manage parking to enable middle housing and protect trees



Project Process



Work Sessions

Planning Commission

Project Updates	Code Review
Oct. 27	Aug. 5
Nov. 24	Aug. 10
Jan. 12	Aug. 24
Feb. 23	
Mar. 23	
Apr. 27	
May 25	
June 8	
July 13	

City Council

Project Updates	Code Review
Dec. 1	Dec. 21
Jan. 19	Jan. 4
Feb. 16	
Apr. 6	
Apr. 20	
May 11	
June 15	

PC Code Review Schedule

October 12: Middle housing and parking

- Take public testimony; Deliberate; Continue hearing

October 26 : **Middle housing and parking**

- Address lingering questions from tonight; Take public testimony; Deliberate; Continue hearing

November 9: **Development-related Tree Code**

- Recommendation to Council
- Vote 5-2 to recommend approval

CC Code Review Schedule

TONIGHT: Hearing #1: Tree Code

February 1: Hearing #2: Tree Code and Fees - Adoption

February 15: Hearing #3: Middle Housing & Parking

March 1: Hearing #4: Middle Housing & Parking - Adoption

Public Engagement – Summary of Activities

- Project webpages (City of Milwaukie and Engage Milwaukie)
- Pilot newsletter articles: 12 articles
- CPIC meetings: 9
- Stakeholder interviews: 32 interviews in October
- Virtual open houses: 3 (English and Spanish)
- Community Surveys: 2 (English and Spanish)
- Email blasts and social media posts
- Handouts (English and Spanish)
    - Library, Farmers Market, Hillside, Wichita Center, Northwest Housing
- Neighborhood District Association (NDA) presentations
- Small group discussions (in both Spanish and English)
- Tree Board meetings (numerous)
- Planning Commission and City Council monthly updates
    - 3 Planning Commission code work sessions in August

Public Engagement – Public Hearings

- 9/1 – 35-day public notice
  - Project webpages, Email blast, Executive Summary posted, City social media
- 9/22 – 20-day notice
  - Email blast, Mailed postcard to all residential and business properties (English and Spanish)
- 9/28 – presentation to Milwaukie Rotary
- NDA's: Materials send to each NDA in September
- 10/6 and 10/20: Measure 56 notice mailed re: Tree code
- 12/16 – 30-day hearing notice
  - Engage Milwaukie, Email Blast
- 12/28 – CPIC and NDA update email; Engage Milwaukie updates
- 1/12 and 1/13 – email blast; City social media
- 2/1 – Pilot article

Comprehensive Plan - Policy Mandates

- Increase supply of middle housing; provide housing choice
- Increase the tree canopy and preserve existing trees; support the goal of 40% tree canopy
- Manage parking to enable middle housing and protect trees



QUESTIONS?



Residential Tree Code

urbanforest@milwaukieoregon.gov

503-786-7655

Milwaukieoregon.gov/trees

Trees in Milwaukie's Comprehensive Plan

2017



2018



2019

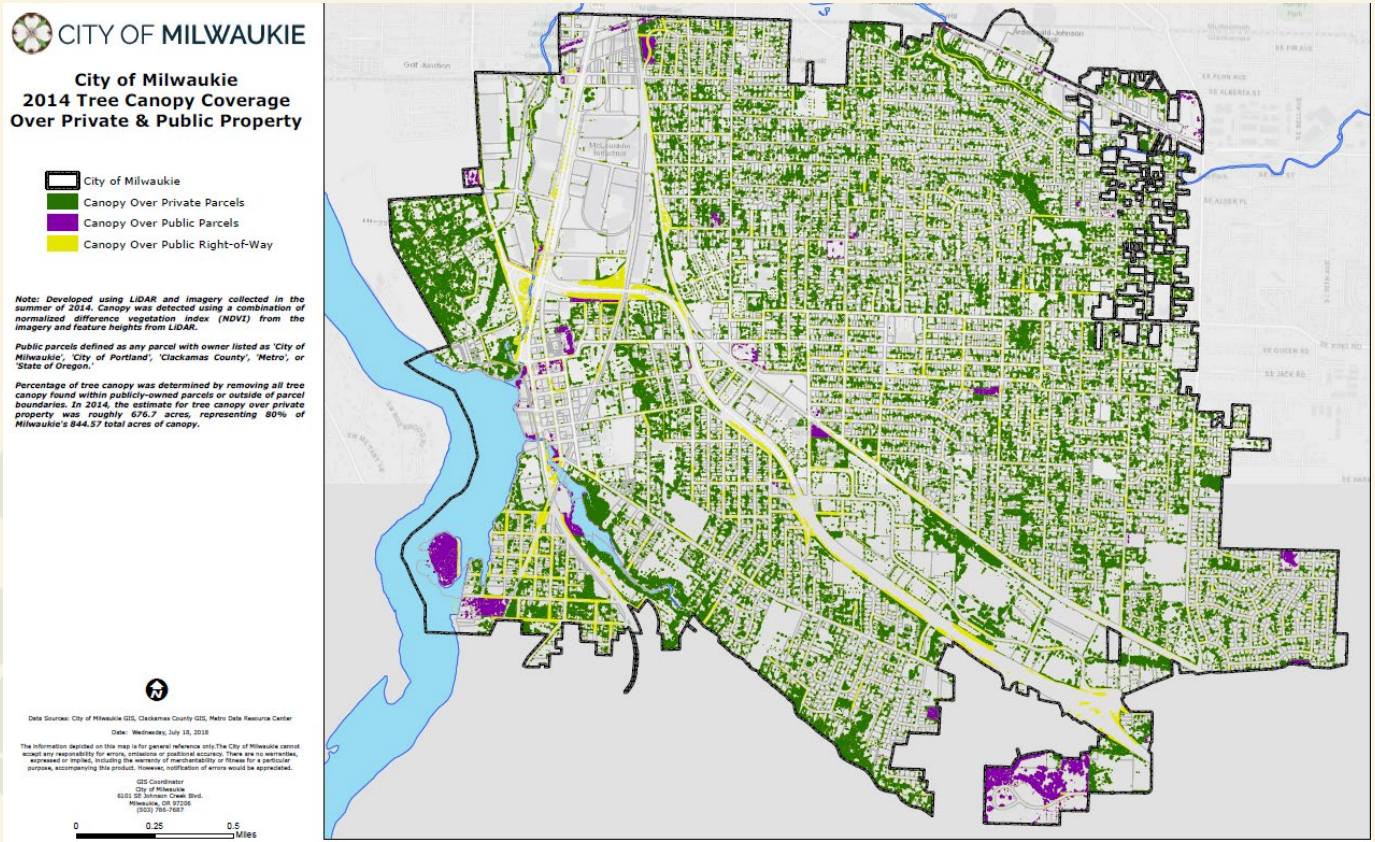


"In 2040, Milwaukie is a flourishing city that is entirely equitable, delightfully livable, and completely sustainable…. Milwaukie nurtures a verdant canopy of beneficial trees, promotes sustainable development, and is a net-zero energy city."
– Milwaukie 2040 Community Vision

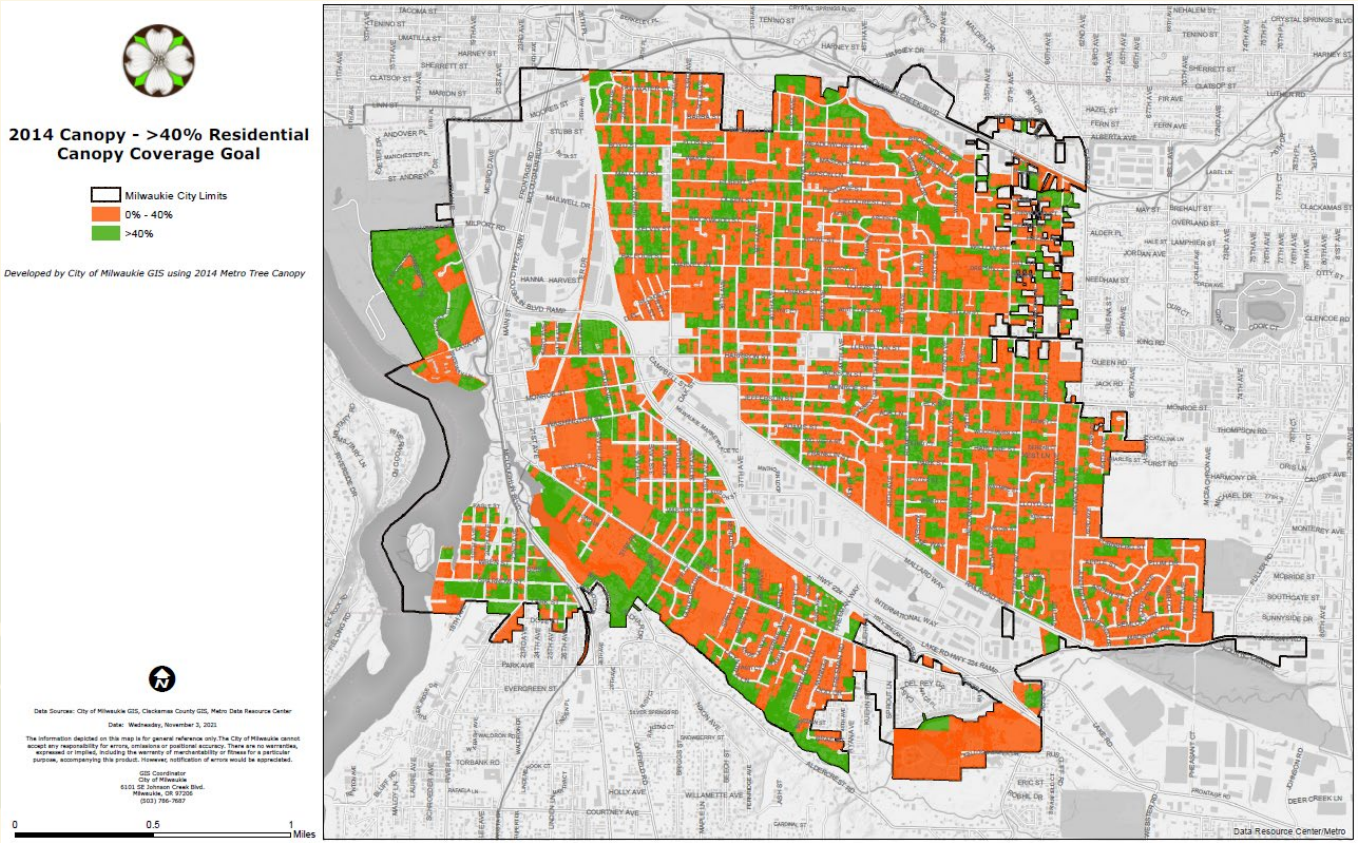


2020

Why 40% Canopy Cover?



Why 40% Canopy Cover?



Pacific Northwest Continues to Bake Beneath 'Heat Dome'

A wave of ocean air provided some relief after Portland, Ore., reached 116 degrees on Monday. Temperatures reached the 90s there on Tuesday, forecasters said.



SCIENCE ENVIRONMENT

Salem Issues Another Drinking Water Advisory Over Cyanotoxins

By **Ericka Cruz Guevarra** (OPB)
Portland, Ore. June 6, 2018 10:53 a.m.

UPDATE (1:40 p.m. PT) — Salem has issued yet another drinking water advisory Wednesda the city's vulnerable populations – just four days after lifting an initial advisory that prompted Kate Brown to issue an emergency and activate the National Guard.

Milwaukie issues local state of emergency, bans fireworks due to heat, wildfire risk

by KATU Staff | Wednesday, June 30th 2021

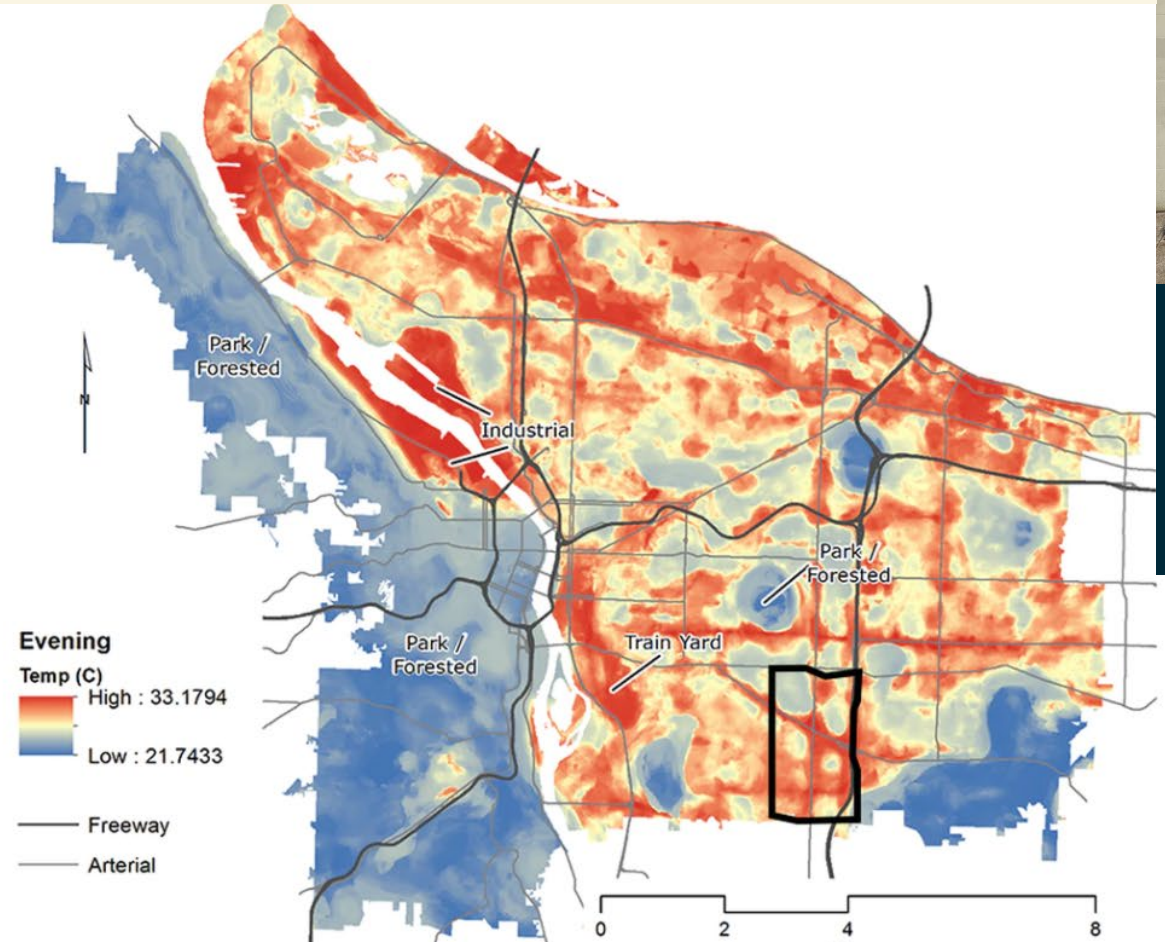


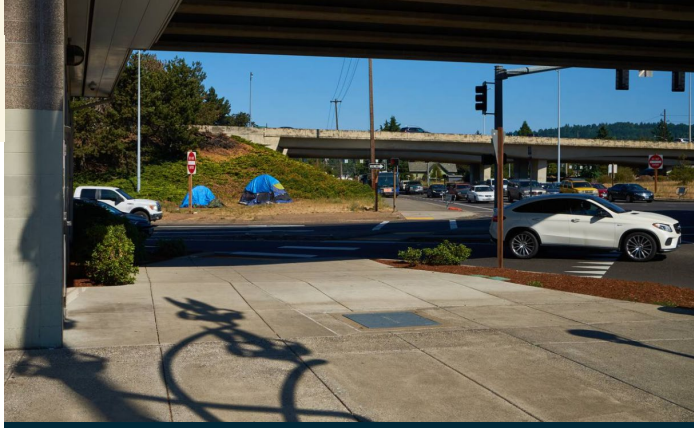
Clackamas County cooling centers open for heat relief

Jaelen Ogadhoh July 30 2021

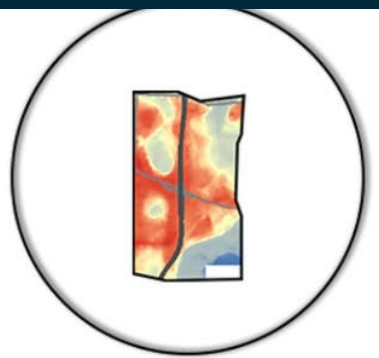
17 locations are open countywide for residents wanting to escape this weekend's high temperatures

Shandas Heat Map HOT SPOT: Shandas' map showing the hottest areas of Portland during the evening. The inset shows ZIP code 97266, where Shandas found the hottest temperatures in Portland





At about 4 pm, the temperature in the air was **124 degrees**. That was 9 degrees hotter than the city's average, and 25 degrees higher than what Shandas measured in Northwest Portland. And the **sidewalk was superheated to 180 degrees**. Walking on it barefoot would give you third-degree burns. *wweek.com/news/city/2021/07/14/this-is-the-hottest-place-in-portland/*











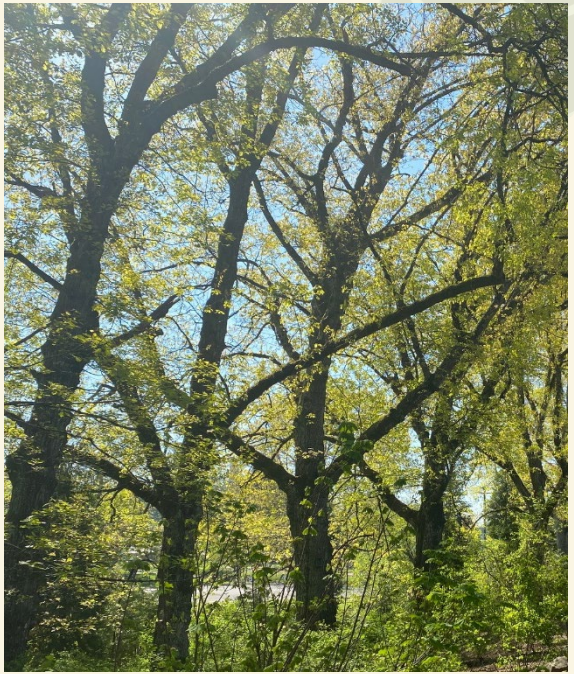
Residential Non-Development

Tree removals not related to development

- Landscaping
- Tree-specific removals

Permit required for removal if tree DBH >6”

- Type 1 Permit for streamlined approval standards
- Type 2 Permit for multiple removals or removals not meeting Type 1 standards
- City Manager Appeal Process



Residential Non-Development

Permit required for trees* >6" diameter at breast height (DBH)

Type 1 Tree Permit

- Dead/dying/diseased
- Unmitigable infrastructure impacts
- Public safety risk
- Invasive
- Fire hazard
- Public transportation ROW projects
- Utility infrastructure or building permit
- One Healthy Tree per Year <**12**" DBH

Type 2 Tree Permit

- Healthy tree >12" DBH
  - *Public notice required*
- More than one healthy tree >6"DBH approved through type 1 removal

Replanting Requirements

- Replanting requirement for type 1 and type 2 tree removals
- Additional replanting inches required for Type 2 >18" DBH tree removal
- Exemption for invasive tree removal or approved thinning removal
- Fee-in-lieu of replanting option available

Agricultural Trees exempted from tree code?











Residential Development

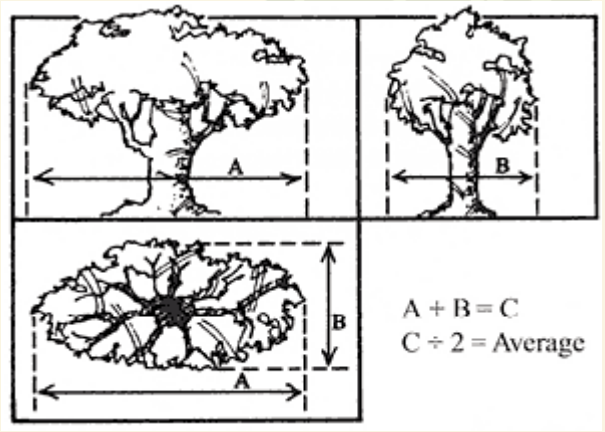
- Tree removals and preservation related to development
  - Land Divisions
  - Construction of new residential dwelling units*
- Key standards
  - Preservation Standards
  - Canopy Standards
  - Protection Standards
  - Soil Volume Standards



Canopy Measurements







Common Name	Family	Growth Type	Species Type	Street Tree	Native Tree	Drought Tolerant	Moist Soil	Utility Safe	Root Damage	Mature Height (feet)	Mature Width (feet)	Mature Canopy Area	Annual Growth Height	Annual Growth Width	Average Growth Rate	Est 20 year Canopy (sq ft)	Longevity (if available)
Glossy Abelia	Caprifoliaceae	Shrub	Deciduous	No	No	No	No	No		6	6	28.27431			Rapid		Moderate
Silver Fir	Pinaceae	Tree	Evergreen	No	Yes	No	No	No		100	15	176.71444	6-12 inches	4-6 inches	12-24 inches/season	110	>150 years
White Fir	Pinaceae	Tree	Evergreen	No	Yes	No	Yes	No		120	15	176.71444	6-12 inches	4-6 inches	12-24 inches/season	110	>150 years
Grand Fir	Pinaceae	Tree	Evergreen	Yes	Yes	No	Yes	No		200	20	314.159	12-18 inches	8-12 inches	24-36 inches/season	240	>150 years
Subalpine Fir	Pinaceae	Tree	Evergreen	No	Yes	No	Yes	No		90	15	176.71444	2-4 inches	2-3 inches	12 inches/season	50	>150 years
Noble Fir	Pinaceae	Tree	Evergreen	No	Yes	No	Yes	No		200	20	314.159	12-18 inches	8-12 inches	24-36 inches/season	240	>150 years
Hedge Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	Yes	Low	35	25	490.87344			12 inches/season		40-150 years
Queen Elizabeth Hedge Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	Yes	No	Low	50	25	490.87344			12 inches/season		40-150 years
Japanese snakebark Maple	Sapindaceae	Tree	Deciduous	No	No	No	Yes	No	Low	35	35	962.11194			24 inches/season		40-150 years
Vine Maple	Sapindaceae	Both	Deciduous	No	Yes	No	Yes	No	Low	25	20	314.159	12-24 inches	12 inches	24 inches/season	240	40-150 years
Scarlet Sentinel Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	No		40	20	314.159			24 inches/season		50-150 years
Paperbark Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	Yes	Yes	Low	25	15	176.71444			12-24 inches/season		40-150 years
Bigleaf Maple	Sapindaceae	Tree	Deciduous	No	Yes	Yes	Yes	No		75	30	706.85775	36 inches	24 inches	36 inches/season	480	>150 years
Greencolumn Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		50	20	314.159			12-24 inches/season		50-150 years
Japanese Maples(s)	Sapindaceae	Both	Deciduous	No	No	No	Yes	Yes	Low	25	30	706.85775			12-24 inches/season		50-150 years
Columnar Norway Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		50	15	176.71444			12 inches/season		
Parkway Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		45	15	176.71444			12 inches/season		50-150 years
Crimson Sentry Maple	Sapindaceae	Tree	Deciduous	No	No	Yes	Yes	No		25	15	176.71444			24 inches/season		50-150 years
Emerald Queen Norway Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	No		50	40	1256.636			36 inches/season		50-150 years
Globe Norway Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	Yes	Low	25	25	490.87344			12-24 inches/season		
Red Maple	Sapindaceae	Tree	Deciduous	No	No	Yes	Yes	No		65	40	1256.636			36 inches/season	315	50-150 years
Armstron red maple	Sapindaceae	Tree	Deciduous	No	No	Yes	Yes	No		50	15	176.71444			36 inches/season		50-150 years
Bowhall Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	No	Low	50	15	176.71444	18-24 inches	9-12 inches	24 or more inches/season	129	50-150 years
Franksred Red Sunset Maple	Sapindaceae	Tree	Deciduous	No	No	No	No	No		45	35	962.11194			24 or more inches/season		50-150 years
Karpick Red Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	Yes	No		45	20	314.159			12-24 inches/season		50-150 years
Sugar Maple	Sapindaceae	Tree	Deciduous	No	No	No	Yes	No		50	35	962.11194			24-36 inches/season	315	>150 years
Bonfire Sugar Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	Yes	No		65	35	962.11194			24 inches/season		100-175 years
Commemoration Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		50	35	962.11194			24 inches/season		50-150 years
Green Mountain Sugar Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	No		40	35	962.11194			24-36 inches/season		50-150 years
Shantung Maple	Sapindaceae	Tree	Deciduous	No	No	No	Yes	Yes	Low	25	30	706.85775			24-36 inches/season		50-150 years
Keithsform Pacific Sunset Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		35	25	490.87344					
Warrenred Pacific Sunset Maple	Sapindaceae	Tree	Deciduous	Yes	No	No	No	No		30	25	490.87344	18-24 inches	12-18 inches		352	
Autumn Blaze Maple	Sapindaceae	Tree	Deciduous	Yes	No	Yes	Yes	No		55	30	706.85775			24 inches/season		

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Residential Development – Preservation Standards

- Established to protect existing trees on site
- No breakdown of species priority besides additional fees for removal of rare or threatened species
- Invasive species not included
- Mitigation required if removing past 30% onsite canopy (20% for affordable housing)

New Canopy Coverage	Mitigation Fee
<30% - 22.5%	$
<22.5% - 15%	$
<15% - 7.5%	$
<7.5% - 0%	$



30% Existing Site Canopy
Removal of tree
24% site coverage
Ex. 1 x $ Mitigation Fee



50% Existing Site Canopy
Removal of tree
20% site coverage
Ex. 2 x $ Mitigation Fee



90% Existing Site Canopy
Removal of 3 trees
70% site coverage
Ex. No Mitigation Fee

Residential Development – Canopy Standards

- Tree canopy goals of 40% canopy cover by 2040
- Canopy standards ensure **intentional preservation and planting** on development sites to achieve canopy goals
- 40% tree canopy coverage required on completed development sites through **existing tree canopy** or through **future mature canopy of new plantings**
- Mitigation is performed if unable to meet canopy standards



Tree Location	% Canopy Credit
Existing onsite	100%
Planted onsite	75%
Existing ROW	50%
Planted ROW	50%

10% Site Canopy after Removal

- 7000 sq ft lot
- 700 sq ft existing canopy
- Needs 2800 sq ft to meet canopy standard

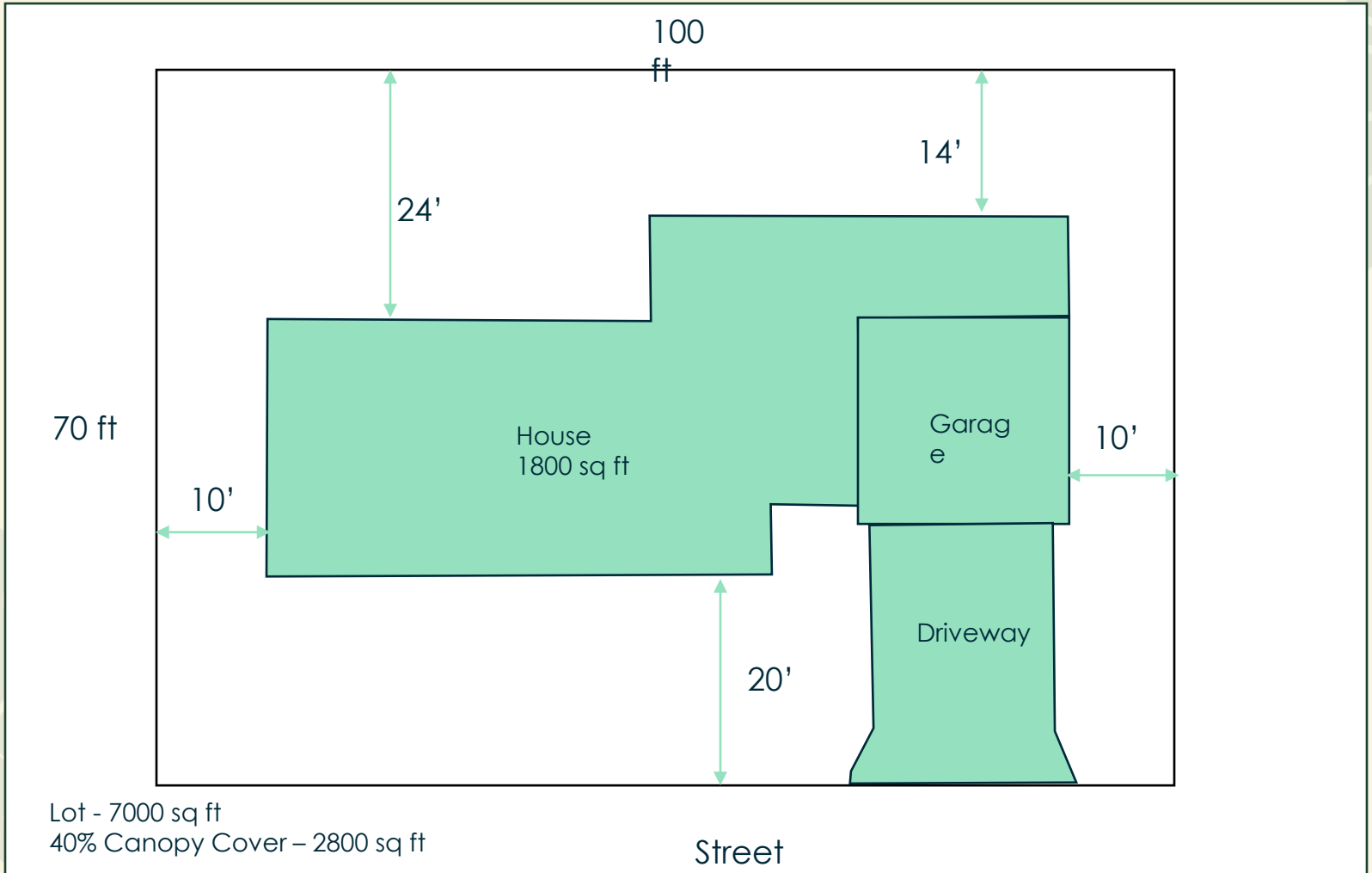
New plantings:

2 white oak
- 2000 sq ft at maturity
- x 75% Canopy Credit
- x *2 trees*

= **3000 sq ft canopy credit**

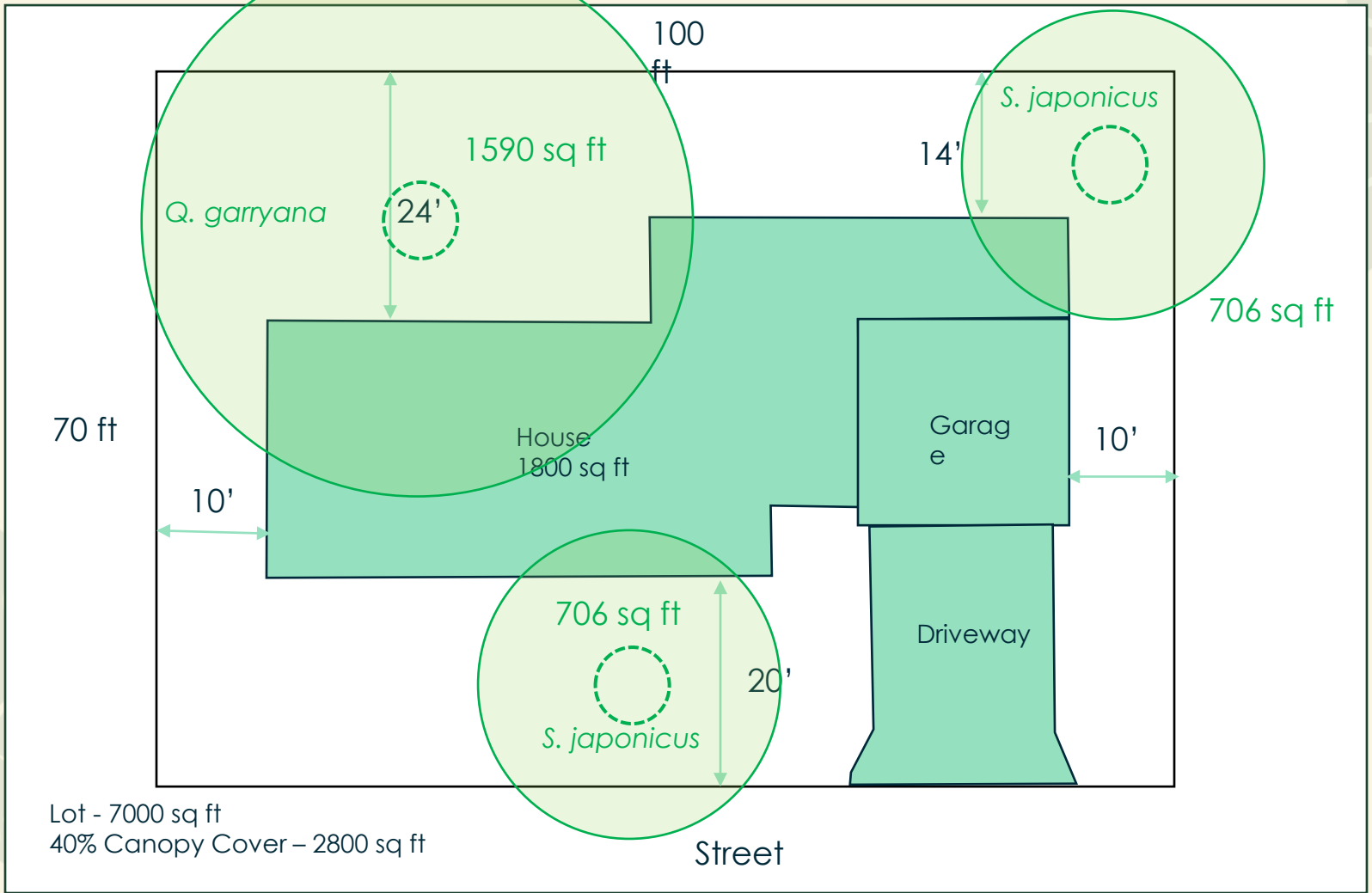
3700 total site canopy coverage
52.8% Final Canopy Coverage

Alternatively…
1 Oak @ 1500 sq ft credit
2200 total site canopy coverage
600 sq ft mitigation required


100 ft
14’
24’
70 ft
House
1800 sq ft
Garag
e
10’
10’
Driveway
20’
Lot - 7000 sq ft
40% Canopy Cover – 2800 sq ft
Street

Common Name	Family	Growth Type	Species Type	Street Tree	Native Tree	Drought Tolerant	Moist Soil	Utility Safe	Root Damage	Mature Height (feet)	Mature Width (feet)	Mature Canopy Area	Annual Growth Height	Annual Growth Width	Average Growth Rate	Est 20 year Canopy (sq ft)	Longevity (if available)
Spire Cherry	Rosaceae	Tree	Deciduous	Yes	No	No	No	Yes		30	10	78.53975					
Douglas Fir	Pinaceae	Tree	Evergreen	Yes	Yes	No	No	No		160	30	706.85775	12-36 inches	12-24 inches	24 inches/season	480	>150 years
Aristocrat Callery Pear	Rosaceae	Tree	Deciduous	Yes	No	No	No	No		40	30	706.85775			24-36 inches/season		50-150 years
Autumn Blaze Callery Pear	Rosaceae	Tree	Deciduous	Yes	No	No	No	No		30	25	490.87344			24 inches/season		50-150 years
Capital Callery Pear	Rosaceae	Tree	Deciduous	Yes	No	No	No	No		35	12	113.09724			24 inches/season		50-150 years
Chanticleer Callery Pear	Rosaceae	Tree	Deciduous	Yes	No	No	No	No		40	15	176.71444			24 inches/season		50-150 years
Redspire Callery Pear	Rosaceae	Tree	Deciduous	Yes	No	No	Yes	No		35	25	490.87344	18-24 inches	12-18 inches	24-36 inches/season	278	50-150 years
Sawtooth Oak	Fagaceae	Tree	Deciduous	No	No	No	Yes	No		65	30	706.85775			24-36 inches/season		>150 years
Scarlet Oak	Fagaceae	Tree	Deciduous	Yes	No	No	Yes	No		65	45	1590.4299			24-36 inches/season	315	>150 years
Oregon White Oak or Garry Oak	Fagaceae	Tree	Deciduous	No	Yes	No	No	No	Low	65	45	1590.4299	12 inches	6 inches	12-24 inches/season	120	50-150 years
English Oak	Fagaceae	Tree	Deciduous	No	No	No	No	No		120	30	706.85775			36 inches/season		>150 years
Skyrocket Oak	Fagaceae	Tree	Deciduous	Yes	No	No	No	No		45	15	176.71444					
Red Oak	Fagaceae	Tree	Deciduous	Yes	No	No	Yes	No		65	40	1256.636			24-36 inches/season	315	>150 years
Pacific Rhododendron	Ericaceae	Shrub	Evergreen	No	Yes	No	No	No		10	15	176.71444	12-24 inches	12-24 inches	12 inches/season	180	50-150 years
Western Azalea	Ericaceae	Shrub	Deciduous	No	No	No	No	No		10	8	50.26544	6-12 inches	4-8 inches	Moderate	50	
Pink Idaho Locust	Fabaceae	Tree	Deciduous	Yes	No	Yes	No	No		50	20	314.159			36 inches/season		50-150 years
Coast Redwood	Taxodiaceae	Tree	Deciduous	No	No	No	No	No	Low	100	20	314.159	12-36 inches	12-24 inches	36 inches/season	320	>150 years
Korean Mountain Ash	Rosaceae	Tree	Deciduous	No	No	No	No	No	Low	40	15	176.71444			24 inches/season		50-150 years
Whitebeam Mountain Ash	Rosaceae	Tree	Deciduous	No	No	No	No	No		40	20	314.159			24 inches/season		50-150 years
Cardinal Royal Mountain Ash	Rosaceae	Tree	Deciduous	Yes	No	No	Yes	No		35	20	314.159			24-36 inches/season		50-150 years
Red Cascade Mountain Ash	Rosaceae	Tree	Deciduous	No	No	No	Yes	Yes	Low	20	10	78.53975			12-24 inches/season		40-150 years
Oak-leaf Mountain Ash	Rosaceae	Tree	Deciduous	Yes	No	No	No	No		30	20	314.159					
Japanese Snowbell or Snowdrop	Styracaceae	Tree	Deciduous	No	No	No	Yes	Yes	Low	30	30	706.85775			12-24 inches/season	110	40-150 years
English Yew	Taxaceae	Tree	Evergreen	No	No	Yes	No	No		25	15	176.71444			12 inches/season		>150 years
Irish Yew	Taxaceae	Tree	Evergreen	No	No	Yes	No	Yes	Low	10	5	19.634938			12 inches/season		>150 years
Western Yew	Taxaceae	Tree	Evergreen	No	Yes	Yes	No	No		50	10	78.53975			12 inches/season		>150 years
Japanese Yew	Taxaceae	Tree	Evergreen	No	No	Yes	No	Yes	Low	25	10	78.53975			12 inches/season		50-150 years
Columnar American Arborvitae	Cupressaceae	Tree	Evergreen	No	No	No	Yes	No	Low	25	10	78.53975			24 inches/season	50	50-150 years
Western red cedar	Cupressaceae	Tree	Evergreen	Yes	Yes	No	Yes	No		120	30	706.85775	24-36 inches	12-24 inches	24-36 inches/season	480	>150 years
Excelsa Western Red Cedar	Cupressaceae	Tree	Evergreen	No	No	No	No	No		35	20	314.159					
Green Giant Arborvitae	Cupressaceae	Tree	Evergreen	No	No	No	No	No		60	20	314.159	30-36 inches	12-18 inches		226	
Chancellor Linden	Tiliaceae	Tree	Deciduous	Yes	No	No	Yes	No	Low	50	30	706.85775			12-24 inches/season	175	50-150 years

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100 ft
1590 sq ft
Q. garryana
24'
S. japonicus
14'
706 sq ft
70 ft
House
1800 sq ft
Garag
e
10'
10'
706 sq ft
20'
S. japonicus
Driveway
Lot - 7000 sq ft
40% Canopy Cover – 2800 sq ft
Street

Clarifying questions?

Residential Development – Protection and Soil Volume Standards

Protection Standards

- Avoid tree harm / death from construction practices
- Protection standards must be followed to obtain preservation and canopy credits
- Must submit protection plan with root protection zone, fencing, etc.
- Performance path available under ISA arborist guidance



Soil Volume Standards

- Ensures new plating success
- 1000 cubic feet per tree
- Must submit protection plan with root protection zone, fencing, etc.
- Performance path available under ISA arborist guidance



Residential Development : Mitigation Standards

- Mitigation standards are established when tree preservation or canopy standards cannot be met.
  - Mitigation fees associated with the **percent canopy removed** (preservation standard) and the **total canopy percentage needed** to meet 40% lot coverage (canopy standard) would be paid by the permit applicant
- Applicants may apply for a variance in lieu of a mitigation fee for alternative construction designs and techniques that provide additional sustainability benefits to the site
  - Planning Commission Review



Credit: Murphy Mears Architects

What should trigger development tree code?

Permit required for trees >6" diameter at breast height (DBH)

As written:

Any additional dwelling units or land division

- Includes ADUs in basements, garages, etc.
- All standards required

Expansion of footprint:

Additional dwelling units that expand the building footprint or land division

- No additional tree plantings
- No protection standards for existing trees, even with construction

Separate standards:

Additional dwelling units that expand footprint:

- All standards apply

Additional dwelling units that do not expand footprint:

- Only protection and preservation standards apply
- Property owner submits protection plan and site map

Private Tree Code – Low Income Assistance

- To the extent that city funds are available, the City Manager may exempt a property owner from the permit fee, removal fees and replanting fees when the owner demonstrates household income that is at or below 80 percent of median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area.
- Consistent with CET, HES and public tree code



Next steps…

Proposed fee schedule and discussion on Feb 1st



Questions?

urbanforest@milwaukieoregon.gov
503-789-7655
milwaukieoregon.gov/trees

Natalie Rogers
Climate and Natural Resources Manager
RogersN@milwaukieoregon.gov

CITY OF MILWAUKIE
CITY COUNCIL

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Registration

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speakers Registration card, once submitted to the City Recorder, becomes part of the public record.

Name: Anthony Allen

Organization:

Address: 11801 SE 26th Ave
Phone: 541-914-6714
Email: allena392@gmail.com

Meeting Date: 1/18/22 **Topic:** Proposed tree code

You are Speaking…

- ☐ in Support
- ☒ in Opposition
- ☐ from a Neutral Position
- ☐ to ask a Question

Comments:

Dear City of Milwaukie City Council members,

While in general I support the City's goal of attaining a 40% tree canopy, I feel as thought the current plan places all of the responsibility and burden, including financial on individual property owners. These properties have contributed less to canopy loss than multi-unit apartment complex, commercial, industrial, and City/County properties, which have had a more negative impact on our tree canopy. Most of the latter entities also received tax breaks or incentives, which in turn has been also been burdened onto individual residential tax payers. Many of these multi-unit apartment complexes, as well as commercial and industrial businesses are making record profits, as can been seen by the current escalating crisis of mortgage and rent prices as well as cost of services from surrounding businesses. Considering the most egregious properties with little or no tree canopy are these multi-unit apartment complexes, commercial and industrial lots, and some City/County properties, it seems a misplaced effort for the City to now focus it's attention on individual residential property owners and not the properties that make up the majority of low-canopy lots. There are several ways these more offending properties can be "retro-fitted" to increase the tree canopy on their properties. These include eliminating pavement in parking areas to include more trees, installing tree medians in 4 lane highways, planting trees on all public City/County land, ensure the City of