Regular Session RS

Milwaukie City Council

CITY OF MILWAUKIE

2352nd Meeting

COUNCIL REGULAR SESSION

AGENDA

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

FEBRUARY 15, 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 **1-253-215-8782** and enter Webinar ID **841 6722 7661** and Passcode **097479**. 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-317.

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
   - A. **Japanese American Incarceration Day of Remembrance – Proclamation** (635 p.m.) **4**
     Presenters: Angel Falconer, Councilor, and the Milwaukie Historical Society

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

5. **COMMUNITY COMMENTS** (6:50 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 (6:55 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: **7**
1. **January 18, 2022, Work Session; and**
2. **January 18, 2022, Regular Session.**

B. Authorization of a Court Amnesty Program – Resolution **15**

C. Authorization of a Contract for a Housing Capacity Analysis and Housing Production Strategy – Resolution **18**

D. Authorization of a Contract for Services Related to the SCADA System Upgrade – Resolution **22**

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARINGS

A. Comprehensive Plan Implementation, Tree Code Amendments (continued) – Ordinance & Resolution (7:00 p.m.) **26**
Staff: Natalie Rogers, Climate & Natural Resources Manager

B. Comprehensive Plan Implementation, Housing and Parking Code Amendments – Ordinance (8:00 p.m.) **151**
Staff: Vera Kolias, Senior Planner

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

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

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

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

2352nd Meeting

COUNCIL REGULAR SESSION

MINUTES

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

FEBRUARY 15, 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
Vera Kolias, Senior Planner
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder

Mayor Gamba called the meeting to order at 6:02 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities, including a North Clackamas Park habitat enhancement event, a women's history month heritage lecture, a bilingual poetry reading, and a managing mason bees' demonstration.

3. PROCLAMATIONS AND AWARDS

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

Carmen Gelman, MHS Principal, introduced Monty Woods and Council congratulated them on their academic and extra-curricular activities.

B. MHS Update – Report

Gelman reported that the school's graduation rate had increased the last three years amid building construction and the COVID-19 pandemic and discussed equity and culture training and conversations being developed for the next school year.

C. Japanese American Incarceration Day of Remembrance – Proclamation

Councilor Falconer and the Milwaukie Historical Society's **Jacob Sherman** introduced the proclamation. Milwaukie resident **Kay Endo** spoke on the experiences of Japanese Americans who were incarcerated during World War II. **Mayor Gamba** proclaimed February 19, 2022, to be Japanese American Incarceration Remembrance Day.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the February 1 community comments.

Kiran Das Bala, Milwaukie resident, remarked on non-city related personal matters.

6. CONSENT AGENDA

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

A. City Council Meeting Minutes:
   1. January 18, 2022, Work Session, and
   2. January 18, 2022, Regular Session.

B. Resolution 14-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a Court amnesty program from May 1 to July 30, 2022.

C. Resolution 15-2022: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, authorizing the city manager to execute an agreement for professional planning services for the Housing Capacity Analysis and Housing Production Strategy reports.

D. Resolution 16-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing an engineering services contract with Tetra Tech, Inc. to provide professional services for the SCADA system upgrade.

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

City Manager Updates – Report

Ober provided an update on plans to return to in-person meetings as daily COVID-19 case numbers continued to decline. It was Council consensus to hold in-person meetings beginning March 1, 2022.

Ober noted an ongoing discussion about a regional approach to houselessness and reported that staff supported the city participating in such an approach. **Mayor Gamba** believed the only concerns raised had been related to the proposal for large-scale shelters and **Ober** observed that Council supported signing such a letter.

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARING

A. Comprehensive Plan Implementation, Tree Code Amendments (continued) – Ordinance and Resolution

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed amendments to the code, file #ZA-2021-002, to order at 6:56 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to take public comment on the proposed tree code amendments as part of a multi-meeting hearing on the Comprehensive Plan code implementation project.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Rogers** reviewed changes made to the tree code amendments since Council's last hearing on the topic and addressed comments made by community members at the last hearing, explaining how the city's 40% tree canopy coverage goal had been set. **Councilor Batey** and **Rogers** remarked on what planning zones would be covered by the proposed tree code. **Council President Hyzy** suggested that the canopy goal map presented by staff be made available to the public and **Rogers** highlighted online interactive mapping tools the public could access.

Rogers explained that the Cereghino Farms subdevelopment had not been built to meet the city's tree canopy goal because it had been developed under county standards before being annexed into the city. **Rogers** asked if Council had any questions.

Councilor Batey and **Rogers** discussed what the city would require on a lot being developed if no trees were being removed. They noted that the city would not require all tree work to be certified by an arborist and remarked on why the proposed fees for tree work on private property were higher than the fees for removing trees in the public right-of-way (ROW). The group commented on how the code would determine if a tree on a property line was a public or private tree and how the tree canopy credit would be assigned to a property owner if a tree was partially in the ROW.

Councilor Batey and **Passarelli** remarked on why the proposed code used a 12-inch tree diameter to trigger certain requirements.

Audience Testimony:

Stephan Lashbrook, Milwaukie resident, suggested there should be a simple no fee permit structure for removing dead trees, agreed with a neighbor that there should be exceptions for trees planted for harvesting, and expressed support for the tree code.

Correspondence: **Stauffer** and **Rogers** reviewed the correspondence received by Council regarding the proposed tree code.

Conduct of Hearing: **Mayor Gamba** reviewed the hearing testimony procedures.

Audience Testimony (continued):

Neil Schulman, North Clackamas Watershed Council (NCWC) Executive Director, expressed support for the proposed tree code and urged Council to adopt the tree code.

Sherman, Planning Commissioner, expressed support for the proposed tree code.

Staff Response to Testimony: **Rogers** suggested staff could continue to work on a no-fee dead tree permit. **Councilor Batey** and **Rogers** noted that determining if a tree was truly dead required a certain level of arborist experience. **Passarelli** believed the city's urban forester could be asked to determine if a tree was dead.

Questions from Council to Staff: **Councilor Batey** asked about including an exemption for harvest trees and **Passarelli** reported that the city's Tree Board had discussed harvest tree exemptions. The group remarked on tree harvesting and the challenges of writing a clear code that dealt with gray areas such as agricultural trees.

Councilor Falconer asked when the tree permit process would be launched. **Rogers** reported that the city was in the process of acquiring a new permitting system to support tree and other permits. **Ober** noted that Council needed to adopt the code before staff could implement a permitting process. **Passarelli** added that staff were working on a public engagement plan to inform the public about the new code.

The group discussed how Council should proceed with all the tree, housing, and parking code packages at the current and future hearings, noting Council interest in starting deliberation, taking comments, and getting through the staff reports.

Audience Testimony (continued):

Carol Dean Butcher, Milwaukie resident, expressed concern about the proposed tree code and asked about permit fees. **Mayor Gamba** explained that the fees had been included in the meeting packet and encouraged Butcher to review that document.

The group noted that a comment had been typed into the Zoom chat by **Marcy** regarding the ability of property owners to thin trees. **Rogers** explained that the proposed tree code would allow for tree thinning through a $50 application fee.

Close Public Comment: **It was moved by Councilor Falconer and seconded by Council President Hyzy to close the public comment part of the hearing on the proposed tree code amendments. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]**

Mayor Gamba closed the public hearing at 8:02 p.m.

Mayor Gamba recessed the meeting at 8:02 p.m. and reconvened at 8:06 p.m.

Council Discussion: **Mayor Gamba** and **Council President Hyzy** discussed the definition of tree crown used in the proposed code and **Passarelli** suggested staff would review the definition. **Councilor Batey** asked that staff also look at the definition of diameter at breast height (DBH).

Mayor Gamba and **Ober** noted that the proposed code referred to a planning manager, a title that could change, and agreed that the position should be referred to as the "city manager's designee."

Mayor Gamba cited a section of the proposed code referring to clearing trees in the ROW and suggested it be clarified to ensure that lines of site are maintained. **Passarelli** noted that the proposed code had used the city's existing code language.

Mayor Gamba cited a section of the proposed code referring to dead or diseased trees on private land and suggested that the section be clarified to explain how the city would find out about dead trees. **Passarelli** reported that the language was in the current code and that to-date such reports of dead trees had been from neighbors not city staff.

Mayor Gamba cited a section of the proposed code referring to trees on affordable housing properties and remarked that the code made it sound like the city didn't think trees were as important for low-income people. The group discussed how to incentivize street trees on affordable housing properties while not creating more challenges for developing affordable housing.

Mayor Gamba asked if Council wanted to reduce or remove fees for tree mitigation standards for affordable housing. **Councilor Falconer** suggested it was hard to consider the tradeoffs between trees and housing without considering the housing code amendments. **Council President Hyzy** suggested Council deliberate on non-housing related tree code items at the current meeting and wait for the other code packages before discussing the housing related tree code items. **Councilor Batey** noted Council could revisit the tree code after hearing the housing code and expressed support for reducing but not removing the mitigation fees for affordable housing units. **Passarelli** noted that the proposed fee structure for affordable housing would reduce tree preservation fees by 50%. **Councilor Nicodemus** wanted to hear the housing and parking code amendments before deliberating on the tree code. **Council President Hyzy** and **Mayor Gamba** remarked on how to proceed with deliberations at the current hearing.

Mayor Gamba suggested that part of the proposed tree code's public ROW section was confusing. **Passarelli** commented on the intent of the section. **Council President Hyzy** remarked that much of the proposed code was confusing and suggested that tools be

developed to help the public understand what the code requires. **Passarelli** noted staff planned to run an outreach campaign regarding the tree code when it was adopted.

Mayor Gamba and **Rogers** discussed why the ROW section of the proposed code did not make street trees part of a housing development, noting the benefits of street and yard trees. **Councilor Batey** remarked on why street trees may be less valuable, and **Mayor Gamba** commented on the benefit of street trees. **Passarelli** suggested the goal of the code was to enhance the city's other tree planting requirements. **Councilor Falconer** agreed about the value of street trees and understood why the city would not require them if there were other ways to increase the tree canopy.

Councilor Falconer and **Mayor Gamba** remarked on how Council would consider all three code amendment packages given how much the policy choices overlapped.

The group commented on scenarios where the tree and housing policies would conflict. They noted there were guides that indicated how big a tree's canopy would get at full growth and remarked on whether property owners would intentionally plant trees they knew would need to be removed in a few years.

Mayor Gamba cited a section of the proposed code referring to the number of trees to be planted when replacing a tree with a DBH over 18-inches and suggested the code needed more visuals to explain the requirements.

Mayor Gamba remarked on the importance of street trees.

Councilor Batey expressed concern about the use of the word "contiguous" in the section of the proposed tree code referring to soil health and noted there was a gap in the code section numbering. **Rogers** explained that some of the code numbering had been brought from the existing code and some sections had been left empty to allow space for future code changes.

Councilor Batey suggested it might be better to use the term "fees-in-lieu-of-planting" in sections of the proposed code relating to canopy standards. **Passarelli** noted staff could look at using the phrase in the proposed code.

Council President Hyzy remarked on the complexity of code language in the proposed code which was causing the public to be concerned, and suggested the city needed to do a better job of relaying the intent of the code to the public. **Rogers** reported staff had heard the same concern and agreed that outreach and advocacy to explain the code once adopted would be important. **Passarelli** agreed that staff would review the code to simplify language where possible and **Councilor Batey** noted that certain language was required by state law.

Mayor Gamba thanked staff for their work on the code. **Rogers** suggested other cities were watching Milwaukie's process as a model for improving their tree codes.

Mayor Gamba and **Ober** remarked that Council's intention was to continue the tree code hearing to March 15, 2022.

Continue Hearing: **It was moved by Councilor Falconer and seconded by Councilor Batey to continue the hearing on the Comprehensive Plan tree code Amendments, file #ZA-2021-002, to a date certain of March 15, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]**

B. Comprehensive Plan Implementation, Housing and Parking Code Amendments – Ordinance and Resolution

Call to Order: **Mayor Gamba** called the public hearing on the proposed housing and parking amendments to the code, file #ZA-2021-002, to order at 9:04 p.m.

Mayor Gamba announced that Council would continue the hearing to March 1, 2022.

Continue Hearing: **It was moved by Councilor Falconer and seconded by Council President Hyzy to continue the hearing on the Comprehensive Plan housing and parking code amendments, file #ZA-2021-002, to a date certain of March 1, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting "aye." [5:0]**

Mayor Gamba and **Ober** noted expectations for staff reports, public comment, and Council deliberation on the code amendment hearings on March 1 and March 15.

9. COUNCIL REPORTS

Mayor Gamba and **Council President Hyzy** commented that the reach building energy code bill would not be adopted by the legislature during the 2022 session.

Council President Hyzy reported that Oregon Department of Transportation (ODOT) hearings on the proposal to charge tolls on the Interstate-205 bridge at Oregon City would be happening soon. **Councilor Batey** noted that ODOT had announced upcoming signal changes on Hwy 224.

Ober reminded Council and the public that the next Council meetings, including the code hearings, would be held in person at city hall.

10. ADJOURNMENT

It was moved by Councilor Nicodemus and seconded by Council President Hyzy 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 9:11 p.m.

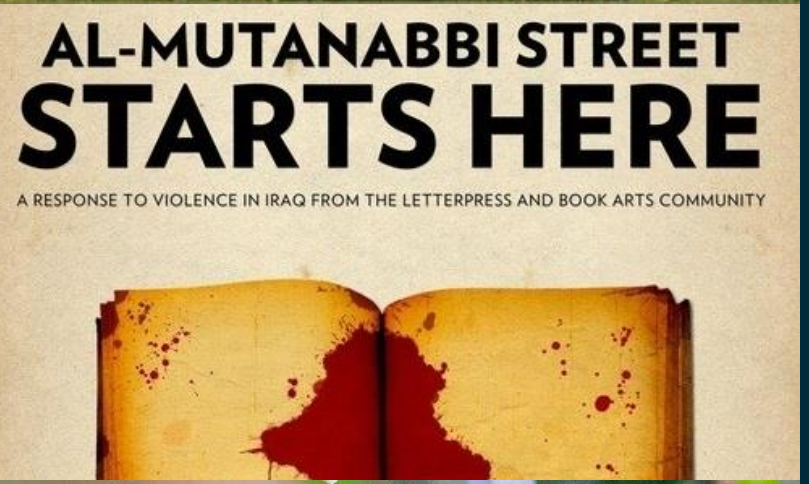
Respectfully submitted,

Scott Stauffer, City Recorder

RS Agenda Item 2

Announcements







Mayor's Announcements – February 15, 2022

- **North Clackamas Park Volunteer Planting Event – Sat., Feb. 26 (9 AM – 12 PM)**
  - Join the North Clackamas Parks & Recreation District (NCPRD) to enhance habitat at North Clackamas Park (5440 SE Kellogg Creek Dr.)
  - Tools, gloves and refreshments will be provided.
  - **Questions?** Contact Matt Jordan at mjordan@ncprd.com or call 971-313-2031.
  - Sign up today at ncprd.com/nature-volunteer-application

- **Women's History Project – A Personal Perspective – Wed., Mar. 2 (6 PM)**
  - Join the next Ledding Library Lecture Series event of the year
  - Watch on Comcast Channel 30 or on the city's YouTube Channel

- **Bilingual Poetry Reading - Al-Mutanabbi Street Starts Here – Sat., Mar. 5 (2-4 PM)**
  - In partnership with the Iraqi Society of Oregon and Al-Mutanabbi Street Starts Here, the Milwaukie Poetry Committee, and Ledding Library are hosting a bilingual poetry reading in Arabic and English.
  - Questions and discussion will follow. Email Tom Hogan at tomhogan2@comcast.net to register.

- **Mastering Mason Bees – Sat., Mar. 12 (10 AM)**
  - Blue Orchard Mason Bees are gentle and don't need much to be happy. Through visual and hands-on activities, learn about their life cycle and how to properly care for them. Tools, gloves, and refreshments provided.
  - Milwaukie Community Center, 5440 SE Kellogg Creek Dr.
  - Sign up at https://secure.rec1.com/OR/NCPRD/catalog

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

RS Agenda Item 3

Proclamations & Awards

PROCLAMATION

WHEREAS Milwaukie's history is important to understand, observe, and recognize from all perspectives; and

WHEREAS Milwaukie had a small but thriving Japanese American community in the early 1940's with at least 87 individuals of Japanese heritage reported in the 1940 United States Census; and

WHEREAS the last names of these individuals and families included: Endo, Fujita, Hirofuji, Koida, Kuribayashi, Nakamura, Sasaki, Shinto, Terusaki, Takemoto, Tamisayu, Yoshizawa, Yamada, Yoshitomi, and Watanabe; and

WHEREAS many of these families were successful farmers, florists, or nursery operators, including the Watanabes and Yoshitomis who once had large celery farms at the present-day Minthorn Springs Natural Area; and

WHEREAS on February 19, 1942, United States President Franklin D. Roosevelt issued Executive Order 9066 resulting in the forced removal and incarceration of over 120,000 people of Japanese ancestry from the West Coast, over two-thirds of whom were U.S. citizens; and

WHEREAS on May 7, 1942, people of Japanese ancestry from Clackamas County and eastern Multnomah County were ordered to report, without a trial or due process, to the Portland Assembly Center before they were forced into concentration camps in unfamiliar places, like the Minidoka War Relocation Center in Hunt, Idaho; and

WHEREAS we recognize the Japanese families in Milwaukie and Clackamas County that were uprooted and yet how, despite these experiences, thousands of young Japanese American men — including young Japanese American men from Milwaukie — demonstrated exemplary heroism and courage to enlist in the U.S. armed forces and bravely fight in World War II to defend the nation that was abridging their own freedoms at home; and

WHEREAS we recognize that when released, some of these members of our community may have lost their homes or property and that Japanese Americans worked hard to rebuild their lives; and

WHEREAS in 1983, the Federal Commission on Wartime Relocation and Internment of Civilians found that Executive Order 9066 was not justified by military necessity and decisions that resulted from it were not driven by analysis of military conditions; and

WHEREAS on August 10, 1988, United States President Ronald Reagan signed into law the Civil Liberties Act of 1988, finding that Executive Order 9066 was not justified by national security and that the incarceration constituted a grave injustice to Japanese Americans; and

WHEREAS on February 2, 2022, the City of Milwaukie, the Milwaukie Museum, and the Japanese American Museum of Oregon held a Ledding Library Lecture Series event to educate the community about Milwaukie's Japanese American history and to commemorate the 80th Anniversary of the issuance of Executive Order 9066, an event which forever changed the course of American history; and

WHEREAS the City of Milwaukie is proud of its Japanese American history and recognizes and values the ongoing contributions from its Japanese American community.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim February 19, 2022, as JAPANESE AMERICAN INCARCERATION REMEMBRANCE DAY.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 15th day of February 2022.

Mark Gamba, Mayor

ATTEST:

Scott Stauffer, City Recorder

RS Agenda Item 5

Community Comments

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: MS. KIRAN DAS BALA

Organization: 9725 S.E. 29th AVE. MILWAUKIE, OR

Address:

Phone: 503-901-2596

Email:

Meeting Date: 02-15-2022 **Topic:**

Agenda Item You Wish to Speak to:

- [x] #4 Audience Participation
- [ ] #5 Public Hearing, Topic:
- [ ] #6 Other Business, Topic:

You are Speaking...

- [ ] in Support
- [ ] in Opposition
- [ ] from a Neutral Position
- [ ] to ask a Question

Comments:

18:04:44 From Carmen Gelman to Hosts and panelists:

Scott. Monty doesn't know how to get on the panel

18:04:50 From Carmen Gelman to Hosts and panelists:

he's in the meeting

18:05:03 From Council Chambers to Hosts and panelists:

Is Monty in the participants part of the meeting?

19:43:19 From Marcy to Everyone:

Will there be exemptions for thinning out trees that are over crowding?

20:01:34 From Marcy to Everyone:

Thank you.

RS Agenda Item 6

Consent Agenda

CITY OF MILWAUKIE

COUNCIL WORK SESSION

Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

JANUARY 18, 2022

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

Staff Present:
Kelly Brooks, Assistant City Manager
Justin Gericke, City Attorney
Dan Harris, Events & Emergency Management Coord.
Brett Kelver, Associate Planner
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Scott Stauffer, City Recorder
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 4:02 p.m.

1. Winter Events Debrief and 2022 Events Preview – Discussion

Harris provided an overview of the city's 2021 Umbrella Parade and Tree Lighting event, noting adjustments made for the COVID-19 pandemic. The group remarked that the tree at city hall lit up as planned.

Harris remarked on the city's effort to hold a downtown business holiday decorating contest, noting the lack of participation and plans for future contests. **Councilor Batey** commented on previous business decorating contests and thanked Harris for the effort. **Council President Hyzy** and **Harris** thanked the businesses that did decorate.

Harris discussed 2022 event plans, including the volunteer of the year dinner, Earth Day, and CareFree Sunday. **Harris** reported that staff proposed combining the Umbrella Parade and Tree Lighting and Winter Solstice events into a single winter festival event.

Councilor Batey supported combining winter events if the Christmas Ships came by Milwaukie Bay Park during the event and commented on how solstice had grown. **Harris** remarked on the need to adjust the solstice event, so it continued to be safe and sustainable. **Batey** noted there would be another year without solstice when the park is under construction for phase III projects and suggested the city light-up the big tree in the park. **Harris** and **Batey** commented on the cost of lighting the tree at the park.

Council President Hyzy remarked on whether a single afternoon and evening event could maintain a crowd. **Harris** expressed concerns about staffing and recruiting volunteers for two major events during the holidays. **Hyzy** and **Harris** noted the possibility of recruiting volunteers to manage pedestrian traffic across McLoughlin Boulevard/Hwy 99E during the event.

Mayor Gamba asked for numbers showing what would be lost and gained by consolidating winter events. **Gamba** agreed that an all-day event would be a lot to support and noted there was community concern about losing events.

Brooks remarked on consolidating winter events, noting the importance of bringing people to downtown, and thanked Harris for proposing the idea. **Brooks** was optimistic that staff could combine the two events and still meet community expectations. **Mayor Gamba** and **Councilor Falconer** commented on the benefits of combining the parade, lighting, and solstice into an event at the park that may require closing Hwy 99E.

Council President Hyzy expressed support for combining winter events in 2022.

Harris agreed the city did not want to lose a longstanding community event and noted there was time to plan such a change if Council supported it.

Ober summarized that Council supported combining winter events for 2022 and confirmed that staff would look at what it would take to do so and report back to Council in the spring. **Councilor Falconer** and **Ober** agreed that an equity lens would be applied to a combined winter event.

2. Design and Landmarks Committee (DLC) – Annual Review

Kelver provided an update on the DLC's work, noting that the committee had not met much in 2021 but had reviewed several proposed development projects and planned to work on finishing the downtown design review process in 2022. **Councilor Batey** was glad the design review would be wrapped-up soon.

Mayor Gamba reported that developers complain about the design review process which required presentations to the DLC and Planning Commission. **Kelver** noted the history of development review in Milwaukie and remarked on changing the process.

3. North Clackamas Watersheds Council (NCWC) – Annual Update

Neil Schulman, NCWC Executive Director, provided an update on NCWC's work, which included working with the city and federal partners to fund and design the removal of the Kellogg Creek Dam, developing watershed restoration action plans, organizing streamside revegetation projects, supporting the city's Comprehensive Plan implementation project, and promoting interjurisdictional coordination.

Councilor Batey and **Schulman** remarked on federal and state funding opportunities for the dam removal project, and follow-up conversations with the Oregon Department of Environmental Quality (DEQ) following an oil spill into Kellogg Creek in 2021.

Council President Hyzy thanked NCWC for their work and asked about the partnerships and coordination work for funding the dam removal. **Schulman** and **Brooks** commented on the dam removal model being used to approach the dam removal project and suggested the city or other non-profit partners could be the financial agent and applicant for seeking funding. **Mayor Gamba** and **Schulman** remarked on who Council could reach out to, to keep the funding requests moving.

Mayor Gamba and **Schulman** commented on NCWC's work to support and advise Clackamas County Water Environment Services' (WES's) restoration work at the Three Creeks Natural Area.

Schulman announced that NCWC had hired a watershed restoration manager.

4. Adjourn

Mayor Gamba adjourned the meeting at 5:33 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

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

CITY OF MILWAUKIE

RS 6. B. 2/15/22

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COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Feb. 3, 2022

Reviewed: Bonnie Dennis, Administrative Services Director

From: Scott Stauffer, City Recorder, and
Mary Quinn, Court Clerk

Subject: **2022 Municipal Court Amnesty Program Authorization**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing a third court amnesty program that would run from May 1 through July 30, 2022.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

September 3, 2019: Council and Municipal Court Judge Kimberly Graves briefly discussed an amnesty program.

March 3, 2020: Council directed staff to bring a resolution forward with a two-month pilot program starting July 1, 2020, for citations two years and older. The citations subject to the program would include traffic, parking, and marijuana violations.

March 17, 2020: Council adopted a resolution establishing a court amnesty program from July 1 through August 30, 2020.

December 1, 2020: Staff presented the results of the amnesty program to Council and received direction to continue the program for a second round in 2021.

March 2, 2021: Council adopted a resolution establishing a court amnesty program from July 1 through August 30, 2021.

August 3, 2021: Staff presented the results of the amnesty program to Council and received direction to continue the program for a third round in 2022.

HISTORY

The court amnesty program began as a pilot program in 2020 and included citations for traffic, parking, and marijuana violations that were two years or older and in non-judgment status. With the success of the pilot program, Council authorized the program in 2021 and requested that additional outreach be done by staff. With the additional outreach efforts, the second-year program was successful with an increase in participation for the program and doubling the revenue over the pilot program.

ANALYSIS

Based on the positive results of the program, Council directed staff to conduct future amnesty programs to provide relief to qualified individuals in default for outstanding court fines. The program is intended to (1) provide relief to people who face significant cost barriers to paying fines and fees, (2) reinstate driver's licenses, and (3) generate a means to decrease the outstanding receivable for uncollectible accounts.

Court amnesty programs provide an ability for outstanding citation balance with the city's collections agency to be waived if the cited individual pays 50% of the outstanding balance. The outstanding balance consists of the fine as adjudicated by the municipal court judge and any interest as established by the collection agency.

Proposed 2022 Milwaukie Municipal Court Amnesty Pilot Program
City staff proposes the third annual amnesty program to be conducted from March 1 to July 30. The timeframe for the 2022 program is slightly later than the 2021 program due to staff resource challenges that are expected to be resolved in time to administer the program.

The program will include violations that are two years and older for traffic, parking, and marijuana violations. The program would require individuals to meet all three of the following criteria:

- Outstanding fines at collections for two or more years,
- That relate to traffic, parking, and marijuana citations, and
- That are in non-judgment status with Valley Credit.

Partial payments or payment plans for the 50% payment will not be allowed.

Staff anticipates that the program's community outreach efforts will be the same as in 2021, including but not limited to advertisements in local newspapers, the Milwaukie Pilot, social media outlets, email listservs, and the city's website. Staff will also ensure that outreach efforts are available in multiple languages.

BUDGET IMPACT
The amnesty program had an immaterial effect on the city's court receivable and revenue. Estimates for newspaper advertisements, printing, and mailing costs will be immaterial in the Court budget.

WORKLOAD IMPACT
Staff workload will temporarily increase to coordinate and reconcile accounts with Valley Credit and the related processes to reinstate driver licenses.

CLIMATE IMPACT
None.

COORDINATION, CONCURRENCE, OR DISSENT
The municipal court judge and city manager concur with the program and see mutual benefit to the city and community. City staff coordinated with Valley Credit to clear default accounts and follow the driver license reinstatement process.

STAFF RECOMMENDATION
Staff recommends that Council adopt the program for a three-month period starting May 1 and running through July 30, 2022. Staff will return to Council with a progress update.

ALTERNATIVES
Council could decline to authorize the program or provide additional direction to staff.

ATTACHMENTS
1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A COURT AMNESTY PROGRAM FROM MAY 1 THROUGH JULY 30, 2022.

WHEREAS the City Council adopted a schedule establishing fees and charges for all city services, including fines for traffic citations, parking violations, and other programs approved by the municipal judge and set by the state legislature; and

WHEREAS a court amnesty program would provide a 50% waiver of total fines and fees due at collections if the remaining 50% is paid in its entirety; and

WHEREAS a resolution is required to establish a fee waiver program for a three-month period for individuals with fines older than two years and in non-judgment status.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the Municipal Court is authorized to provide a court amnesty program to waive up to 50% of accumulated traffic, parking, and marijuana fines for individuals with citations that are two years and older, in non-judgment status, and have paid 50% of their fine between May 1 through July 30, 2022.

Introduced and adopted by the City Council on **February 15, 2022**.

This resolution is effective May 1 through July 30, 2022.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

CITY OF MILWAUKIE

RS 6. C. 2/15/22

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COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Dec. 9, 2021

Reviewed: Ann Ober, City Manager, and
Joseph Briglio, Community Development Director

From: Laura Weigel, Planning Manager

Subject: **Housing Capacity Analysis and Housing Production Strategy Authorization**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to execute a personal services agreement with ECONorthwest for consulting services to update the city's Housing Capacity Analysis (HCA), also known as the Housing Needs Analysis (HNA) and create a Housing Production Strategy (HPS).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 23, 2016: Council reviewed preliminary findings of the HNA. The final HNA can be found online here.

December 20, 2016: Council reviewed the Housing Strategies Report.

July 17, 2018: Council adopted the Milwaukie Housing Affordability Strategy (MHAS).

June 15, 2021: Council approved a resolution supporting the submission of an HCA and HPS grant application to the Oregon Department of Land Conservation and Development (DLCD).

December 21, 2021 Council approved a resolution accepting a grant award from DLCD to update the city's HCA and create the HPS.

ANALYSIS

Housing has been a top priority for Council for many years and several city efforts have focused on addressing the housing crisis. The MHAS provides a baseline for some of the work required by the state as described below. In late 2020, the Oregon Land Conservation and Development Commission (LCDC) adopted a schedule that requires Portland metro area cities with a population above 10,000 to update their HCA. LCDC assigned Milwaukie a deadline of December 31, 2023, to complete this work. The HCA provides the foundation for the policy and strategy recommendations that will be included in the HPS report. This is a new report required as part of Oregon House Bill (HB) 2003, which was adopted in 2019. The report must be submitted to DLCD within one year after the HCA update is complete, which is technically the end of 2024 based on the current HCA update deadline. However, the DLCD grant requires both documents to be completed by June 2023.

Statewide Planning Goal 10 details the required components of the HCA, which include an assessment of current and future (20 year) demand for housing units across a range of prices, rent levels, locations, housing types, and densities. The HCA must then compare these needs with the community's 20-year supply of buildable residential land as calculated by its Buildable

Lands Inventory. If the HCA demonstrates that the city does not have adequate land supply to meet the full spectrum of anticipated housing needs, policies, and actions to help meet this demand must be adopted in the HPS.

The HPS must outline the specific policies, actions, and tools that the city plans to use to address the housing needs identified in the HCA and the city's plan and timeline for adopting and implementing each strategy. DLCD will review and approve each city's HPS based on the adequacy of strategies to meet all identified housing needs, the appropriateness of strategies to facilitate the production of needed housing, and how well the strategies, taken as a whole, will achieve fair and equitable housing outcomes. Cities must reflect and evaluate the progress and effectiveness of their HPS at a mid-term checkpoint (every three or four years, depending on the HCA schedule) to identify what strategies worked, which ones did not, and any course corrections needed to ensure all housing needs are addressed.

DLCD has identified potential strategies to facilitate housing production that could be included in the HPS. These strategies include:

- Zoning and Code Changes,
- Reduce Regulatory Impediments,
- Financial Incentives,
- Financial Resources,
- Tax Exempt and Abatement,
- Land Acquisition, Lease and Partnership, and
- Other Options.

Several of these strategies have already been adopted by the city through the MHAS and can be incorporated into the HPS. The recent code amendments implementing parts of the Comprehensive Plan also work towards creating new housing options.

The city has been awarded a $127,000 grant from DLCD for an HCA and HPS, which will cover the contract. The grant timeline is as follows:

February 2022: Hire Consultant
August 2022: City adopts HCA
May 2023: City adopts HPS
May 31, 2023: Grant closes

BUDGET IMPACT

HB 2003 requires cities to update their HCA and create an HPS. The bill was passed in 2019 and the work was not included in the current budget. Securing the DLCD grant was critical to funding the city's work.

WORKLOAD IMPACT

DLCD requires that the HCA and HPS be complete by May 2023. City planning and community development staff have reprioritized work as necessary to complete these tasks and comply with HB2003.

CLIMATE IMPACT

The objective of the HCA and HPS is to identify the current and future need for housing across income levels and housing types and to find ways to get those needed housing types produced throughout the city. Zoning changes that allow more housing types throughout the city will

result in increased density a possible reduction in the size of dwelling units, and lower consumption of energy and goods. Generally, a well-planned community allows people to live and get their essential needs and services within a 20-minute walk, which would result in lower greenhouse gas emissions.

COORDINATION, CONCURRENCE, OR DISSENT
Community development and planning staff will work on this project.

STAFF RECOMMENDATION
Staff recommends Council adopt a resolution to authorize the city manager to sign the grant agreement with DLCD to update the city's HCA and create the HPS.

ALTERNATIVES
None.

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 THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL PLANNING SERVICES FOR THE HOUSING CAPACITY ANALYSIS AND HOUSING PRODUCTION STRAGETY REPORTS.

WHEREAS the city is required by the Oregon Department of Land Conservation and Development (DLCD) to produce a Housing Capacity Analysis (HCA) and Housing Production Strategy (HPS) report by June 2024; and

WHEREAS the city was awarded a $127,000 grant from DLCD to fund the HCA and HPS work, however the terms of the grant require this work to be completed by June 30, 2023; and

WHEREAS the city issued an informal request for qualifications under Public Contracting Rule 70.015(B) and determined ECONorthwest to be the most qualified firm and the best fit for the project.

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 contract with ECONorthwest for professional planning consulting services for the Housing Capacity Analysis and Housing Production Strategy reports for a term through June 30, 2023, for a contract amount of $127,000.

Introduced and adopted by the City Council on **February 15, 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. 2/15/22

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COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Jan. 2, 2022

Reviewed: Jennifer Lee (as to form), Administrative Specialist
From: Peter Passarelli, Public Works Director

Subject: **Supervisory Control and Data Acquisition (SCADA) System Design Project – Construction Services**

ACTION REQUESTED

Council is asked to authorize the city manager to sign an engineering services agreement with Tetra Tech in the amount of $183,286 for providing construction management services related to the upgrade of the city's SCADA.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

1997: City water, wastewater, and engineering staff worked closely with System Control (Command) and Data Acquisition (SCADA) engineers, designers, and other utilities to design what the city needed in its SCADA system. The system was ultimately designed and built by Technical Systems, Inc.

1998: A system was installed and based on radio telemetry carried on dedicated radio frequencies licensed to the city. The system is operated through a highly secure operational interface between the computer software, radios, programmable logic controllers (PLCs), and short haul modems.

March 26, 2018: The city signed a contract with Tetra Tech to develop a SCADA Master Plan to provide recommendations to upgrade the SCADA. The plan was finalized in July 2019.

January 7, 2020: Council authorized the city manager to sign an engineering services agreement with Tetra Tech to provide design services related to the city's SCADA project.

ANALYSIS

SCADA is a system for remote monitoring and control. The city relies on this system for water treatment, water distribution, and wastewater pump stations. The system is operated through a highly secure operational interface between the computer software, radios, PLCs, and short haul modems. The current system has not been upgraded since and is experiencing a high rate of communication failures and other alarms, requiring on-call staff to respond to investigate the cause. Because of the vintage of the system, many critical components of the system are no longer widely available with some items only available on e-Bay.

Tetra Tech was selected through a request for qualifications process in September 2019 to provide a range of services that include design services, SCADA system communications and automation cutover planning, bid assistance, and construction management. This contract will cover the construction management phase of the project.

Since 2020, the team has been working on developing the communications bid package and field automation bid package. The initial schedule had called for the project to be complete by late Summer 2021. This schedule was impacted by a variety of issues that unfortunately slowed the design process. The pandemic impacted site visits by the design team. Public Works staff availability was impacted by an employee injury that resulted in delays to scheduled design workshops. Equipment necessary for network architecture was delayed due to supply chain issues and the deployment of the network infrastructure was delayed by IT staff turnover. The team is finalizing bid documents for the communications phase and field automation phase of the project and expects to solicit these phases in the early part of this spring with completion of the entire project in winter 2023.

BUDGET IMPACTS

The project is funded with both water and wastewater funds.

WORKLOAD IMPACTS

Public works staff will provide management of the project and IT staff will assist with the communications and network integration portion of the project.

COORDINATION, CONCURRENCE, OR DISSENT

Public works staff have worked closely with the IT manager and staff on the development of this project.

STAFF RECOMMENDATION

Authorize the city manager to sign an engineering services agreement with Tetra Tech in the amount of $183,286 for providing SCADA construction management services to upgrade the city's SCADA.

ALTERNATIVES

1. Do not award project (defer indefinitely). The project would be removed from the city's Capital Improvements Plan (CIP) list and staff would continue to operate the water and wastewater system using the existing system.
2. Reduce the scope of the project and renegotiate the fee.

ATTACHMENTS

1. Resolution

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING AN ENGINEERING SERVICES CONTRACT WITH TETRA TECH, INC. TO PROVIDE PROFESSIONAL SERVICES FOR THE SCADA SYSTEM UPGRADE.

WHEREAS the city's current Supervisory Control and Data Acquisition (SCADA) system is outdated and in need of replacement; and

WHEREAS public works staff solicited a request for qualifications process in 2019, evaluated submittals, and selected Tetra Tech, Inc. to provide professional services for SCADA design, system communications and automation cutover planning, bid assistance, and construction management; and

WHEREAS public works staff have negotiated the final scope and fee for the engineering services.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to approve an engineering services contract with Tetra Tech, Inc. in the amount of $183,286 to provide professional services related to the SCADA system upgrade.

Introduced and adopted by the City Council on **February 15, 2022**.

This resolution is effective immediately.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Stauffer, City Recorder

Justin D. Gericke, City Attorney

RS Agenda Item 8

Public Hearings

CITY OF MILWAUKIE

RS 8. A. 2/15/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Feb. 2, 2022

Reviewed: Peter Passarelli, Public Works Director, and
Jennifer Lee (as to form), Administrative Specialist

From: Natalie Rogers, Climate and Natural Resources Manager

Subject: **Comprehensive Plan Implementation: Tree Code Amendments – Hearing #3**

ACTION REQUESTED

Council is asked to reopen 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) and the proposed fee schedule, take public testimony, ask any clarifying questions of staff regarding the proposed amendments, proceed with deliberations or continue the hearing as necessary

This staff report is focused on the proposed amendments to Title 16 (Tree Code) and the proposed associated fees. Staff reports for the public hearing related to housing and parking will provide background and analysis related to those topics. Please refer to the January 18 and February 1, 2022, staff reports (linked below) for background on the overall project and overview of the proposed tree code and associated fee schedule.

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.

January 18, 2022: Public hearing #1. Staff presented the project background and the proposed code amendments. Council asked clarifying questions and continued the hearing to February 1 to hear the proposed fee schedule and to take public testimony.

February 1, 2022: Public hearing #2. Staff presented the fee schedule for the proposed tree code. Council asked clarifying questions and continued the hearing to February 15.

ANALYSIS

Please refer to the January 18 staff report for a detailed review of the project background and the policy mandate related to tree preservation.

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

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 (UFMP).

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 Climate Action Plan (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 from November 9 Public Hearing
The proposed code amendment package was posted on September 1, 2021. 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 from December 21 Work Session

- 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 introduced potential development tree code trigger mechanisms to the January 18 hearing. Alternative code language for separate standard requirements depending on building footprint are included in the attached alternative code document.
- 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.

Code Amendments since January 18 Public Hearing

- Feedback from stakeholders showed interest in providing additional retention incentives for preservation of large trees. To address this, staff are proposing to increase the canopy credit from 100% on a graduated scale up to 150% for existing significant tree canopy for both preservation and canopy standards. A significant tree would be defined as a tree greater than or equal to 12" diameter at breast height. A credit scale would be included in the master fee schedule.

- Revisions to planting window to extend suggested planting season to April.
- Revisions to replanting requirements to clarify that replanting is not required for invasive species removals.
- Staff are proposing alternative code language for affordable housing mitigation standards based on feedback from stakeholders. Instead of reduced preservation requirements for qualified affordable housing, staff are proposing reduced mitigation fees for qualified alternative housing while keeping preservation requirements equivalent to all other housing developments.
- Clarification of non-development type 1 removal permit for healthy tree removal annual allowance.
- Revisions to planting requirements to allow for site flexibility with urban forester approval.

Code Amendments since February 1 Public Hearing

- Public testimony was given suggesting additional protections for large diameter trees. Staff have added additional tiers in the significant tree credit and mitigation fee sections of the master fee schedule.
- Clarification of the significant tree credit in the preservation and canopy standards.
- Adjustment of preservation standard code for affordable housing and reduction of mitigation fees in proposed fee schedule.
- Adjustment of inventory requirements for development to include all invasive species greater than 2″ DBH.
- Revisions for clarity.

Upcoming Proposed Code Amendments

- Provide language to mitigate enforcement fees if the damage or the removal of a tree was not the result of an intentional disregard of the tree code.

Fee Structure

The code has been developed to provide a framework to help the community achieve its 40% canopy goal. Preserving healthy, functioning, non-invasive trees and existing canopy is necessary to achieving this goal. The proposed fees are intended to serve as a mechanism to support preservation efforts while still allowing for development and landscaping.

The accompanying proposed fee schedule provides financial tools to assist in achieving its 40% goal. Ideally the fees are structured to:

- Promote existing canopy preservation and replanting of trees.
- Provide a mechanism to reduce financial impacts on eligible affordable housing developments if standards cannot be met.
- Reflect the cost to plant and establish new trees.

In cases where removals are necessary, there is a removal fee based on size of tree to be removed and a replanting requirement.

Staff recommends the following changes and additions to the current master fee schedule outlined in attachment 4. These fees are not adopted within the Tree Code being considered in this hearing and are proposed to be added to the city's Master Fee Schedule via a separate resolution.

Regional Comparison
Comparisons of tree related fees between municipalities is difficult as each community's tree code and fee structure are unique. Many, but not all, local municipalities recognize that trees need to be protected and limit the circumstances in which street and private trees can be removed. Removal fees and methodologies to calculate fees vary. A staff survey of tree-related fees found various techniques that communities use to charge removal fees, including fees based on diameter at breast height (DBH), canopy square footage, or actual appraised value. These differences make it difficult to compare actual fees.

NEXT STEPS

- Council public hearing #4: March 1, 2022 – continue hearing on proposed middle housing and parking code amendments and continue hearing on tree code amendments if necessary.
- Council public hearing #5: March 15, 2022 – continue hearing on proposed middle housing, parking code amendments and continue hearing on tree code amendments if necessary.

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
2. Draft code amendment language (proposed changes since February 1 council hearing)
3. Master fee schedule 2021-2022 – Revised
4. Tree Code Master Fee Schedule Resolution

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:

_____
Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

_____
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

Underline/strikethrough include revisions suggested at the February 1st 2022 City Council Regular Session

Formatted: Superscript

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 at the lowest point of ground at the base of the tree. ~~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~~live crown, or less than 1~~0~~5% of the root ~~area~~ system 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.

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"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;

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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~~April.~~.~~ 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 reductions and exemptions 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 existing 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.

Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing tree canopy to be factored into preservation calculations as defined in the master fee schedule.

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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 with 6" to less than 12" DBH 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. Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing or future mature canopy to be factored into preservation calculations as defined in the master fee schedule.

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~~fee in lieu of canopy preservation in the Master Fee Schedule based on the percentage of removed canopy ~~that if preserved would meet~~below the minimum tree canopy preservation standard as ~~shown~~ defined in ~~Table~~ MMC 16.32.042.-B~~1~~.

2. The ~~per square foot tree canopy fee~~fee in lieu of canopy standard 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. An applicant may apply for a variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review) according to MMC 19.911. 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~~ approved 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 from the trunk (see Figure 16.32.042.F)

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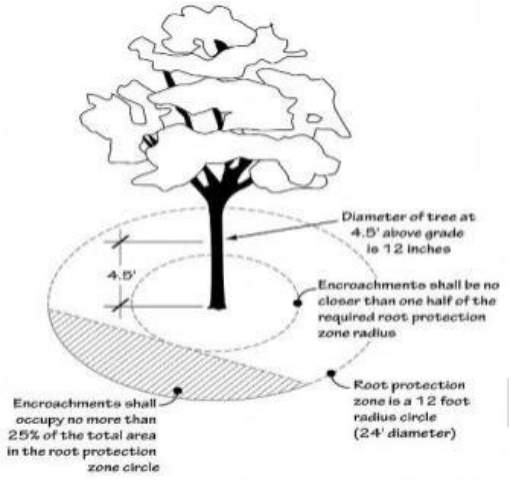


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

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.

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(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~~ submitted by the applicant 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, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, 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

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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 species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the Urban Forester. ~~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:~~

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~~**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 rare or 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~~12-month period 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) or invasive species status (MMC 16.32.042.I.2.a.e) 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, species, 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, 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 at the lowest point of ground at the base 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 live crown, or less than 15% of the root system 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 ~~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 April. 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 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 reductions and exemptions 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 existing 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. Public right-of-way is not considered part of the development site for the purposes of these calculations.

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.

Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing tree canopy to be factored into preservation calculations as defined in the master fee schedule.

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 with 6" to less than 12" DBH 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. Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing or future mature canopy to be factored into preservation calculations as defined in the master fee schedule. 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 fee in lieu of canopy preservation in the Master Fee Schedule based on the percentage of removed canopy below the minimum tree canopy preservation standard as defined in MMC 16.32.042.B.

2. The fee in lieu of canopy standard 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. An applicant may apply for a variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review) according to MMC 19.911. 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 approved 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 from the trunk (see Figure 16.32.042.F)

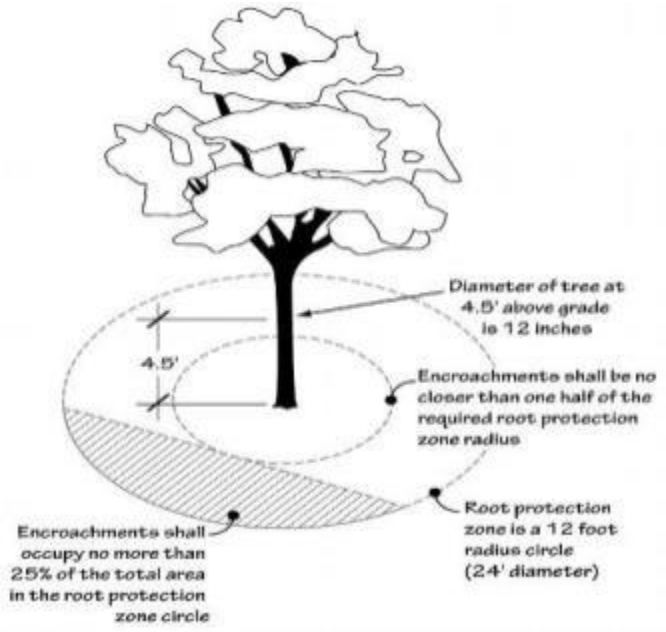


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

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:

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(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 submitted by the applicant 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, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, 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.

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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 species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the Urban Forester.

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.

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.

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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 rare or 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 12-month period 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) or invasive species status (MMC 16.32.042.I.2.a.e) 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.

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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, species, 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.

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(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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DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH - Revised 2/3/21

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 at the lowest point of ground at the base of the tree. ~~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~~live crown, or less than 1~~5~~0% of the root ~~area~~ system 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.

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"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~~April.~~.~~ 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 reductions and exemptions 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 existing 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.

Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing tree canopy to be factored into preservation calculations as defined in the master fee schedule.

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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 with 6" to less than 12" DBH 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. Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing or future mature canopy to be factored into preservation calculations as defined in the master fee schedule.

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~~fee in lieu of canopy preservation in the Master Fee Schedule based on the percentage of removed canopy ~~that if preserved would meet~~below the minimum tree canopy preservation standard as ~~shown~~ defined in ~~Table~~ MMC 16.32.042.~~B~~1.

2. The ~~per square foot tree canopy fee~~fee in lieu of canopy standard 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. An applicant may apply for a variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review) according to MMC 19.911. 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~~ approved 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 from the trunk (see Figure 16.32.042.F)

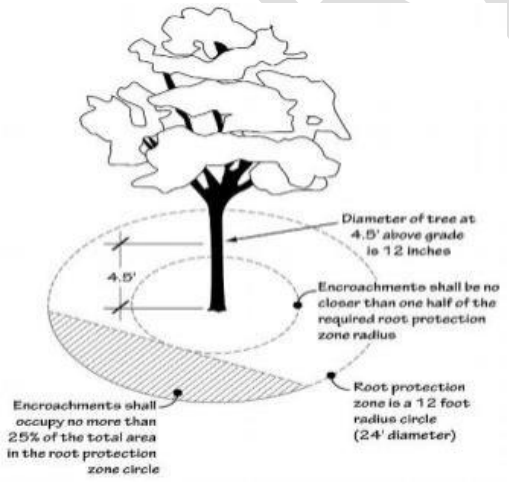


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

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.

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(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~~ submitted by the applicant 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, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, 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: (crown radius)^2 x π.

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 species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the Urban Forester. ~~The minimum spacing and setback requirements in Table~~

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~~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.

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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 rare or 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~~12-month period 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) or invasive species status (MMC 16.32.042.I.2.a.e) 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, species, 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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Fiscal Years 2021 & 2022

MASTER FEE SCHEDULE

REVISED FOR PROPOSED PRIVATE RESIDENTIAL TREE CODE

Revision date: 02/03/2022

4. TREES IN THE CITY

Trees are considered valuable urban infrastructure that should be nurtured and protected as a community asset. The Milwaukie Municipal Code Chapter 16.32 Tree Code, Council Ordinance 2197 (Resolution 11/17/2020), is to establish, maintain, and increase the quantity and quality of tree cover 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.

Per the City of Milwaukie Tree Code, a right-of-way (ROW) tree removal permit is required for all trees that are over 2" DBH (diameter at breast height) that are located in the ROW or on city property. A tree is considered to be in the ROW if any portion of its trunk falls in the ROW. A pruning permit is required if more than 20% of the tree's canopy is going to be removed or if more than 10% of its root system will be impacted. To prune or remove a tree that is in the ROW, an ROW permit application must be submitted along with a $50.00 application processing fee. A permit application is typically approved if the tree is invasive, dead/dying, diseased, or poses an unreasonable risk to public safety. If the tree is healthy, the City of Milwaukie encourages applicants to reconsider removing the tree.

Public Trees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Public Tree Removal or Major Pruning Permit[1]	$50.00	$50.00
Public Tree Permit (Planting)	No charge	No charge
Healthy Tree Removal Fee:		
2″ or less diameter of breast height (DBH)	$40.00	$40.00
2″ to 4″ DBH	$60.00 per inch DBH	$60.00 per inch DBH
4″ to 8″ DBH	$80.00 per inch DBH	$80.00 per inch DBH
8″ to 14″ DBH	$100.00 per inch DBH	$100.00 per inch DBH
14″ to 20″ DBH	$150.00 per inch DBH	$150.00 per inch DBH
20″ or greater DBH	$200.00 per inch DBH	$200.00 per inch DBH
Public Tree Planting and Establishment Fee (in lieu of planting)	$675.00 per tree	$675.00 per tree
Public Tree Enforcement/Restoration Fee:		
Damaged Tree	$225.00 per inch DBH	$225.00 per inch DBH
Removed Tree	$450.00 per inch DBH	$450.00 per inch DBH

Proposed Private Tree Code Fee Schedule

The following fees are associated with the proposed private residential tree code (*MMC 16.32.042 proposed*). For more information on the proposed tree code, visit www.milwaukieoregon.gov/planning/za-2021-002.

Private Non-Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Tree Application Fee (Type 1 and 2)	$50.00	$50.00
Healthy private tree removal fee beyond one tree per 12-month period[1] Measurements are in diameter at breast height (DBH). 6 to <8″ DBH 8 to <14″ DBH 14″ to <20″ DBH 20″ to <36″ DBH 36″ or greater [1] No removal fee for 1st tree less than 12″ DBH removed under type 1 permit.	 $80.00 per inch DBH $100.00 per inch DBH $150.00 per inch DBH $200.00 per inch DBH $250.00 per inch DBH	 $80.00 per inch DBH $100.00 per inch DBH $150.00 per inch DBH $200.00 per inch DBH $250.00 per inch DBH
Rare or Threatened Tree	$250.00 per inch DBH	$250.00 per inch DBH
Planting and Establishment Fee in lieu of Replanting for Non-Development Private Residential Trees	$2000.00 per tree	$2000.00 per tree

Private Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Construction Tree Plan Review Fee	$200.00	$200.00
Site Inspection Fee	$50.00	$50.00
Site Re-inspection Fee	$175.00	$175.00
Fee in lieu of canopy preservation in residential development *Canopy percentage measurements are in sq ft canopy / total site sq ft*	$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: $4000.00 <22.5%-15%: $4000.00 <15%-7.5%: $4000.00 <7.5%-0%: $4000.00	$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: $4000.00 <22.5%-15%: $4000.00 <15%-7.5%: $4000.00 <7.5%-0%: $4000.00
Fee in lieu of canopy preservation for eligible residential affordable housing *Canopy percentage measurements are in sq ft canopy / total site sq ft*	$4000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: $4000.00 <22.5%-15%: $4000.00 <15%-7.5%: $4000.00 <7.5%-0%: $4000.00	$4000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: $4000.00 <22.5%-15%: $4000.00 <15%-7.5%: $4000.00 <7.5%-0%: $4000.00

Significant Tree Credits *Retained significant trees in diameter at breast height (DBH)*		
Retained significant tree 12″ to <20″ DBH	125% existing or future canopy multiplier	125% existing or future canopy multiplier
Retained significant tree >20″ DBH	150% existing or future canopy multiplier	150% existing or future canopy multiplier
Retained significant tree >36″ DBH	175% existing or future canopy multiplier	175% existing or future canopy multiplier
Rare or Threatened Tree	$250.00 per inch DBH	$250.00 per inch DBH
Fees in Lieu of Canopy Standard	$5.00 per square foot of canopy necessary to meet 40% site coverage	$5.00 per square foot of canopy necessary to meet 40% site coverage
Bonding Requirements		
Tree Protection	150% of appraised value of protected trees held for 3 years	150% of appraised value of protected trees held for 3 years
Post Development	$3500.00 per newly planted tree for a 5-year period	$3500.00 per newly planted tree for a 5-year period

Private Enforcement and Restoration Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Violation Review Fee	$200.00	$200.00
Damaged Private Tree Fee	$225.00 per inch DBH	$225.00 per inch DBH
Unpermitted Private Tree Removal Fee		
6″ to <12″ DBH	$2000.00 per tree	$2000.00 per tree
12″ to <18″ DBH	$167.00 per inch DBH	$167.00 per inch DBH
18″ to <24″ DBH	$200.00 per inch DBH	$200.00 per inch DBH
24″ to <36″ DBH	$250.00 per inch DBH	$250.00 per inch DBH
36″ or greater DBH	$300.00 per inch DBH	$300.00 per inch DBH

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AND UPDATING SECTION 5 OF THE MASTER FEE SCHEDULE FOR FISCAL YEARS 2021 AND 2022.

WHEREAS, it is the policy and practice of the city to determine and recover certain city costs from fees and charges levied for various services, products, and regulations; and

WHEREAS, the city manager must periodically review city fees and charges to ensure the recovery of city costs in providing services, products, and regulations, and recommend adjustments to the City Council; and

WHEREAS, Milwaukie advisory boards, commissions, and committees periodically recommend adjustments to the fees and charges levied for various services, products, and regulations; and

WHEREAS, the city manager has reviewed city fees and charges, has received guidance from advisory boards, commissions, committees, and city staff, and has finalized the updated master fee schedule.

Now, Therefore, be it Resolved that:

SECTION 1. The City of Milwaukie "Fees" document included as Exhibit A to this resolution is hereby adopted.

SECTION 2. This resolution supersedes previously adopted fee resolutions.

Introduced and adopted by the City Council on **February 15, 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

Scott Stauffer

From: Teresa Bresaw <tbresaw50@gmail.com>
Sent: Friday, February 11, 2022 11:52 AM
To: OCR
Subject: Tree code and Process

This Message originated outside your organization.

Hello, Everyone!
How to pass a private property tree code (the wrong way)
1. Do it during a time when in person meetings can't take place with the general public.
2. Do it without providing the cost to the homeowner until very late in the process.
3. Do it without the NDAs bringing it to their members for discussion. Lake Rd NDA did not and how many others?
4. Don't consider the financial burden residents are already under to maintain their homes and rising costs of everything including taxes.
5. Select citizens for the tree board that have a strong bias without enough regard to the average homeowner and the practical concerns of implementation and enforcement.

The majority of residents love trees! I have only encountered 3 persons in 28 yrs that don't want trees in their yard (never planted) because of the labor and expense involved.
I believe in government regulation but the rules are not at all encouraging.
The December Pilot stated "If a tree is larger than 6" at breast height, a permit is required for removal. In the draft code, each property can remove one healthy tree without removal fees per calendar year."
The application permit is $50 and the removal fee (to the city) if over 12" diameter is $1350 plus since $175 may be the reinspection fee ($200 in permit fees).
Bottom line is reading the Pilot, leads one to believe that removing 1 healthy tree larger than 6" per year requires the $50 permit and NO removal fees. It states that in black and white. A permit fee and removal fee are 2 different things. This leads citizens to think they don't have to worry.
The Pilot also states "hazard, dead or dying trees larger than 6" in diameter? A permit would be required for tree removal, but no fee would be imposed..., a long list of approval standards including these situations, that would result in an approved tree removal permit without removal fees."
Again people would think no permit fee imposed and no removal fees.
If this information is not correct in the Pilot, then a new article should be written before any code is passed.
The democratic process is important and is difficult. I was on the Planning Commission many years ago and realize each of us have agendas.
The 80% of the median income to qualify for waiving of fees will not help the majority of citizens.
I have tried hard to understand the code. Please let me know if I don't. I don't think I'm the only one confused.
Affordability is important to all residents and city volunteers and staff need to understand that fees and taxes can make this barely affordable city NOT affordable.
Sincerely
Teresa Bresaw

Scott Stauffer

From: Tawnya Dettmer <tldettmer@gmail.com>
Sent: Thursday, February 3, 2022 8:14 PM
To: OCR
Subject: Tree ordinance under consideration

This Message originated outside your organization.

As a 25 year resident of Milwaukie- reviewing the proposed tree ordinance- specifically the cost of tree removal by size- shocks and angers me. Milwaukie is a working family town. According to statistics from Milwaukie High School- 50% of the student population lives in the "low income" demographic. I believe most families in our town do not have upwards of $6000. dollars available if it would become necessary to remove a tree. Not including arborist fees.
I'm all for having a way to improve our tree canopy and protect current trees, but we must make it reasonable and not a burden for homeowners.
Thank you,
Michael and Tawnya Dettmer

Sent from my iPhone

To: Milwaukie City Council

From: Paul Anderson

Date: 2/4/2022

Regarding: Proposed Tree Ordinance

In the 2/1/22 meeting, Natalie mentioned that some communities have more tree canopy than Milwaukie, Lake Oswego with 47% and West Linn with 38%. It should be noted that those communities have larger lots and large green spaces that contribute greatly to their tree canopy. Milwaukie doesn't have those large green spaces and to try to squeeze 40% tree canopy onto a residential development just isn't possible. Natalie admitted that many, if not most, new developments won't be able meet the 40% requirement, depending on lot sizes, building footprint, and other factors. Pertaining to this, the code states:

> 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.

This means that most developments will have to pay mitigation fees or spend a bunch of time and money trying to demonstrate some sort of other mitigation. The 40% canopy requirement should not be a hard number. It should be a variable based on lot size, building footprint, and other factors. Otherwise, it will disproportionally hurt development of small lots and especially someone wanting to put an ADU onto their existing lot, all of which goes against the city's goal of more affordable housing.

Natalie also stated that in order to get more tree canopy, developers would not necessarily have to follow table 16.32.042.H. Is the language in that part of the code going to be changed from "must be met" to "try to meet" or some other less restrictive language? Also, there still are no definitions for small, medium, and large stature trees. When will we see those?

Getting into the details of residential tree cutting permits part of the ordinance, in the type 2 permit section, the code states: "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". Please define or give examples of "extraordinary circumstances". If I am reading it right, it will be almost impossible for anyone to cut down any healthy tree that is larger than 12 inches in diameter. Is that correct? If so, it is awfully heavy handed.

I prune my trees myself. According to the enforcement section of the code it looks like I can be fined for not pruning my trees correctly:

> 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.

Is everyone who prunes their own trees expected to purchase and study up on ISA best practices before they do the pruning? Does it really matter if someone makes a mistake? I have been pruning my trees for 20 years and have no idea if I am following ISA best practices or not. The trees look fine and none have died, so I must have been doing something right.

The code also many times refers to the "Master Fee Schedule". Has it been published anywhere for the public to see? I got to see portions of it by watching the Zoom meeting, but couldn't find it on the city's website.

I have not combed through the entire ordinance but I suspect there are many more details that are missing or things that aren't clear. I think it would be wrong to pass it before all of the details are worked out and how the ordinance would interact with parking and other requirements are studied.

Regarding the "Non-Development Tree Permit Requirements" part of this ordinance, I understand the desire to preserve the trees we have but I think it is not needed. We all like the trees we have here, but those trees didn't get here because of some government regulation. They got here because people planted them and want to keep them. That isn't going to change. They aren't going to cut them down for no good reason.

The current tree canopy in Milwaukie is 26% and this part of the ordinance is not going to increase it in any perceptible way. If anything, just proposing this ordinance has probably frightened people into cutting down trees they would have otherwise kept. The council should drop this part of the ordinance and put out a statement that there won't be any restrictions on the cutting of trees on private properties. Otherwise, more trees will come down.

I also think that an ordinance of this magnitude should not be passed with the only public input being letters, emails, and Zoom meetings. At a minimum, there needs to be real public meetings where more citizens can voice their opinions. Beyond that, I really think that it should be made into a ballot measure so that we can all vote on it. Otherwise, it will appear that the government just rammed something down our throats.

Please answer the questions I have raised.

Thanks,

Paul Anderson

Scott Stauffer

From: Lisa Batey
Sent: Friday, February 4, 2022 2:56 PM
To: _City Council; Natalie Rogers; Peter Passarelli; Vera Kolias; Laura Weigel
Subject: FW: Proposed Tree Code

Scott, Natalie and all – please add to the record.

From: Anthony Allen <allena392@gmail.com>
Sent: Friday, February 4, 2022 2:25 PM
To: Angel Falconer <FalconerA@milwaukieoregon.gov>; Lisa Batey <BateyL@milwaukieoregon.gov>; Desi Nicodemus <NicodemusD@milwaukieoregon.gov>; Kathy Hyzy <HyzyK@milwaukieoregon.gov>; Mark Gamba <GambaM@milwaukieoregon.gov>
Subject: Proposed Tree Code

Dear City of Milwaukie Council Member,

I am writing you in regards to the proposed Tree Code amendments. I would like to preface my comments by stating that I have been passionately involved in horticulture for almost 35 years, and very much consider myself a lover of trees, as can be attested to the many (some very large) I have planted in my yard over the past 6+ years. As a horticulturist, I realize there are numerous tree species that grow very quickly, surpassing a 6" DBH in a relatively short time. Douglas Fir, the tree on our license plates is but one of these fast-growing tree species, of which there are several. I ask the Council to require the proposed code to adhere to the 12" DBH threshold that was written into the proposed code before it was changed to 6" DBH earlier this year.

Besides a tree being diseased or it threatening a home's infrastructural, there are other legitimate reasons a person might find it necessary to remove a tree from their lot: seasonal depression from not enough sun; wanting to grow your own food crops; building another living structure on your property. In the first instance, it should be considered a health issue. In the case of growing food crops, it is a sustainability issue. I don't believe in either of these instances a homeowner should have to pay the city to address these issues. In the case of a property owner adding another structure to their property, the City will already levy substantial fees for numerous permits needed just to build, therefore a fee for removing a tree up to 12" adds what can be considered an undue burden in an already very expensive process. Contrary to one of the Council member's comments about trees being removed because people didn't like the leaves they drop, to imply that this is the primary reason people remove trees from their property seems disingenuous. I wish overly simplifications of this sort were not made.

I would like to address the fact that the City currently removes many healthy trees from the environment. The former small natural area that is now Kronberg Park is such an example. As a resident of the Lake Road neighborhood, I can attest that the creation of the park not only removed an already established natural area but also displaced significant wildlife while adding to the noise and other pollution of McLaughlin Blvd. I live close enough to the area that I see and hear these impacts from my yard. While I advocate for the creation of parks in all of our cities, I'm not sure how eliminating an already established natural area supports the City's now stated desire for increased tree canopy. The City's own arborist suggested that the large Oak tree that was left in the park be removed. It was only the resistance of residents that allowed the tree to remain. I make this point because while I am often in support of the policies of the City, I do not necessarily believe the City in every instance is a better steward of our lands than private residents. There are far too many cases to point to that support this view. Another local case that comes to mind is the Cerangino Farms housing development. The City allowed developers to build houses so large that it is simply impossible for any of those houses to meet a 40% canopy standard. I believe the City is ultimately responsible for this outcome of little to no canopy, yet now is proposing other homeowners pay fees for removing trees on their property. It would always be better if the City showed it is willing to lead by example. I have yet to see that consistently be done.

I also have grave concerns about ownership. Over the past several years I have invested many thousands of dollars in large nursery stock for my yard, which was nearly empty when I moved here. This was not the cost for labor since I do that myself but in actual costs of plants. Several of the trees will soon exceed 6" DBH. Is the City of Milwaukie saying I won't have the right to do whatever I

want with these plants that I, not the City, paid for? If I were to relocate from Milwaukie, am I allowed to remove those plants and relocate them out of the city with me, without any fee or need to involve the City at all? If I am not able to do these things, does the City intend on purchasing the trees that I paid from me at market value once they attain a DBH of greater than 6”? If not, clearly that is a complete overreach of Milwaukie’s government. Unless the City specifically notifies residents that ownership of trees they purchase reverts to the City of Milwaukie upon reaching a DBH of 6”, the City is essentially not being honest and upfront about the proposed code and how it affects ownership and guardianship of trees residents purchase. These are only a few practical points that do not seem to be addressed in the code revisions.

One other clarification I would like. At the Council meeting this past Tuesday, Heritage Trees were mentioned. While I fully support the preservation of heritage trees, I believe one Council Member inferred that size, not age, was a determining factor when administering this designation. This I believe is wrong, as there are too many very fast-growing trees that appear to be “heritage”, but are in fact not very old at all. Most horticulturists understand size does not always equate to age. Because of that mention by the Council Member, I am unsure of what the City is using to determine its Heritage trees, and would like to be informed of the process being used.

I lament the fact that the City of Milwaukie, like our Federal Government, often fails to ask the entities that most damage our collective resources, such as Industrial and commercial interests, as well as residential lots with large housing complexes, to proportionally share in the responsibility of addressing the degradation they helped cause and we now face.

The Council is under the impression that residents should have been aware of this proposal, supposedly via formats such as The Pilot, social media, and neighborhood NDAs. Until September when I received a notice from the City in the mail and then a follow-up notice correcting the Planning Committee meeting time, I was completely unaware of this proposal. I bring this up because I do read The Pilot and do not recall any details about the proposed code, and have attended every single Lake Road NDA meeting for more than 18 months and the subject was never once brought to my attention. Perhaps you should require NDA leadership to bring these proposals up in their meetings. Also, more than a year ago after reading in The Pilot that the Tree Board was looking for volunteers, I emailed to do so, and never received a response to my email. Regardless of the reason for a lack of a response, there exists a lack of response from the City in this regard. Therefore, when I hear Council members make claims that residents had every opportunity to be informed, I'm left with the feeling that the City is being somewhat insincere in its claims.

Lastly, I am sure you receive correspondences from residents that don't agree with many City policies, and perhaps exhibit anti-government sentiments. I would like to state that not only am I not anti-government in general but have always considered myself a very liberal person, a lifelong Democrat, I've been involved in horticulture for more than 35 years, a yearly financial supporter of The Nature Conservancy, I've been a volunteer in several of the communities that I belong, sit on the Board of Directors of a national arts organization, and as a young adult I canvassed for organizations such as Greenpeace and the Maine People's Alliance. I bring this up because I want to stress that I am not opposing this proposal just because I "don't want the government telling me what to do", but because I have serious concerns about some of the points in this proposal. And while there are many points in the proposal that I support, I believe certain points to the proposed code are unreasonable, and some inherently unjust. Therefore, I ask the Council to not vote on this proposal as it is currently written, and address the points that I am making.

Respectfully,

Anthony Allen

Milwaukie resident

Scott Stauffer

From: Lisa Batey
Sent: Sunday, February 6, 2022 1:09 PM
To: _City Council; Peter Passarelli; Natalie Rogers; Laura Weigel; Vera Kolias
Subject: FW: Proposed Tree Code

Scott: I don't know that this really adds any substance to the comments you captured last week, but in the interests of full transparency, I thought it should probably be added to the record, too. Thanks, Lisa

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From: Anthony Allen <allena392@gmail.com>
Sent: Saturday, February 5, 2022 11:32 AM
To: Angel Falconer <FalconerA@milwaukieoregon.gov>; Lisa Batey <BateyL@milwaukieoregon.gov>; Desi Nicodemus <NicodemusD@milwaukieoregon.gov>; Kathy Hyzy <HyzyK@milwaukieoregon.gov>; Mark Gamba <GambaM@milwaukieoregon.gov>
Subject: Re: Proposed Tree Code

Dear City of Milwaukie Council Members,

I submitted some of my concerns to you regarding the proposed tree code. Upon reflection, I realize that I failed to let you know that I appreciate all the effort that goes into running our city, particularly since you volunteer your time to do so. I realize the very difficult task each of you has of balancing the public and private interests of residents, and I am certain that task is complex, challenging, and often thankless. In my previous correspondence, I presented my feeling on a subject I feel very strongly about. However, That does not negate the fact that I believe each of your efforts is done with the best interest of Milwaukie and its residents in mind. I have lived in Milwaukie only for a total of 8 years, 6 in the house where I now live and 2 in the duplex next door. I have very high regard for the city, and attribute that feeling to the work, often thankless, that is done by folks such as yourself. Regardless of my personal views on this particular subject, I am very thankful there are many people who work towards making this the fine city it is and regret that I did not convey this opinion when I shared my last. Thank you for all you do!

Anthony Allen

Milwaukie resident

On Fri, Feb 4, 2022 at 2:25 PM Anthony Allen <allena392@gmail.com> wrote:

> Dear City of Milwaukie Council Member,
>
> I am writing you in regards to the proposed Tree Code amendments. I would like to preface my comments by stating that I have been passionately involved in horticulture for almost 35 years, and very much consider myself a lover of trees, as can be attested to the many (some very large) I have planted in my yard over the past 6+ years. As a horticulturist, I realize there are numerous tree species that grow very quickly, surpassing a 6" DBH in a relatively short time. Douglas Fir, the tree on our license plates is but one of these fast-growing tree species, of which there are several. I ask the Council to require the proposed code to adhere to the 12" DBH threshold that was written into the proposed code before it was changed to 6" DBH earlier this year.
>
> Besides a tree being diseased or it threatening a home's infrastructural, there are other legitimate reasons a person might find it necessary to remove a tree from their lot: seasonal depression from not enough sun; wanting to grow your own food crops; building another living structure on your property. In the first instance, it should be considered a health issue. In the case of growing food crops, it is a sustainability issue. I don't believe in either of these instances a homeowner should have to pay the city to address these issues. In the case of a property owner adding another structure to their property, the City will already levy substantial fees for numerous permits needed just to build, therefore a fee for removing a tree up to 12" adds what can be

considered an undue burden in an already very expensive process. Contrary to one of the Council member's comments about trees being removed because people didn't like the leaves they drop, to imply that this is the primary reason people remove trees from their property seems disingenuous. I wish overly simplifications of this sort were not made.

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I also have grave concerns about ownership. Over the past several years I have invested many thousands of dollars in large nursery stock for my yard, which was nearly empty when I moved here. This was not the cost for labor since I do that myself but in actual costs of plants. Several of the trees will soon exceed 6" DBH. Is the City of Milwaukie saying I won't have the right to do whatever I want with these plants that I, not the City, paid for? If I were to relocate from Milwaukie, am I allowed to remove those plants and relocate them out of the city with me, without any fee or need to involve the City at all? If I am not able to do these things, does the City intend on purchasing the trees that I paid from me at market value once they attain a DBH of greater than 6"? If not, clearly that is a complete overreach of Milwaukie's government. Unless the City specifically notifies residents that ownership of trees they purchase reverts to the City of Milwaukie upon reaching a DBH of 6", the City is essentially not being honest and upfront about the proposed code and how it affects ownership and guardianship of trees residents purchase. These are only a few practical points that do not seem to be addressed in the code revisions.

One other clarification I would like. At the Council meeting this past Tuesday, Heritage Trees were mentioned. While I fully support the preservation of heritage trees, I believe one Council Member inferred that size, not age, was a determining factor when administering this designation. This I believe is wrong, as there are too many very fast-growing trees that appear to be "heritage", but are in fact not very old at all. Most horticulturists understand size does not always equate to age. Because of that mention by the Council Member, I am unsure of what the City is using to determine its Heritage trees, and would like to be informed of the process being used.

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proposal that I support, I believe certain points to the proposed code are unreasonable, and some inherently unjust. Therefore, I ask the Council to not vote on this proposal as it is currently written, and address the points that I am making.

Respectfully,

Anthony Allen

Milwaukie resident

To: Milwaukie City Council

From: Paul Anderson

Date: 2/8/2022

Regarding: Proposed Tree Ordinance

The stated purpose of this ordinance is to "ensure the City maximizes the environmental, economic, health, community, and aesthetic benefits provided by its urban forest." But why? Why do we need to "maximize" the benefits of the urban forest? The current canopy in Milwaukie is 26%, which I think is very good. Why do we need to make it better? Are you striving for perfect? And at what cost?

During the 2/1/22 meeting, Natalie stated that the 40% canopy value came from the "American Forest Institute". I did an online search for the "American Forest Institute" but got no results. Please send me a link to that organization. I would like to see their justification for that 40% recommendation. I suspect it may have something to do with global warming, but don't want to assume that.

Natalie also said "There are situations where it's (40%) not going to be achievable, that is when that mitigation opportunity, or the alternative design variance is available to them." I would argue that 40% will not be achievable in any new development. Lots in my neighborhood, which was developed in 1996, do not have room for 40% canopy. The Maplewood development, built in 2003, does not have room for 40% canopy, and Cereghino Farms absolutely does not have room for 40% canopy. Can you name a single development in Milwaukie in the last 20 years that does have room for 40% canopy?

The only lots that can get to 40% canopy are those that are 10,000 square foot and larger. With the city's desire to increase housing density, will the city ever allow there to be any new developments with 10,000 square foot or larger lots? Probably not.

The 40% appears to be a value that is just used to generate large mitigation fees. It hasn't been demonstrated that it can ever be achieved, and certainly not by 2040. Trees don't grow that fast.

If 40% is not achievable then paying a mitigation fee is not an "opportunity", it is a requirement. And what kind of alternative design would be allowed? Would a large green space in the development be accepted? Probably not. I'm sure the city would rather have the tax revenue from additional houses AND get to collect the mitigation fees.

It also looks like this ordinance gives city personnel the ability to walk onto our property any time they want to as long as the reason has something to do with trees.

> 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.

Shouldn't the Urban Forester at least be required to give the owner notice? As I read it, all trees 6 inches or larger are subject to the provision of this chapter. Am I reading it correctly?

Except for trees that are in the public right of way, any trees on private property should be considered private trees. Through this ordinance the city would take control of those private trees. The city would have the right to inspect the trees, order the property owner to remove a dead or diseased tree, fine the property owner for incorrectly pruning or damaging a tree, and decide whether or not a tree can be removed. So, if a property owner no longer has control of his trees, does he really own them? It looks to me like this ordinance transfers ownership of trees to the city. If this is true, isn't the city required to compensate the property owner for "taking" the trees? There are also limits on the purposes for which private property can be taken. Do trees fall within those limits? And wouldn't forcing someone to cut down his own tree be a violation of "nor the particular services of any man be demanded"?

> **Oregon Constitution**
> **Section 18. Private property or services taken for public use.**
> Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and Waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use.

Up until now I have been just looking at the details of the ordinance. Now I want to talk about the big picture. Our country was founded on the principle that our rights come from God and that the purpose of government is to secure those rights. One of those rights is the right of private property. The government should secure that right, not take it away. We have the right to do whatever we want with our property, as long as it doesn't harm others. It looks to me like this ordinance violates that right.

I am not fighting this ordinance for myself. This ordinance won't affect me. I am representing some of my neighbors who will be affected. Everyone I have talked to in my neighborhood about this is against it. Even more so after I tell them about the fees. You, as councilors, should be doing the same, representing your neighbors, not the Audubon Society, North Clackamas Watershed Council, Urban Greenspaces Institute, or any other special interest group. Even if you agree with some of those groups, you should listen to your neighbors, and if the majority are against it, you should be against it too.

I don't oppose this ordinance because I dislike trees. If you do a little research, you will see that I played a significant role in saving the cedar trees on Somewhere Drive when the Maplewood development was put in.

I do value trees, but I am against bad public policy and government overreach. As one of our neighbors said to my wife: "THIS IS JUST PLAIN WRONG".

Another question: Are my letters and the letters and emails of others who have commented on this ordinance available to be seen by those in the public who are interested? Are there links to this information on the city's website?

Thank you,

Paul Anderson

Scott Stauffer

From: Paul A. <versengr@gmail.com>
Sent: Sunday, February 13, 2022 6:19 AM
To: OCR
Cc: tbresaw50@gmail.com
Subject: Tree Ordinance

This Message originated outside your organization.

Milwaukie City Council Members,

Since moving to Milwaukie almost 25 years ago, I have planted 7 trees in my yard. I assume that you think this is a good thing. But now, because I have done this "good thing", I will be subject to possible fees and fines.

My next door neighbor, however, has not planted a single tree in those 25 years. From your point of view, this is bad, but yet he won't be subject to any fees or fines.

Is this fair? Certainly not. I have added to the tree canopy, but he has not. Yet, he will not have to pay any fees or fines, but I may have to.

This ordinance may actually reduce the tree canopy instead of increasing it. I certainly won't plant another tree and my neighbor will have even more reason not to plant a tree.

In general, this ordinance will cause people to be hesitant to plant trees. This, along with people cutting down trees before the ordinance takes effect, will result in Milwaukie having less trees instead of more.

Please take into account the unintended consequences of this ordinance. It may end up doing the exact opposite of what you intended it to do.

Why not instead provide incentives for people to plant more trees. It would be much more likely to increase Milwaukie's tree canopy than fines and fees.

Thanks,

Paul Anderson

Re: Written Testimony for **Agenda 8.B, Parking Code Amendments**, Regular Session, February 15, 2022

Hello: Mayor Gamba, Council President Hyzy, and Councilors Batey, Nicodemus, Falconer; City Manager Ober and Senior Planner Kolias

I ask that Council Modify the Minimum Parking Requirement for Middle Housing.

> ***Cap, at 30, the total number of new middle housing units to be constructed with zero off-street parking spaces*** *(excepting Cottage Clusters, as referenced in Table 19.605.1).*
>
> ***Alternatively, allow a limited on-street parking space variance review, if the total number of new middle housing units with zero off-street parking exhausts this 30-unit total Cap. This review would weigh the on-street parking and safety aspects of the middle housing site.***

Justification for this modification in Middle Housing:

The proposed minimum parking requirement for Middle Housing submitted to the Planning Commission initially required one off-street parking space for each new Middle Housing Unit constructed (ADUs and Cottage Clusters excepted). The Planning Commission struck this proposed Parking Amendment, eliminating the requirement to provide for off-street parking in new Middle Housing.

The Planning Commission struck the Middle Housing Parking Minimum stating that only 20 to 30 Middle Housing units are likely to be built over the next 20 years – an inconsequential number either way.

But what if this linear projection turns out to be too low? Then there is a more adverse result for public safety for walkers and bicyclists, depending on the conditions of the street (block) servicing a new middle housing unit. I do not have to tell you that many of Milwaukie's neighborhood streets lack sidewalks and are often with rutted, potted surfaces (neighborhood streets are generally not within the SAFE program improvement plan which concentrates more on main arterials and school zones). Additionally, there may be several cars typically parked already on these streets. Then there is topography which may be hilly or curvy rather than straightway like. **Line of site becomes more obstructed** in these conditions, and adding yet more cars parked on the street can add to this obstruction.

Finally, many **Milwaukie residents have been involved** in developing the proposed amendments and **the product of their involvement included the one parking space minimum** for new Middle Houses – the Planning Commission later strikes without seeming unanimity.

I should think the Council would give at least some deference to the public input process and require some modification to the zero minimum off-street parking approved by the Planning Commission. *The Planning Commission's parking space code for middle housing is too binary and should be modified to provide for flexibility/adaptability along the lines I recommend.*

Sincerely,
Elvis Clark
Member of the Public Safety Advisory Committee
Ardenwald neighborhood
Milwaukie 97222

February 15, 2022

Scott Stauffer
City Recorder
Milwaukie, Oregon

Dear Scott:

Please accept these comments and provide them to the City Council for its consideration during the public hearing on tree code amendments now pending.

I have two simple requests:

1) Create a “no fee” exception process for the removal of trees that are clearly dead;

2) Allow for the removal of trees, without requiring mitigation or compensation, when those trees were originally planted for the purpose of commercial harvesting.

Addressing my first point, I suggest that there are many trees still standing in the community that are clearly dead, and do not require the evaluation of a professional arborist to verify that they are dead. Such trees can be a liability to the property owners and to the community overall. I can see two examples from my own living room. Across the street is a birch tree that has not had leaves for several years and which has begun to lose branches in every windstorm. One does not need any forestry training to determine that it is dead. In my own back yard, we retained the basic structure of a long-dead Bing cherry tree for a number of years as a “habitat tree,” but it eventually fell over. We now have a vine maple tree that has not had leaves for the last two growing seasons and it has become brittle. Just about anyone could verify that it is dead. Requiring the property owners to complete any sort of a permit process to remove such trees is likely to result in people ignoring the rules. I suggest that a no fee inspection process be established where any staff person from the City Planning Division would be authorized to determine if a tree is clearly dead. If the staff person is uncertain, the determination could be left to the Urban Forester, or handled through the Type 1 process.

My second point is motivated by a conversation I recently had with Virginia Seitz, of my neighborhood. Virginia said that her husband, who owns a portable sawmill, planted trees on their large lot on Logus Street many years ago, with the intention of eventually harvesting those trees. Given the patchwork history of annexations in the Lewelling Neighborhood, it is possible that Mr. Seitz planted those trees before their property was within the City limits. I just think that, as a matter of fairness, they should be allowed to harvest those trees without being required to pay into the City tree fund or mitigate for the loss of those trees. If necessary, the City could require property owners to provide an affidavit attesting to the facts.

I continue to support the City's efforts to protect trees in the community. I believe that everyone who has been involved in this effort has done so with the intention of making Milwaukie a more livable and sustainable community. As I have said before, my only major complaint has been that it has taken so long for the City to reach this point. I believe it has been more than six years since three members of Milwaukie's Parks and Recreation Board (Lisa Gunion-Rinker, Lynn Sharp and Lisa Lashbrook) did the original work to have the City achieve Tree City status. So much time has passed that few even remember their efforts.

As someone who had responsibility for administering tree codes in other cities during my professional career, I have been very impressed by the thoughtfulness and deliberation that has gone into this project. It can't possibly be a perfect tree code, but it certainly can go a long way to help Milwaukie reach the Vision that so many people have worked to achieve.

Thank you for your consideration of my comments and for all of the 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

Scott Stauffer

From: Lisa Batey
Sent: Tuesday, February 15, 2022 10:31 AM
To: _City Council; Peter Passarelli; Natalie Rogers
Subject: Lake Oswego tree permits

All: [Please do not reply all]

Via Facebook today, I saw a post about two tree removal permits in Lake Oswego, seeking to remove 11 large trees for development of two lots. I thought seeing LO's paperwork and process might be of interest. It has things we can expect to see, like that removing multiple trees involves multiple permits -- some invasive, so by right; some smaller, so type I; and some larger, so type II.

Apart from a $314 application fee, nothing here that I could see mentioned a fee for tree removal. They apparently just have one-for-one replanting requirements, unless the tree is deemed "significant," then there is a two-for-one planting requirement. But this paperwork isn't all that clear on the definition of "significant."

I think the developer's feeble attempts at showing they considered other site designs are indicative of what we can expect to see. They could definitely build more modest homes and keep half of these trees.

This also prompts me to take another look at our code about notice and public comment.

I'm putting both links here, but they are very similar, you only need to bother looking at one of them.

https://www.ci.oswego.or.us/api/trees/permits/1988/application?fbclid=IwAR1PRXOVGz2yLEXCyb1NBzfkzuPgf1EDExBqgN9eOOZau7GuI62nmQfhoAc

https://www.ci.oswego.or.us/api/trees/permits/1989/application?fbclid=IwAR3bAUKP_pjd3Dc0PbXOE-vKLjpbH2YCw1J1XRun4-aGRrMUlwIO4gh3oyw

Lisa Batey, Councilor (she/hers)
City of Milwaukie
Bateyl@milwaukieoregon.gov

Dear Milwaukie Councilors, 2-15-202

I live in the Ardenwald/Johnson Creek neighborhood and would like to remind my neighbors of all the reasons a new tree code for private property is positive and needed for our community. This is not about someone telling you what to do with your property. This is about supporting and protecting us all as a community in so many ways and making our neighborhoods resilient now and in the future. We must make it happen together.

Eighty percent of our city's trees are on private property. Without regulation/requirement/mitigation we are quickly losing our tree canopy to development. (All those trees on King Road and on Johnson Creek Blvd that were cut down without any regulation/requirement/mitigation is an example of what should not happen in our neighborhoods.) Natural disasters such as more frequent ice and windstorms have also taken a huge toll on our trees increasingly the last 3-5 years.

I know there are some regulations in the new code such as the six" diameter tree size that seem restrictive, but they would not be needed if we weren't already behind the curve on preserving/maintaining and growing our tree canopy. Before you oppose the new tree code, please think about your neighbors and your community's future. And, if you have questions or concerns, please talk to our local tree board members that helped write this code. They are your neighbors and all volunteers that live in our community. They serve all of us by donating their time to make things better for everyone, so please give them a chance, and give our future a chance. If we stand together and work to make our community healthier, which is a large reason for this tree code, this is a win for all of us now and for generations to come.

I know most people do not need a reminder of all the things that trees do for us, but just in case….

Why we, as citizens, need to preserve/maintain/plant trees in our neighborhood and how a new tree code requirement can help:

- Protection from air pollution from the industrial areas that the Ardenwald/Johnson Creek neighborhood sits in-between. Trees absorb odors and pollutant gases (nitrogen oxides, ammonia, sulfur dioxide, carbon dioxides, and ozone) and filter particulates out of the air by trapping them on their leaves and bark. **Trees lead to better health by cleaning the air.**
- Protection from the air pollution from high traffic and idling vehicles on JCB, 32nd Ave, the Railroad tracks, highway 224, and highway 99E. Trees absorb odors and pollutant gases (nitrogen oxides, ammonia, sulfur dioxide, carbon dioxides, and ozone) and filter particulates out of the air by trapping them on their leaves and bark. **Trees lead to better health by cleaning the air.**
- Protection from noise pollution from high traffic and idling vehicles on JCB, 32nd Ave, the Railroad tracks, highway 224, and highway 99E. **Trees lead to better health by reducing the stress of noise which leads to cardiovascular (think blood pressure) issues over time.**
- Provide shade and lower temperatures 2 – 8 degrees C for neighborhoods during the new normal of much hotter/drier summer months. Trees cool neighborhoods by shading our homes

and streets, breaking up urban “heat islands” and releasing water vapor into the air through their leaves. **Trees cool the air and prevent heat related death.**

- Reduce runoff by breaking rainfall and allowing the water to flow down the trunk and into the earth below the tree. This prevents stormwater from carrying pollutants to our Johnson Creek Watershed, other waterways, and the ocean. Mulched trees act like a sponge that filters rainwater naturally and uses it to recharge our groundwater supplies/wells. **Trees lead to better health by cleaning the water.**
- Shade from trees slows water evaporation from thirsty lawns. Most newly planted trees need only fifteen gallons of water a week. As trees transpire, they increase atmospheric moisture. **Trees cool the air and prevent heat related death.**
- Three trees placed strategically around a single-family home can cut summer air conditioning needs by up to 50%. By reducing energy demands for cooling our homes, we reduce CO2 and other pollution emissions from power plants. **Trees shade and cool our homes reducing energy use/needs.**
- Trees in Ardenwald/Johnson Creek neighborhood slow runoff into our watershed and stop erosion of soil on our sloping hillsides and roads. Trees also protect our low areas along Johnson Creek from flooding as many native trees absorb large volumes of water. **Trees protect our waterways and enrich and preserve our soil nutrients in our natural areas and neighborhoods.**
- Protection from excess carbon dioxide (CO2) build up in our atmosphere. Trees absorb CO2, removing and storing the carbon while releasing oxygen (O2) back into the air you breathe. **Trees protect us by cleaning the air and producing oxygen.**
- Provide masking of concrete walls, parking lots, unsightly views. They muffle sound from streets and freeways, absorb dust, wind, and reduce glare. People heal faster with less complications when they have a view of trees. Children and adults concentrate more easily when around trees and mental fatigue is reduced. **Trees promote better mental and physical health by producing an eye-soothing canopy of green.**
- Trees and landscaping help reduce fear and violence in people and slow down traffic. **Trees promote safety in our neighborhoods.**
- Protect and create more habitat/shelter for wildlife in our community and in our watershed to maintain and grow our biodiversity. Trees provide massive benefits to the local ecosystem by providing habitat, food, and protection to not just smaller plants, but all types of life (fungi, animal, soil organisms, insect, pollinator). Having plenty of species present also reduces the chance that pests, diseases, natural disasters, and other threats can make a drastic impact on a habitat or area. **Trees protect all life, including us, through biodiversity.**
- Increase your neighborhood property values immensely as properties with trees can increase their value by 20%. Tree plantings in a neighborhood also provide an opportunity for community to come together to empower and improve their quality of life. Everyone has an important role to play in planting and maintaining our trees. **Trees create value in people and community.**

Our trees are the backbone to creating biodiversity in our communities and are critical to our lives. The ecosystems that they form make all aspects of human life possible. We depend on their natural services to help provide healthy ecosystems for our air, water, soil, and our food. As a society, the biodiversity trees create enriches our lives, and we value the chance to get closer to it. If we do not protect/preserve/maintain what we have now through a new tree code, and work to create more resilient tree canopied neighborhoods for the future, we stand to lose a lot more than just trees.

Thank you for your time and interest! This does not mean some changes could not be made to the new code but do think of what questions could make this new code better for everyone both now and in the future.

Respectfully,

Lisa Gunion-Rinker
Ardenwald/Johnson Creek Neighborhood resident

Scott Stauffer

From: Marcy Wambach <marcywambach@gmail.com>
Sent: Tuesday, February 15, 2022 3:39 PM
To: OCR
Subject: Tree Code

This Message originated outside your organization.

As a lifelong resident of Milwaukie, and a homeowner with numerous large trees, I am concerned with the overreach of the tree code being proposed. I currently pay thousands of dollars EVERY year to prune, maintain, clean up and (occasionally) remove a tree. My trees are never removed without careful consideration. Trees have their own lifecycles. Sometimes they become too crowded, grow into other spaces or overtake where they have been planted. Sometimes they need to be removed. I currently have several trees that would cost over $16,000.00 EACH in "Tree Code Fees" IF they were even approved. Now, add to this cost, the actual cost of removing and disposing of said tree. Those costs will be more than double the city fees. It makes it prohibitive to have trees on my property. IF you are actually looking for a tree canopy to thrive in Milwaukie, you would do well to offer a property tax credit to owners with trees over a certain size. Since we (the owners) bear all the costs of maintaining these trees, we would be more likely to plant and retain them if there was a financial INCENTIVE rather than more ridiculous fines and red tape. All that this does is make people want to remove their trees before the code is implemented, or for some less savory types, to harm trees so that they fall under the "dead or dying" provisions. I sincerely hope that this is, in fact, a tree thriving issue and not a money grab. If all you are really interested in is the fees/fines money for the budget (as far as I can tell, there isn't a solid logical plan for the funds) then you should be honest and let us vote on a tax.

Regards,
Marcy Wambach

Residential Tree Code

urbanforest@milwaukieoregon.gov
503-786-7655
milwaukieoregon.gov/trees

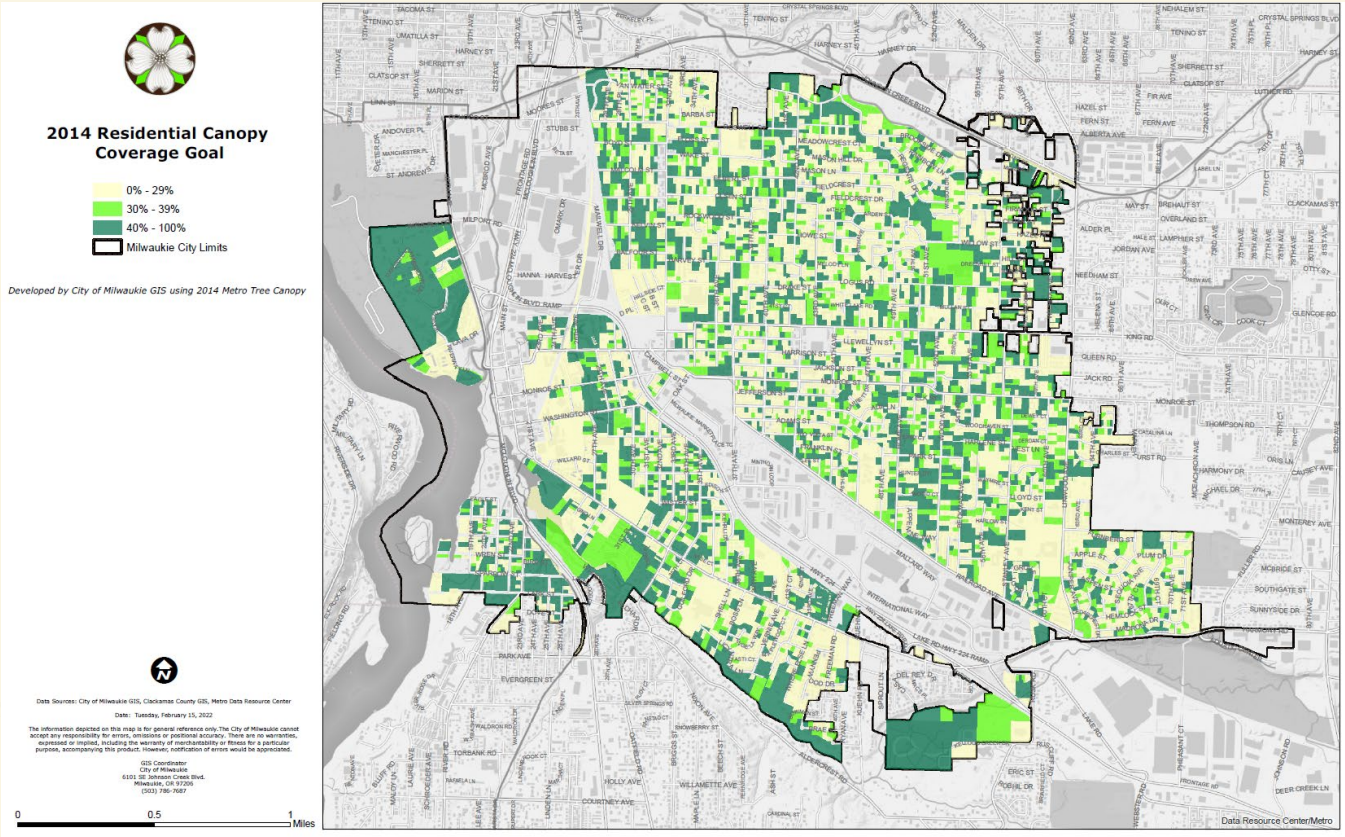
MILWAUKIE
URBAN FOREST
Growing Trees
Growing Community

Code updates since 02/01 hearing

- Revisions for clarity
- Adjustments to significant tree credit for larger diameter trees
- Language for enforcement fee mitigation if damage or unpermitted removal was not a result of intentional avoidance of tree code requirements

MILWAUKIE URBAN FOREST
Growing Trees
Growing Community

Why 40% Canopy Cover?



Where are we now?

Based on most recent canopy data, Milwaukie's residential properties average ***32.3% canopy cover***



Cereghino Farms



Designed under county standards

- Different outcome if designed under existing MMC standards
- Additional considerations if draft tree code in effect
  - Increased tree planting requirements

MILWAUKIE URBAN FOREST
Growing Trees
Growing Community

Clarifying Questions?





MILWAUKIE URBAN FOREST
Growing Trees
Growing Community

For more information:
milwaukieoregon.gov/trees

American Forests:
amercianforests.org

Questions?

urbanforest@milwaukieoregon.gov
503-786-7655
milwaukieoregon.gov/trees

Natalie Rogers
Climate and Natural Resources Manager
RogersN@milwaukieoregon.gov



CITY OF MILWAUKIE

RS 8. B. 2/15/22

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Feb. 3, 2022

Reviewed: Laura Weigel, Planning Manager, and
Joseph Briglio, Community Development Director

From: Vera Kolias, Senior Planner

Subject: **Comprehensive Plan Implementation: Code Amendments – Housing & Parking**

ACTION REQUESTED

Council is asked to open the public hearing for land use file #ZA-2021-002, discuss the proposed amendments to Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 17 (Land Division), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map related to middle housing and parking, take public testimony, and ask any clarifying questions of staff regarding the proposed amendments.

Council is also asked to continue the hearing regarding middle housing and parking to March 1. The requested action on March 1 is to hear any additional information from staff, receive additional public testimony, deliberate (or continue the hearing as necessary), and approve file #ZA-2021-002 and adopt the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

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.

January 18, 2022: Public hearing #1 focused on the proposed Tree Code. Council took public testimony and continued the hearing to February 1.

February 1, 2022: Public hearing #2 focused on the proposed Tree Code and proposed fee schedule. Council took public testimony and continued the hearing to February 15.

BACKGROUND INFORMATION

Please refer to the January 18 staff report for additional project details.

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 HB 2001, passed by the state legislature in July 2019, requires the expansion of middle housing options.

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

The city is also required by HB 2001 to expand housing opportunities throughout the city, including middle housing. 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. These housing types already exist in most cities throughout Oregon and the rest of the country but were outlawed for decades in many neighborhoods. These limitations contribute to increased housing costs and fewer choices. House Bill 2001 requires updates to local laws that currently limit the types of housing people can build.

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.

ANALYSIS

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 the Findings in Attachment 1 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 Comprehensive 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. Tree canopy has been addressed via the proposed tree code. A summary of the connection between the proposed code amendments and the policy mandates related to housing and parking is as follows (Please refer to Attachment 2 for the full code audit report prepared by Urbsworks):

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

People who live in Milwaukie - or want to - have different housing needs. More housing variety can help. Currently, in most residential areas the city only allows people to build new single detached homes, a housing type that can be expensive and usually is occupied by homeowners rather than renters. The proposed code amendments allow different housing types to be built in these areas.

Goal 7 of the Comprehensive Plan recognizes that for different forms of housing to be built the zoning and code will need to be revised to remove barriers to development. Additionally, the Milwaukie Housing Affordability Strategy (MHAS) cites the need to enable equitable housing options that meet the needs of all residents, including allowing more housing types to be allowed in low and medium density zones.

Further support for the development of denser forms of housing is found in the 2016 Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Since 2016, the city has issued permits for 110 single detached dwellings, 7 ADUs, and 395 multiunit dwelling units, for a total of 512 housing units.

Milwaukie's Comprehensive Plan goals are aligned with the intent of Oregon's Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed for the city to be compliant with HB 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

1. Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
2. Title 19 – Zoning (all sections)

Policy Mandate 2: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan (CAP) and MHAS, offer strong support for minimizing parking in new developments to encourage the use of alternate transportation and to reduce vehicle emissions.

Additionally, the MHAS identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

1. 19.200 Definitions, Parking-related definitions
2. 19.505.4 Parking Spaces Location
3. 19.600 Off-Street Parking and Loading

Summary of Key Amendments – as recommended by the Planning Commission

Amendments Related to the Zoning Map

Amendments to the existing single-unit residential zones reduce the number of residential zones in Milwaukie and broaden the range of housing types permitted throughout the city for a wider range of housing choice at varying income levels.

Currently, the eight single-unit residential zones on the zoning map include a list of permitted and prohibited uses and have different development standards. The current zoning code does not comply with new Comprehensive Plan policies and HB 2001 and must be amended.

The proposed amendments update the Comprehensive Plan zoning map and the zoning ordinance to consolidate the existing low density residential zones (R-5, R-7, and R-10) into one new zone; the existing medium and high-density zones are maintained as is, for a total of six residential zones. The amendments include updated lists of permitted land use designations that includes middle housing wherever detached single dwellings are permitted.

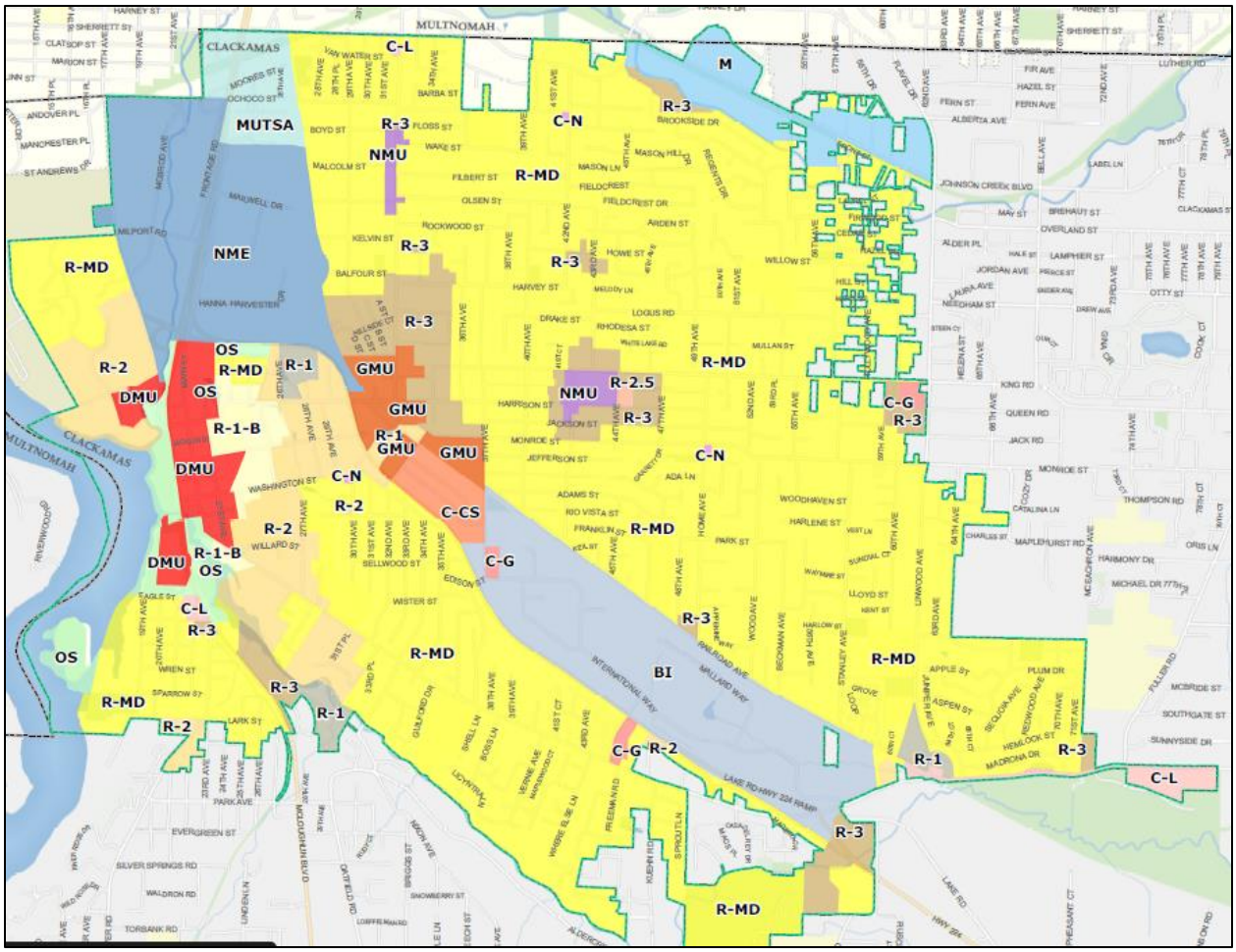


Figure 1. Proposed zoning map - consolidation of R-5, R-7, and R-10 into R-MD

Amendments Related to Housing

In addition to reducing the number of residential base zones, code amendments related to housing provide greater detail as to how housing permitted under the new base land use zones will be designed and built. They address the form of the housing allowed in the residential zones which provides the ability to apply standards based on the site conditions and lot size.

One of the questions asked during the project was: How can we increase the housing supply in Milwaukie neighborhoods by providing significant flexibility for property owners and developers that want to add middle housing?

The city can create the opportunity to build a variety of housing types and sizes throughout the city through changes to the development code. These changes can also help reduce segregation, promote racial equity, increase opportunities for people to live in places that meet their needs, and expand options for property owners. Additionally, site design flexibility creates the opportunity to protect tress and reduce impervious surfaces which promote climate resiliency.

Under the existing zoning code, the standards limit the form and type of housing allowed within the existing zones The proposed amendments aim to remove the greatest number of potential development barriers. Most housing types are allowed on most lots. Bulk and scale of newer homes are regulated mostly through height maximums and setbacks, facilitating larger buildings with more units or more bedrooms that could support multi-generational living.

The proposed amendments update the zoning code to simplify existing residential zones, permit a broader range of middle housing types, and remove certain development and approval standards for middle housing types so they are subject to the same level of review currently used for single dwellings.

Incentives for income-restricted housing are included in the proposed code amendments. When staff brings forward a proposed amendment creating a new code section devoted to incentives for income-restricted housing, this language will be removed and included in the larger incentives section.

All housing types must address certain development standards including:

- maximum lot coverage
- minimum landscaping
- minimum setbacks
- maximum building heights
- side yard height plane

Lot Size	**Permitted Housing Types currently**	**Permitted Housing Types proposed**
1,500 sq. ft.	Rowhouse (townhouse)	Rowhouse (townhouse) Cottages (when in a cottage cluster)
3,000 sq. ft. to 6,999 sq. ft.	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex
7,000 sq. ft. and greater	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex Cottage Cluster

Under the proposed design standards, middle housing types can be built as attached (stacked or side-by-side) or detached units, allowing more flexibility for the size of lot that housing can be built on. All other design standards would still apply.

Key amendments include:

- Amend base residential zones, permitted uses and development standards to permit middle housing.
- Allow detached single dwelling and all middle housing types (except cottage clusters) on 3,000 square foot lots.

- Permit more than one primary dwelling per lot in residential zones.
- Permit middle housing to be attached or detached.
- Amend single detached dwelling and duplex building design standards to include triplexes and quadplexes.
- Remove minimum structure size for manufactured homes to treat same as single dwellings.
- Amend review type for accessory dwelling units (ADUs) and duplexes to allow outright (same as single detached units); update some ADU standards for clarity.
- Implement new cottage cluster code development and design standards.
- Amend current rowhouse (townhouse) standards.
- Amend flag lot standards, allow back lots, and allow flag lots and back lots in new subdivisions.
- Remove allowances for encroachments into side yard height plane to limit the size of single detached dwellings.
- Reduce minimum setbacks for income-restricted housing with a Type II variance.

Amendments Related to Parking

The proposed code amendments reduce on-site parking requirements and provide alternatives for locating parking which can reduce the cost of housing, save trees, and decrease impervious surface.

One of the discussion points during the project was how to balance the need for housing, the need for parking, tree preservation, and the cost of providing on-site parking (both in terms of dollars spent and the space required to provide it).

The proposed amendments update the MMC Title 19.600 off-street parking and loading. These updates clarify the locations for on-site parking, lower the minimum number of on-site parking spaces required for each dwelling unit, and modify code language to allow for flexible approaches to parking.

Key amendments include:

- Remove minimum off-street parking requirements for middle housing (except cottage clusters).
- Reduce minimum off-street parking requirements for cottage clusters to 0.5 spaces per dwelling unit.
- Allow the location of off-street parking space be within front setback or within 15 feet of front lot line or within side setback.
- Include a by-right reduction in minimum off-street parking for income-restricted (affordable) housing.
- Amend the parking modification process to include preservation of priority trees as a criterion for parking reduction.

Planning Commission recommendations

A draft code amendment package was posted on September 1. At their November 9, 2021, meeting the Planning Commission voted to recommend approval of the code package with the following key revisions to the code:

- Allow flag lots and back lots in subdivisions.
- Reduce minimum off-street parking for middle housing to 0 spaces per dwelling unit for middle housing, except cottage clusters.

    - Reduce minimum off-street parking for cottage clusters in the R-MD zone to 0.5 spaces per cottage.
- Reduce the minimum lot size for all middle housing types, except cottage clusters and townhouses, to 3,000 sq ft.
- Reduce minimum setbacks for income-restricted housing via a Type II variance
- Recommendation that the Council consider additional ways, within the code, to incentive deeply affordable housing. Examples can be found in the November 9 letter from the Sightline Institute (see Attachment 4).

These key revisions are included in the sections outlined in this report above.

City Council Discussion
During the Council work sessions on December 21 and January 4, staff was asked to provide more information during the public hearing on the following:

- Accessory dwelling units (ADUs)
    - Staff to provide more information on the differences between a site with a primary dwelling and an ADU and a site with a detached duplex. Are there advantages or disadvantages to either option? Is there a reason to maintain ADUs as a separate housing type?
        - ADUs are intentionally regulated by size to ensure that they are smaller than the primary dwelling on a site. In exchange for this limitation on size, ADUs are permitted to have a much smaller rear yard setback than a regular dwelling unit, fewer design requirements, and the city cannot require off-street parking, per state law. Table 1 summarizes the differences between a site with an ADU and one with a detached duplex.

Standard/Requirement	Primary Home + ADU (600 sq ft)	Primary Home + ADU (800 sq ft)	Duplex
SDCs[1]	ADU	ADU	2 x ADU
Affordable Housing CET	Exempt until 11/21/22	Exempt until 11/21/22	$1,958
Min Parking	1 for primary home + 0 for ADU (per state law)	1 for primary home + 0 for ADU (per state law)	Max 1/du; proposed as 0
Setbacks			
Front	N/A (not allowed in front yard)	N/A (not allowed in front yard)	20 ft
Rear	5 ft	20 ft	20 ft
Side	5 ft	10 ft	5 ft/ 5/10
Privacy Standards	Yes	Yes	No
Limits on size	yes (not if in basement)	yes (not if in basement)	No
Conversion of existing structure	Yes	Yes	N/A
Counts toward density	No	No	Yes
Design standards	Yes (fewer)	Yes (fewer)	Yes

- Issues to keep in mind:
  - Regardless of the direction taken, the city will need to define ADUs in the code to be clear state requirements are met. Code can indicate that duplexes and ADUs are functionally equivalent.
  - If a single detached dwelling with one existing off-street parking space constructs an ADU, an additional off-street parking space cannot be required.
  - Note that Oregon Senate Bill (SB) 458 allows expedited land divisions to apply to duplexes, but not ADUs. Regulating all ADUs as duplexes will enable division of the lot.
  - Duplexes are not regulated by maximum size, so there is no incentive to construct smaller units. The city may want to maintain ADUs as a housing type to encourage smaller housing units that can be less expensive to rent and rewards the primary homeowner with less setback requirements and therefore more site flexibility.
- Option: Keep ADUs but allow them to be up to 800 sq ft and apply the 600-sq ft standards to encourage smaller units.

[1] Parks, Transportation and Sewer: $10,624 (ADU); single-detached dwelling: $18,423

- Maximum building height
    - Staff to prepare materials, including visuals, to revise the maximum building height standard to remove "stories" and include only measured building height. No proposal to increase building height was discussed.
        - The zoning code includes maximum building height in both stories and feet, whichever is less. In the proposed R-MD zone, that would be 2.5 stories or 35 ft. The code also regulates how building height is measured, depending on the roof design:

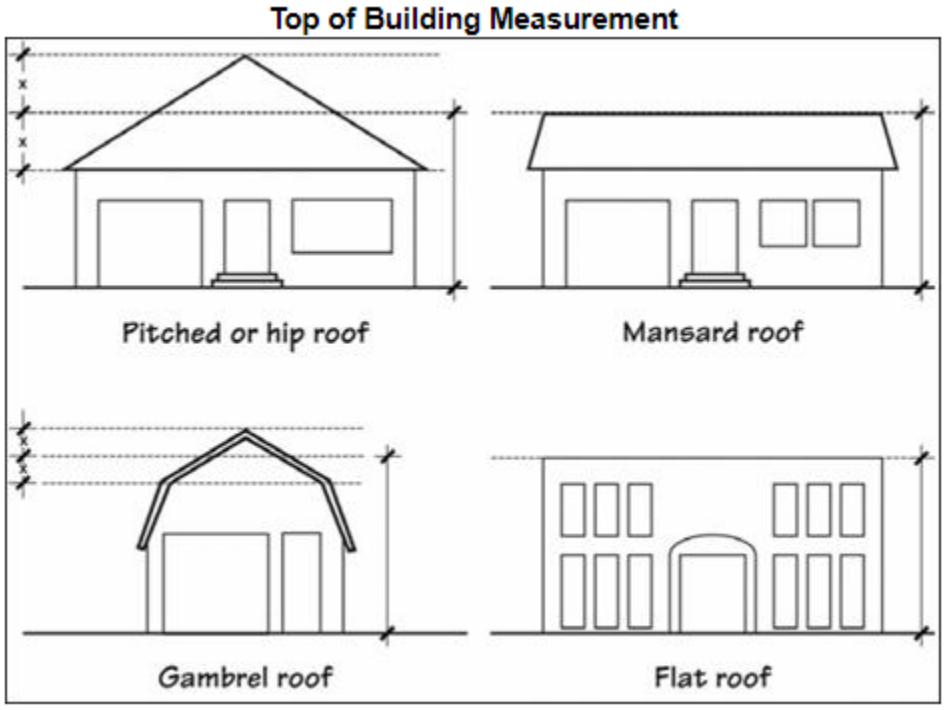


Figure 2. Figure 19.202.2.B.2

        - The code also regulates massing of the building at the side property lines (where the setback is the smallest) with the side yard height plane requirement. Most 2.5-story single-unit homes in Milwaukie are nearly 30-ft tall. Examples:



Figure 3. 4383 SE Keil St - 28 ft tall



Figure 4. 4032 SE King Rd - 27 ft tall



Figure 5. 2213 SE Wren St - 31.5 ft tall

Proposed revision:

Table 19.301.4 **Moderate Density Residential Development Standards**		
C. Development Standards		
2. Maximum building height for primary structures	~~2.5 stories or~~ 35 ft, ~~whichever is less~~	**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions

- Flag lots and back lots
    - Discussion continued at the January 4 meeting to review proposed setbacks on flag lots and back lots. Discussion involved revising the code to have consistent setbacks and not have different setbacks on these lots. Council indicated that the proposed code is satisfactory as is.

- Maximum lot coverage
    - Discussion continued at the January 4 meeting to review proposed lot coverage. Specifically, the discussion was about the proposed bonus lot coverage that is limited to one-story development. Questions remain about whether the bonus should continue, should it allow additional height, if there should be conditions attached to the bonus, or if the maximum lot coverage should simply be increased.

Current proposal:

R-MD Zone		
Lot Size (sq ft)	**Proposed Max. Lot Coverage**	**Proposed Min. Vegetation**
1,500 – 2,999	45% (10% bonus for single story or addition)	15%
3,000 – 6,999	35% (10% bonus for single story or addition)	25%
7,000 and up	30% (10% bonus for single story or addition)	30%

- Options for consideration include:
  - Allow the bonus for 2 stories only for middle housing.
  - Allow the bonus for 2 stories for preservation of a tree (exceeding X" DBH).
    - Need to determine the appropriate tree size to warrant a bonus.

- Manufactured Dwelling Parks
  - The proposed code erroneously removed manufactured dwelling parks from the R-MD zone as a permitted use subject to Type III review. Staff proposes the following to correct the error:

Manufactured Dwelling Parks		
Existing Code	**Proposed Code – R-MD**	**Revised Proposal**
Permitted in R-3, R-5, R-7: Type III review	Not permitted	Allow in R-MD subject to Type III review
Min. lot size: 2 ac		No change

- Parking
  - Discussion continued at the January 4 meeting to review the minimum parking requirements for middle housing, currently proposed to be zero spaces per unit (except for cottage clusters, which will require 0.5 spaces per unit).
  - Council asked staff to include, for the public hearing, information from the Sightline Institute related to parking (see Attachment 5):
    - 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."

- Though many Milwaukie households have multiple cars (and many Milwaukie homes offer multiple off-street parking spaces), many households do not. Two-thirds of the city's tenant households own either zero or one car[2].
- In the short term, again, this parking reform is likely to have very little impact. As in Tigard, which effectively removed 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.
- Curb cuts for driveways remove on-street parking.

o Council requested further information regarding the Planning Commission's recommendation for zero parking for middle housing based on their Parking Study discussion (See Attachment 6 for full Parking Study).
The table below indicates a capacity of 1,331 on-street parking spaces in the four study areas. Using the average vehicles per unit value of 1.99 as a baseline to calculate future need, we can estimate the level of housing production needed to seriously impact the on-street parking supply. For example, under the scenario of 0 off-street parking spaces required per unit (the "worst case scenario"):

- 1331/(1.99) = 669
- 669 is the number of dwelling units required to theoretically take up all the on-street parking capacity in the study areas.[3]
- If the decision is to require 0.5 parking spaces per dwelling unit, then the number of dwelling units would increase to 893; with 1 parking space per dwelling unit, the number increases to 1,344.

	Lake Road	**Lewelling**	**Ardenwald**	**Island Station**	**Total**
Residential Units	190	154	171	131	646
On-Street Stalls/Unit	2.37	2.64	1.20	2.18	2.09
Driveway Stalls/Unit	1.75	2.29	1.68	1.82	1.87
Surface Lot Stalls/Unit	0.00	0.00	0.25	0.14	0.09

[2] US Census ACS, 2015-2019
[3] Assumes each dwelling unit has 2 vehicles

Total Stalls Studied/Unit[4]	4.12	4.93	3.13	4.13	4.05
S (Supply)[5]	783	759	535	541	2616
On-Street Vehicles/Unit	0.89	0.29	0.29	0.36	0.48
Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	1.44
Surface Lot Vehicles/Unit	0.00	0.00	0.18	0.11	0.07
Total Vehicles/Unit	2.05	1.89	2.05	1.95	1.99
D (Demand)[6]	390	291	351	255	1286
C (Capacity)[7]	393	468	185	286	1331

The Planning Commission's recommendation reflects a discussion that involved an assumption that this level of housing production would be unlikely, even in the long term, and that off-street parking would likely be provided with new development (due to marketability), thus removing parking requirements would have very little impact on the on-street parking supply and it would provide an incentive to developing much needed middle housing.

- Concern has been raised about development of middle housing without off-street parking on streets where on-street parking is not available or permitted. One approach would be to require some off-street parking under specific circumstances. The code revision could acknowledge on-street parking constraints in certain locations but still provide an incentive for middle housing:

    - For middle housing developments located on streets classified as Arterials or Collectors in the Transportation System Plan, off-street parking is required: 0.5 spaces/dwelling unit.

NEXT STEPS

- Council public hearing #4: March 1, 2022

BUDGET IMPACT

None.

WORKLOAD IMPACT

Some additional permits will likely be submitted when the new code is adopted, but this additional activity will be absorbed by staff.

[4] Does not include garage spaces
[5] Supply = Residential Units x Total Stalls Studied/Unit
[6] Demand = Residential Units x Total Vehicles/Unit
[7] Capacity = Supply minus Demand

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.

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 (including Metro and State Findings)
    b. Draft code amendment language (underline/strikeout)
    c. Draft code amendment language (clean)
2. Code Audit
3. Public comments spreadsheet tracker
4. Public comments submitted during Planning Commission hearings
5. Sightline Institute comments
6. Parking Inventory and Occupancy studies

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN LAND USE MAP AND RESIDENTIAL LAND USE DESIGNATIONS, MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE, TITLE 17 LAND DIVISION, TITLE 16 ENVIRONMENT, AND AMENDING THE ZONING MAP FOR THE PURPOSE OF ADDRESSING MIDDLE HOUSING AND RESIDENTIAL PARKING (FILE #ZA-2021-002).

WHEREAS it is the intent of the City of Milwaukie to support and promote housing opportunities and housing choice throughout the city; increase the supply of middle and attainable housing and providing equitable access to housing for all; increase the city's tree canopy and preserve existing trees to support efforts to achieve a 40% city-wide tree canopy; and to manage parking to enable middle housing and to protect trees; and

WHEREAS the proposed code amendments implement several of the goals and policies of the city' comprehensive plan related to housing and tree preservation and comply with Oregon House Bill (HB) 2001; 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, October 26, and November 9, 2021, the Planning Commission conducted a public hearing as required by 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

Recommended Findings in Support of Approval
File #ZA-2021-002; CPA-2021-001; ZC-2021-002
Middle Housing and Residential Parking Code Amendments

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

1. The applicant, the City of Milwaukie, proposes to amend the zoning and comprehensive plan maps, comprehensive plan, and make code amendments to Titles 12, 13, 16, 17, and 19 related to tree code on residential property, required off-street parking, and permitted middle housing types in all residential zones. The intent is to implement portions of the city's comprehensive plan and Oregon House Bill 2001 (HB 2001). The land use application file numbers are ZA-2021-002, CPA-2021-001, and ZC-2021-002.

2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing, tree preservation, and parking. 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 policies call for expanded housing opportunities throughout the city. 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.

3. Amendments are proposed in several titles of the municipal code, as follows:

    - Milwaukie Comprehensive Plan
        - Comprehensive Plan Land Use Map
        - Comprehensive Plan Residential Land Use Designations
    - Municipal Code - Title 19 Zoning Ordinance
        - Section 19.107 Zoning
        - Chapter 19.200 DEFINITIONS AND MEASUREMENTS
            - Section 19.301 Low Density Residential Areas
            - Section 19.302 Medium and High Density Residential Areas
            - Section 19.401 Willamette Greenway Zone WG
            - Section 19.402 Natural Resources NR
        - Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
            - Section 19.501 General Exceptions
            - Section 19.504.8 Flag Lot Design and Development Standards
            - Section 19.505.1 Single Family Dwellings and Duplexes
            - Section 19.505.3 Multifamily Housing
            - Section 19.505.4 Cottage Cluster Housing
            - Section 19.505.5 Rowhouses
            - Section 19.506 Manufactured Dwelling Siting and Design Standards
        - Chapter 19.600 OFF-STREET PARKING AND LOADING

- Section 19.605 Vehicle Parking Quantity Requirements
- Section 19.605.2 Quantity Modifications and Required Parking Determinations
- Section 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Section 19.607 Off-Street Parking Standards for Residential Areas

- Chapter 19.700 PUBLIC FACIILTY IMPROVEMENTS
  - Section 19.702.1 General
  - Section 19.702.2 Single Unit Residential Expansions
  - Section 19.702.4 Exemptions
  - Section 19.703.4 Determinations
  - Section 19.704.4 Mitigation
  - Section 19.708.2 Street Design Standards
- Chapter 19.900 LAND USE APPLICATIONS
  - Section 19.901 Introduction
  - Section 19.906 Development Review
  - Section 19.910.1 Accessory Dwelling Units
  - Section 19.901.2 Duplexes
  - Section 19.911 Variances
- Municipal Code - Title 17 Land Division
  - Chapter 17.28 DESIGN STANDARDS
    - Section 17.28.050 Flag Lot Development and Future Access
    - Section 17.28.060 Flag Lot Design Standards
    - Section 17.28.070 Flag Lot Limitation
- Municipal Code - Title 12 Streets, Sidewalks, and Public Places
  - Chapter 12.16 ACCESS MANAGEMENT
    - Section 12.16.030 Access Permitting
    - Section 12.16.040 Access Requirements and Standards
- Municipal Code - Title 13 Public Services
  - Chapter 13.30 REIMBURSEMENT DISTRICTS
    - Section 13.30.010 Definitions

4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

   - MMC Section 19.902 Amendments to Maps and Ordinances
   - MMC Chapter 19.1000 Review Procedures

5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.

6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on October 12, 2021, October 26,

2021, January 18, 2022, February 1, 2022, February 15, 2022, and March 1, 2022 as required by law.

7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.

   a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

      The amendments were initiated by the Planning Manager on August 13, 2021.

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

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

      Opportunity for public comment and review has been provided over the past 15 months during the code development process as follows:

      - *monthly Comprehensive Plan Implementation Committee meetings*
      - *monthly Pilot articles*
      - *monthly worksessions with the Planning Commission and City Council*
      - *three online open houses and two community surveys*
      - *small group meeting with BIPOC community members*
      - *small group meeting in Spanish with Spanish speaking community members*
      - *presentations to all NDAs*
      - *numerous emails to all city committee members and project email subscribers, social media posts*
      - *staff available at the Milwaukie Farmers Market*

      Regarding the specific code language, the draft language was posted on the Engage Milwaukie webpage on June 25, 2021 as part of an informative virtual open house. In addition, the Planning Commission had 3 worksessions about the proposed code amendment language. Specific notice of the draft amendments and October 12, 2021 public hearing was as follows: notice was sent to all residential addresses in the city via a mailed postcard on September 14, 2021 and a Measure 56 notice related to the proposed tree code was mailed to all residential addresses on October 6, 2021; email notices were sent to all city committee members and the project email subscription list on September 1, 2021; posts were made to city social media on September 1, 2021. The current version of the draft amendments have been posted on the application webpage since August 31, 2021. On September 1, 2021 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's October 12, 2021, hearing was posted as required on September 1, 2021. A notice of the City Council's February 15, 2022, hearing was posted as required on January 13, 2022.

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

The proposed amendments will apply to all residential properties in the city. All residential properties were notified of the first hearing date via a mailed postcard, which was sent on September 14, 2021.

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

Notice of the proposed amendments was sent to DLCD on August 31, 2021.

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

Notice of the proposed amendments was sent to Metro on August 31, 2021.

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

The proposed amendments will apply to all residential properties in the city. All residential properties were notified of the first hearing date via a mailed postcard, which was sent on September 14, 2021.

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

The Planning Commission held duly advertised public hearings on October 12, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, and March 1, 2022, and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances

a. MMC 19.902.3 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.

(1) MMC Subsection 19.902.3.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held duly advertised public hearings on October 12, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, and March 1, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

(2) MMC Subsection 19.902.3.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.

(a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

The only amendments proposed to the text of the comprehensive plan are in the section related to residential land use designations. The proposed amendments reflect the proposed zoning map amendments that consolidate the low density residential zones. The amendments rename the Low Density Residential designation to Moderate Density Residential: Zone R-MD. The remaining residential zones are renamed High Density. The amended description in both of these land use designations includes a list of middle housing types within the permitted housing types section.

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

The proposed amendments reflect the community's desire for policies and regulations that encourage a variety of high-quality, attractive residential development throughout the city. As noted above, the only text amendment to the comprehensive plan consolidates the residential land use designations to reflect the proposed zoning map amendments.

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

The proposed amendments confirm the community's vision for broad housing choice throughout the city. As noted above, the only text amendment to the comprehensive plan consolidates the residential land use designations to reflect the proposed zoning map amendments.

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

The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(a) Title 1 Housing Capacity

The proposed amendments will provide opportunities for middle housing development throughout the city's residential zones.

(b) Title 7 Housing Choice

The proposed amendments will provide the opportunity for much-needed middle housing and incentives for income-restriction housing throughout all of the city's residential zones and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

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.

Staff has included the Metro findings as Exhibit 1 of this attachment.

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

DLCD has not identified any areas where the proposed amendments are inconsistent with State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

Exhibit 2 to this attachment has been prepared to illustrate how the proposed amendment is consistent with all relevant State statutes and administrative rules.

b. MMC 19.902.4 establishes requirements for amendments to the maps of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.

(1) MMC Subsection 19.902.4.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held duly advertised public hearings on October 12, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public

hearings on January 18, 2022, February 1, 2022, February 15, 2022, and March 1, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

(2) MMC Subsection 19.902.4.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.

(a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

Changes to the maps of the Milwaukie Comprehensive Plan must be evaluated against the approval criteria in Subsection 19.902.3.B. A quasi-judicial map amendment shall be approved if these criteria are met. A legislative map amendment may be approved if these criteria are met.

The findings for compliance with MMC 19.902.3.B apply to the findings for these map amendments as well. Refer to the findings above for compliance with this code section.

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

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

The Planning Commission held duly advertised public hearings on October 12, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, February 1, February 15, and March 1, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

The proposed amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.

(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 middle housing opportunities in all residential zones in the city and the development of a new tree code:

(c) 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) Policy 3.4.3:

Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.

(d) 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.

(b) Policy 6.16:

Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the City that provide a mix of uses and help reduce transportation emissions and energy usage.

(e) Section 7 – Housing:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and

neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

(a) Goal 7.1 – Equity:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

(i) Policy 7.1.1:

Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukie, including additional middle housing types in low and medium density zones.

(ii) Policy 7.1.2:

Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.

(iii) Policy 7.1.3:

Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.

(b) Goal 7.2 – Affordability:

Provide opportunities to develop housing that is affordable at a range of income levels.

(i) Policy 7.2.2:

Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.

(ii) Policy 7.2.4:

Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-unit homes into duplexes or other middle housing types.

(c) Goal 7.3 – Sustainability:

Promote environmentally and socially sustainable practices associated with housing development and construction.

(i) Policy 7.3.1:

Provide flexibility of footprint and placement of new housing to be consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.

(ii) Policy 7.3.8:

Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors.

(f) Section 8 – Urban Design and Land Use Goals and Policies:

Promote the design of private development and public spaces and facilities to enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

(a) Goal 8.3 – Process:

Provide a clear and straight forward design review process for development in Milwaukie along with incentives to achieve desired outcomes.

(i) Policy 8.3.2:

Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.

The proposed amendments implement sections of the comprehensive plan related to middle housing, residential parking, and tree preservation and are in compliance with Oregon House Bill 2001. Zoning code and map amendments to allow middle housing options in all 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:

- *Increasing the supply of middle and attainable housing, and providing equitable access and housing choice for all*

- *Increasing the tree canopy and preserving existing trees to support the City's goal of a 40% tree canopy*
- *Managing parking to enable middle housing and protect trees*

(g) 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 amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(i) Title 1 Housing Capacity

The proposed amendments will provide opportunities for middle housing development throughout the city's residential zones.

(ii) Title 7 Housing Choice

The proposed amendments will provide the opportunity for much-needed middle housing and incentives for income-restriction housing throughout all of the city's residential zones and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

Exhibit 1 to this attachment has been prepared to illustrate how the proposed amendment is consistent will all relevant State statutes and administrative rules.

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.

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

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

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

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear

and objective review process for middle housing development in the residential zones.

b. MMC 19.902.6 establishes requirements for amendments to the Zoning Map. The City Council finds that these requirements have been met as follows.

(1) MMC Subsection 19.902.6.A states that changes to the Zoning Map shall be evaluated through either a Type III or a Type V review.

The Zoning Map amendments involve all properties zoned R-5, R-7, and R-10. The amendments are legislative in nature and subject to Type V review.

The Planning Commission held duly advertised public hearings on October 12, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, and March 1, 2022 and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

(2) MMC Subsection 19.902.6.B contains approval criteria for changes to the Zoning Map.

(a) The proposed amendment is compatible with the surrounding area based on the following factors:

i. Site location and character of the area.

The proposed zoning map amendments are a consolidation of the existing R-5, R-7, and R-10 zones into one zone: R-MD. The zones remain residential in nature, with amendments related to the allowance of middle housing types.

ii. Predominant land use pattern and density of the area.

As noted above, the proposed zoning map amendments affect the R-5, R-7, and R-10 zones which are currently predominantly residential in nature at a low to moderate density. The consolidation of this zone reflects the intent of the comprehensive plan and HB 2001 to allow middle housing types in all residential zones in the city. They will remain residential zones, subject to design and development standards, but at a higher density as required by HB 2001.

iii. Expected changes in the development pattern for the area.

Given the nature of the proposed amendments related to middle housing, the development pattern in some areas may intensify over time. The intent of the amendments package is to provide more opportunities for housing choice throughout the city which requires the allowance of middle housing types and not just single detached dwellings. The need for and overall lack of a variety

of housing in the single unit zones suggests that development in the area will intensify following the adoption of the proposed amendments.

(b) The need is demonstrated for uses allowed by the proposed amendment.

Per the City's 2016 Housing Needs Analysis (HNA), Milwaukie currently has a range of housing types, including single dwelling detached and attached homes, duplexes, multi-unit, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years. The HNA includes the City's buildable lands inventory (BLI) for housing within the UGB, showing that the city has sufficient zoned capacity to meet the projected housing needs over the next 20 years. Relevant findings from the HNA include:

(i) The projected growth in the number of non-group households over 20 years (2016-2036) is roughly 1,070 households, with accompanying population growth of 2,150 new residents. The supply of buildable land includes properties zoned to accommodate a variety of housing types. Single dwelling residential zones with larger minimum lot sizes will accommodate single dwelling detached housing. Medium density residential zones will accommodate single dwelling attached homes (e.g., townhomes or rowhouses, duplexes and triplexes) and multi-family and mixed-use zones can accommodate high density housing.

(iii) Over the next 20 years, Milwaukie is likely to be attractive to younger adults seeking relatively affordable housing near transportation options and employment centers. Some in this generation are already starting families and will be well into middle age during the 20-year planning period. More of these households may move from areas like central Portland to communities like Milwaukie for more attainable housing, more space, and schools.

The availability is shown of suitable alternative areas with the same or similar zoning designation.

Staff has interpreted this criterion to mean that the finding shall show that there is no suitable alternative area with the same or similar zoning designation.

As noted above the proposed zoning map amendments would consolidate the existing low density residential zones to one moderate density residential zone to accommodate the proposed amendments related to middle housing.

(c) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The public transportation facilities, public utilities, and services in the low density residential zones are adequate to support the proposed amendments. The subject properties are already being used for, or are zoned for, residential development. The

proposed amendments would increase the demand on the facilities, utilities, or services in the area, which have been planned for. The application was referred to the City Engineering and Public Works departments for review and no service-related issues were identified.

(d) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The proposed amendment would intensify the development potential of the low-density residential zones, but it is expected that the development will occur incrementally and not in a manner that would result in a failure level of service on the city's transportation system. The city's TSP anticipates residential development in these zones and the TSP is being fully revised in 2022-2023.

(e) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The subject areas are designated for residential development and will continue to be designated as such. The goals and policies of the Comprehensive Plan for residential development are noted above in Finding 9 and the primary purpose of the amendments is to implement the comprehensive plan as it relates to housing, tree preservation, and residential parking. The proposed amendment is consistent with those goals and policies.

(f) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

See Finding 8.a.(1)(d) above.

(g) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

See Finding 8.a.(1)(e) above.

UGMFP Findings for Milwaukie Code Amendments for Middle Housing, Tree Preservation, and Residential Parking

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 11 code titles with policies and compliance procedures for the following topics:

- Title 1: Housing Capacity
- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 13: Nature in Neighborhoods

Metro requires "substantial compliance" with requirements in the UGMFP. Per the definition in Title 10, "substantial compliance" means that the City's zoning code conforms with the purposes of the performance standards in the functional plan "on the whole." Any failure to meet individual performance standard requirements is considered technical or minor in nature.

Based on the findings described below, the proposed code amendments related to middle housing, tree preservation, and residential parking substantially comply with all applicable titles of the Urban Growth Management Functional Plan.

Title 1: Housing Capacity

Finding: Title 1 of the UGMFP is intended to promote efficient land use within the Metro urban growth boundary (UGB) by increasing the capacity to accommodate housing. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 1 responsibilities.

Milwaukie has established minimum densities in its Zoning Code (Title 19 of the Municipal Code) (Code) for each residential base zone. These minimum and maximum densities comply with Title 1 for all zones where dwelling units are authorized. The proposed code updates are primarily related to middle housing to implement applicable sections of the comprehensive plan to promote a diversity of housing types and efficient residential development and to be in compliance with Oregon House Bill 2001. The proposed amendments do not reduce residential densities. The proposed zoning code and map amendments allow middle housing options in all residential zones and 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". The amendments are

intended to increase the supply of middle and attainable housing, and provide equitable access and housing choice for all. The findings for Statewide Planning Goal 10 (found in Exhibit 2 of the findings) include information from the Housing Needs Analysis evaluating housing capacity and demonstrates how the proposed code amendments support compact, dense development, especially in the city's high-density residential zones.

Based on the findings above, the proposed amendments are consistent with Title 1.

Title 7: Housing Choice

Finding:

Title 7 is designed to ensure the production of affordable housing within the UGB. Under Title 7, the City is required to ensure that its Comprehensive Plan and implementing ordinances include strategies to: ensure the production of a diverse range of housing types, maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout the City, and increase opportunities for households of all income levels to live in affordable housing (3.07.730). Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 7 responsibilities.

The findings for Statewide Planning Goal 10 Housing, based on the City's 2016 Housing Needs Analysis (HNA), include findings that demonstrate that Milwaukie currently has a range of housing types, including single dwelling detached and attached homes, duplexes, multi-family, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years. The City plans to update the HNA in 2022 to further solidify these findings. The findings for Statewide Planning Goal 10 also illustrate how the proposed code amendments implement the policies in the new comprehensive plan that promote a diverse range of housing types, with a focus on housing affordability, equity, sustainability, and livability. The proposed amendments allow a variety of housing options for households of all incomes, ages and living patterns, sited in a dispersed manner throughout the City to help ensure access to services, community amenities, and employment centers. A mix of housing types combined with the higher densities will support development of smaller units with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

In addition to the recently adopted comprehensive plan which has multiple policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals. The *Milwaukie Housing Affordability Strategy* and *Equitable Housing Policy & Implementation Plan* identify a variety of specific strategies to further these goals, many of which are already being implemented by the City and its local and regional partners. The proposed code amendments are the result of an evaluation of the existing zoning ordinance to reduce barriers to and encourage the development of smaller, potentially more affordable housing types. Accessory dwelling

units, cottage cluster housing, townhouses, and other middle housing types are now proposed to be permitted by right in all residential zones in the city.

Based on the findings above, the proposed amendments are consistent with Title 7.

Title 8: Compliance Procedures

Finding: Title 8 establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the City comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the City provided notice to Metro as required by section 3.07.820(a). The City of Milwaukie provided Metro a set of draft code amendments on August 31, 2021, which was more than 35 days prior to the first evidentiary hearing, scheduled for October 12, 2021.

Based on the findings above, the proposed amendments are consistent with Title 8.

Title 13: Nature in Neighborhoods

Finding: 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.

Based on the findings above, the proposed amendments are consistent with Title 13.

Statewide Findings for Milwaukie Plan and Code Amendments – Middle Housing

This memo summarizes the consistency of the proposed code amendments with the following statewide goals, as well as key Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs):

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 5: Natural and Historic Resources
- Goal 6: Air, Land and Water
- Goal 7: Natural Hazards
- Goal 8: Parks and Recreation
- Goal 9: Economic Development
- Goal 10: Housing
- Goal 11: Public Facilities
- Goal 12: Transportation
- Goal 13: Energy
- Goal 14: Growth Management
- Goal 15: Willamette Greenway

Other Statewide Planning Goals are not directly applicable to the proposed code amendments. Goals related to agriculture and forestry do not apply to land intended for future urbanization within the urban growth boundary. Additionally, the proposed amendments do not involve land or resources designated as part of Oregon's coastal zone.

Consistency with the applicable goals is a requirement for any amendment to a City's land use ordinances.

Based on the findings described below, the proposed code amendments comply with the applicable Statewide Goals and associated ORS and OAR provisions.

Goal 1: Citizen Involvement

Finding: Goal 1 requires the City to employ an appropriately-scaled involvement program to ensure the opportunity for meaningful public involvement throughout the land use planning process. Goal 1 requires the City to incorporate six key components in its public involvement program:

- Citizen Involvement: An officially-recognized committee for public involvement broadly representative of geographic areas and interests related to land use and land-use decisions to provide for widespread public involvement;
- Communication: Mechanisms for effective two-way communication between the public and elected/appointed officials;

- Influence: Opportunities for the public to be involved in all phases of the planning and decision-making process including developing, evaluating, and amending plans;
- Technical Information: Access to technical information used in the decision-making process, provided in an accessible and understandable format;
- Feedback Mechanisms: Programs to ensure that members of the public receive responses from policy-makers and that a written record for land-use decisions is created and made accessible; and,
- Financial Support: Adequate resources allocated for the public involvement program as an integral component of the planning budget.

Following is a summary of activities undertaken by the City associated with each of these elements of the City's community engagement effort undertaken to support the proposed code amendments related to middle housing, tree preservation, and residential parking.

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.

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.

https://www.milwaukieoregon.gov/citymanager/city-newsletter-pilot

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.

Advisory Committee

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 15-member committee (13 community members and two planning commissioners/City Councilors) offered feedback on code concepts and ensured that the diverse interests of the Milwaukie community are 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 and City Council for review. All meetings of the CPIC were held virtually over Zoom due to Covid restrictions, but were open to the public and time was reserved at each meeting for non-committee members to comment.

All CPIC meetings were recorded and the video for each meeting, including all meeting packets and PowerPoint presentations, were posted on the committee webpage: https://www.milwaukieoregon.gov/planning/comprehensive-plan-advisory-committee-cpic.

Virtual Open Houses, with Accompanying Community Surveys

Due to COVID restrictions, no in-person outreach events occurred. Engage Milwaukie (https://engage.milwaukieoregon.gov/comprehensive-plan-implementation), the digital community engagement platform used by the City was used to provide three opportunities for the public to engage with the process virtually. All of the online open houses were translated into Spanish. Paper copies of materials (in English and Spanish) were available upon request.

The public was notified of the open house events via social media, project email list, bookmarks and postcards at the Ledding Library, direct emails to all city committee members, and the Pilot newsletter.

- Open house #1: Fall 2020

  The first virtual open house and corresponding 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 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 identify priorities and preferences for the code concepts regarding housing, parking and tree preservation.

- Open house #2: Spring 2021

  The virtual open house and corresponding survey 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. The corresponding 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. 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.

- 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, 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

City staff conducted worksessions with the City's Planning Commission and City Council throughout the project to review the status of the work and solicit feedback on key issues. When the draft code amendments were made available for public review, the City conducted

three worksessions with the Planning Commission to discuss specific code language for refinement and to see direction for the final proposed code language. These meetings also were open to the public and were recorded and available for public viewing after the meetings.

The specific proposed code language was posted on the Engage Milwaukie webpage on June 25, 2021 as part of an informative virtual open house. Prior to the public hearings the Planning Commission had 3 worksessions about the proposed code amendment language in July and August 2021. Specific notice of the draft amendments and the October 12, 2021 public hearing was as follows: notice was sent to all residential addresses in the city via a mailed postcard on September 14, 2021; email notices were sent to all city committee members and the project email subscription list on September 1, 2021; posts were made to city social media on September 1, 2021. The current version of the draft amendments have been posted on the application webpage since August 31, 2021. On September 1, 2021 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.

Based on the findings above, the Comprehensive Plan Update is consistent with Oregon Statewide Planning Goal 1.

Goal 2: Land Use Planning

Goal 2. 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.

Finding: Goal 2 requires the City 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 plan and code amendments are related directly to implementation of the city's comprehensive plan as it relates to the provision of middle housing throughout the city's residential zones. No changes are proposed that impact the land use planning process or policy framework within the city.

Goal 2 does not apply to the proposed amendments.

Goal 5: Natural and Historic Resources

Goal 5. To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Goal 5 directs the City to inventory, evaluate, and develop conservation programs for specific natural and cultural resources.

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 proposed code amendments do not propose any changes to the City's historic resources code or inventory of historic resources. Pursuant to Oregon House Bill 2001, the proposed code amendments do not prohibit the development of middle housing on historic properties that otherwise permit detached single unit dwellings.

Goal 5 does not directly apply to the proposed ordinance because no new Goal 5 program is advanced by this ordinance and no existing Goal 5 program is changed by this ordinance.

Goal 6: Air, Water, and Land Resources Quality

Goal 6. To maintain and improve the quality of the air, water, and land resources of the state.

Finding: Goal 6 requires cities and counties to ensure that solid waste, thermal, noise, atmospheric, or water pollutant and contaminant process discharges from existing and future developments do not violate state or federal environment environmental quality standards or degrade the quality of air, water, or land resources. Implementing ordinances must demonstrate consistency with the administrative rules related to air, water, and land quality established by the Environmental Quality Commission (EQC).

The proposed code amendments do not propose any changes or impacts to mapped resources in the city. The proposed amendments strengthen the City's approach to environmental quality through the efficient use and/or preservation of land and air resources through compact development patterns via middle housing and carbon emissions reductions as well as the new tree code requiring preservation and/or new plantings on residential properties.

Goal 6 does not directly apply to the proposed ordinance because no new Goal 6 program is advanced by this ordinance and no existing Goal 6 program is changed by this ordinance.

Goal 7: Natural Hazards

Goal 7. To protect people and property from natural hazards.

Finding: Goal 7 requires Comprehensive Plans to reduce the risk to people and property from natural hazards, including floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires.

The City of Milwaukie already complies with Goal 7 by regulating development in hazard-prone areas through the Municipal Code. Code sections address the following types of natural hazard conditions: seismic hazards (Chapter 16.12), weak foundation soils (Chapter 16.16), and flood hazard areas (Chapter 18.04). The proposed code amendments do not make any changes to these code sections.

Goal 7 does not apply to the proposed code amendments.

Goal 9: Economic Development

Goal 8. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Goal 9 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, ensuring citizens have adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon.

The proposed code amendments do not propose any changes to the City's mixed use, commercial, or industrial zones. All amendments related to middle housing are restricted to the city's existing residential zones.

Goal 9 does not apply to the proposed code amendments.

Goal 10: Housing

Goal 10: To provide for the housing needs of citizens of the state.

Finding: Goal 10 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, providing flexibility in housing location, type, and density to ensure the availability and prices of housing units are commensurate with the needs and financial capabilities of Oregon households. Comprehensive plans are required to include an analysis of community housing needs by type and affordability, an assessment of housing development potential, and an inventory of residential land; contain policies for residential development and supportive services based on that analysis that increase the likelihood that needed housing types will be developed; and provide for an adequate supply of a variety of housing types consistent with identified policies and meeting minimum density and housing mix requirements (established by OAR 660, Division 007).

The City's 2016 Housing Needs Analysis (HNA), included findings that demonstrate that Milwaukie currently has a range of housing types, including single-family detached and attached homes, duplexes, multi-family, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years.

In 2017 the City adopted its Community Vision which includes the following statement about housing:

"Milwaukie invests in housing options that provide affordability, high quality development and good design, promoting quality living environments. It maintains the small neighborhood feel through creative use of space with housing options that embrace community inclusion and promotes stability."

In order to realize the full vision for the community the next step was to complete a full overhaul of its Comprehensive Plan which was adopted in 2020. The housing component of the plan is critical to realizing the vision and Council has made housing a top priority of the City for the last several years.

In addition to the updated Comprehensive Plan policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals, including the following.

The **Milwaukie Housing Affordability Strategy (MHAS)** was adopted by the Milwaukie City Council in 2018 after the Council identified housing affordability as its number one priority for the 2017–2018 biennium. The MHAS is a blueprint for providing equitable affordable housing opportunities and is intended to help increase the amount of affordable housing in the City. It serves as an overarching framework, combining existing land uses, needs assessments, housing policy analysis, and an analysis of best practices from peer cities. The MHAS includes a total of 31 proposed actions or programs focused around the following three goals:

- Develop New Units
- Prevent Displacement and Keep Affordable Units Affordable
- Connect People to Existing Affordable Housing

The **Milwaukie Housing Equity Policy Implementation Plan (EHPIP)** was prepared in 2019 with funding provided through a grant from the Oregon Department of Land Conservation and Development. The EHPIP builds on the work conducted for the MHAS, as well as other housing affordability and equity initiatives in Milwaukie. It identifies a variety of specific strategies to further these goals, with a strong focus on how they will promote geographic, racial, and income equity in Milwaukie. The EHPIP also includes a cross-referencing of EHPIP strategies with draft Comprehensive Plan goals and policies.

The **Accessory Dwelling Unit (ADU) Code Audit** was undertaken by the City in 2018-2019 as part of implementation of the MHAS. This projected included an assessment of the existing zoning code standards and fees related to ADUs and develop recommendations aimed at enabling the development of more cost-effective ADUs in the City.

The **Cottage Cluster Feasibility Study** was conducted by the City in 2018-2019 and was funded through Metro's Equitable Housing Strategies grant. Cottage Cluster housing is a way to provide housing that is affordable for groups that have been identified by community partners as having a demonstrated need for equitable housing in Milwaukie. The purpose of the study was to understand what code changes might be needed to make cottage cluster housing possible in Milwaukie. The project team conducted a financial feasibility analysis and preliminary site design work for 4 real-world test sites to assess their potential to provide a cottage cluster development.

The proposed code amendments implement a variety of goals and policies related to housing and will support consistency with Statewide Planning Goal 10. By allowing middle housing in

all residential zones in the city, housing choice and opportunities to expand housing options are made possible.

HB 2001 requires that local governments consider ways to increase the affordability of middle housing. The city has made strides in this effort as follows:

- System Development Charges (SDCs)

  The city controls approximately one-third for the total SDCs associated with development (Clackamas County controls the remainder). The city continues to have conversations with the County to address the issue of SDCs and their effect on the cost of development. The city has developed a Bancroft financing program which allows an applicant to finance the required SDCs over a period of 10 years to reduce the upfront cost of these charges. Further, the city has a program in place to reduce the city controlled SDCs for dwellings that are less than 1,500 sq ft in size.

- Construction Excise Tax (CET)

  The development and retention of affordable housing is one of the city's priorities referenced in the Milwaukie Community Vision, the Comprehensive Plan, and the Milwaukie Housing Affordability Strategy (MHAS). To support this effort, Council established a CET in 2017, enabled by State Senate Bill 1533, and dedicated revenue to support the development of new affordable housing units in the city. The CET affordable housing grant program is designed to help offset the cost of developing new housing so that it can remain affordable.

  Since adoption of the CET, the city has collected approximately $500,000 in total CET revenue. The funds drawn from residential and commercial development are allocated in ways specified by state law and Milwaukie's local enabling ordinance. Over the last year, City staff have been implementing the program components to prepare for a request for proposals (RFP) process. The next step is for the city to issue an RFP to solicit grant applications for the development of income and rent restricted housing units.

Additionally, the City plans to update the HNA in 2022 when the city can further consider the impacts of the proposed code amendments related to middle housing on land capacity.

The intent of the proposed code amendments, in addition to implementing the city's comprehensive plan and policies supporting a diverse range of housing types, with a focus on housing affordability, equity, sustainability and livability, is to be in compliance with HB 2001. The proposed amendments implement comprehensive plan policies related to housing affordability and equity by allowing for a variety of housing options for households of all incomes, ages and living patterns. Housing is sited in a dispersed manner throughout the City to help ensure access to services, community amenities, and employment centers. A mix of housing types combined with the higher densities will support development of smaller units

with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

The city's Community Development Department will continue to work on ways to assist in the development of housing, provide incentives for regulated affordable housing development, provide incentives for the retention or conversion of existing affordable housing supply, and provide incentives and reduce barriers within the development code.

Based on the findings above, the Comprehensive Plan Amendment is consistent with Statewide Planning Goal 10.

Goal 11: Public Facilities

Goal 11: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Goal 11 requires the City to *"plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."* The City of Milwaukie coordinates with several other local service provides to ensure timely, orderly and efficient arrangement and provision of public services to serve development within the City of Milwaukie and its planning area between the city limits and UGB. The City of Milwaukie provides planning and zoning services inside the city limits, as well as provision of water, conveyance of wastewater, transportation facilities on city-owned facilities, law enforcement, and library services. The City is already in compliance with Goal 11 and the preparation and adoption of updated specific facility master plans for water, wastewater and stormwater are underway at this time.

Goal 11 is not applicable to the proposed code amendments related to middle housing.

Goal 12: Transportation

Goal 12: To provide and encourage a safe, convenient and economic transportation system.

Finding: Goal 12 and the State Transportation Planning Rule (TPR; OAR 660, Division 012) require cities to provide and encourage a safe, convenient, and economic transportation system. Together, they require the City to develop and maintain a Transportation System Plan (TSP), which must be incorporated as part of the Comprehensive Plan. A local TSP acts as a guiding policy document for long-term transportation planning and presents the City's goals and policies while outlining and prioritizing proposed improvements for pedestrian, bicycle, public transit, motor vehicle, and freight systems; downtown parking; and neighborhood traffic management.

The city was in compliance with Goal 12 prior to these code amendments and with the planned update to the TSP in 2022-2023 reflecting the proposed code amendments for middle housing, the proposal is consistent with Goal 12 Transportation and the Transportation Planning Rule.

Goal 13: Energy

Goal 13: To conserve energy.

Finding: Goal 13 requires that any spatial changes to future patterns of allowed land uses must conserve energy.

The city's Comprehensive Plan is already in compliance with Goal 13 and the proposed code amendments provide greater opportunities for more compact development and efficient use of land which will result in a reduction in energy consumption, including in transportation and utilities.

The proposed code amendments, related to middle housing, are consistent with Statewide Planning Goal 13.

Goal 14: Growth Management

Goal 14: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The entirety of the city and its Municipal Planning Area (MPA) is located within the Urban Growth Boundary (UGB). As such, the proposed amendments will not result in the transition of any land from rural to urban uses or result in population or employment growth outside of the UGB.

The proposed amendments are directly related to the provision of middle housing opportunities in all residential zones in the city which will enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

Goal 14 does not directly apply to the proposal but the amendments are consistent with Goal 14.

Goal 15: Willamette Greenway

Goal 15. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Goal 15 requires cities and counties to maintain and implement local greenway plans. This includes applying a local review process and criteria to review intensifications of use, changes of use and new development that are consistent with criteria in the goal. Greenway compatibility reviews are intended to insure, "the best possible appearance, landscaping and public access" is achieved for development along the river.

House Bill 2001 requires applicable cities to amend development codes governing the development of housing in areas that allow for the development of single-family detached dwellings to allow the development of middle housing. The proposed amendments do not include significant amendments to the city's Willamette Greenway code, but the city has plans in the future to review this code section in the future to ensure consistency with the intent and purpose of ORS 197.307.

As proposed, the code amendments are consistent with Goal 15.

Underline/Strikeout Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

Updated to show two residential designations reflecting changes to zoning map per 19.107. (Attachment 1)

Comprehensive Plan Residential Land Use Designations

~~Low Density Residential: Zones R-10 (3.5-4.4 units/acre) & R-7 (5.0-6.2 units/acre) - 50% of City~~
~~- a. Permitted housing types include single-unit detached, accessory dwelling units, and duplexes on large lots.~~
~~- b. Transportation routes are limited primarily to collectors and local streets.~~
~~- c. Sites with natural resource or natural hazard overlays may require a reduction in density.~~

Moderate Density Residential: ~~Zones R-5 (7.0-8.7 units/acre)~~ Zone R-MD (5.0 – 34.8 units/acre)
a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, ~~and~~ duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
b. Transportation routes are limited primarily to collectors and local streets.
c. Sites with natural resource or natural hazard overlays may require a reduction in density.
~~b. Convenient walking distance to a transit stop or close proximity to commercial and employment areas distinguish moderate density residential from low density residential.~~

~~Medium Density Residential: Zones R-3 (11.6-14.5 units/acre) & R-2.5, R-2 (11.6-17.4 units/acre)~~
~~- a. Permitted housing types include single-unit detached on small lots, duplexes, accessory dwelling units, cottage clusters, and in limited areas, multi-unit development.~~
~~- b. These areas typically have access to major or minor arterials. Siting should not result in increased traffic through Low Density Residential areas.~~
~~- c. Medium Density areas are to be located near or adjacent to commercial areas, employment areas or transit stops.~~

High Density: ~~High Density: Zones R-1 & R-1-B (25.0-32.0 units/acre)~~ Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)
a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
c. Access to High Density areas should be primarily by major or minor arterials.
d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1Classification of Zones	
Zone Description	**Abbreviated Description**
Base Zones	
~~Residential~~	~~R-10~~
~~Residential~~	~~R-7~~
Residential	~~R-5~~ R-MD
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

19.107.2 Zoning Map

Updated to show six residential designations reflecting changes to zoning map per 19.107.1 (Attachment 2).

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

~~"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.~~

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

"Back lot" means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

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

"Interior lot" means a lot other than a corner lot.

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

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

"Through lot" means an interior lot having frontage on 2 streets.

"Allowed By Right" means any land use permitted without land use approval by the City's Planning Department or Planning Commission, such as is required by a Type I – V review process.

"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 ~~includes an authorized agent of the owner~~.

"Planning Manager" means the person who is the manager/supervisor of the city's Planning Department, or the City Manager's designee to fill this position. This position can also be described as the Planning Director.

"Street tree" means a tree ~~located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk~~ , shrub, or other woody vegetation on land within the right-of-way.

"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 ~~a woody plant characterized by one main stem or trunk of at least 6-in diameter, according to the measurement standards established in Subsection 19.202.3~~.

Residential Uses and Structures

"Duplex" means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU. ~~means a structure on 1 lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.~~

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

"Cottage Cluster" means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

"Cottage Cluster Project" means two or more cottage clusters constructed, or proposed to be constructed.

"Manufactured home" means a single ~~family~~ residential structure, as defined in ORS 446.003(25)(a)(C), which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Section 5401 et seq.) as amended on August 22, 1981.

"Middle Housing" means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"~~Multifamily~~ Multi-unit development" means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums. ~~means 3 or more dwelling units on 1 lot Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in 1 or more structures on the lot. The dwelling units may be arranged with 1 dwelling unit per structure or with multiple dwelling units within~~

~~a structure that are separated vertically and/or horizontally. Multifamily developments include the forms of housing that are typically called apartments and condominiums. Multifamily~~ Multi-unit ~~developments may include structures that are similar in form to rowhouses, cottage clusters, duplexes, or single-family dwellings.~~

"Quadplex" means four dwelling units on a lot or parcel in any configuration.

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

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

"Triplex" means three dwelling units on a lot or parcel in any configuration.

19.202 MEASUREMENTS

19.202.4 Density Calculations

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

C. Discrepancy between Minimum Required and Maximum Allowed Density

~~In situations where the calculation of maximum allowed density results in a number smaller than the calculation of minimum required density, the result from the minimum allowed density is both the minimum required and maximum allowed density.~~ If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-MD. This zone implements the Moderate Density residential land use designation in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The moderate density residential zone is intended to create, maintain, and promote neighborhoods with larger lot sizes while allowing a broad range of housing types. Some non-household living uses are allowed, but overall the character is one of residential neighborhoods.

19.301.2 Allowed Uses in Moderate Density Residential Zones

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

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

Table 19.301.2
Moderate Density Residential Uses Allowed

Use	R-MD	Standards/Additional Provisions
Residential Uses		
Single detached dwelling	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Duplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Triplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Townhouse	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.5** Standards for Townhouses
Cottage Cluster	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing
Residential home	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	N	**Subsection 19.910.3** Manufactured Dwelling Parks.
Senior and retirement housing	CU	**Subsection 19.905.9.G** Senior and Retirement Housing
Commercial Uses		
Bed and breakfast or Vacation rental	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses		
Accessory use	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	**Subsection 19.301.3** Use Limitations and Restrictions
Community service use	CSU	**Section 19.904** Community Service Uses
Home occupation	P	**Section 19.507** Home Occupation Standards

Short-term rental	P	**Section 19.507** Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

~~19.301 LOW DENSITY RESIDENTIAL ZONES~~

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

~~19.301.1 Purpose~~

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

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

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

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

~~Table 19.301.2~~
~~Low Density Residential Uses Allowed~~

~~Use~~	~~R-10~~	~~R-7~~	~~R-5~~	~~Standards/Additional Provisions~~
~~Residential Uses~~				
~~Single-family detached dwelling~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~
~~Duplex~~	~~P/II~~	~~P/II~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~ ~~**Subsection 19.910.2** Duplexes~~
~~Residential home~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~
~~Accessory dwelling unit~~	~~P/II~~	~~P/II~~	~~P/II~~	~~**Subsection 19.910.1** Accessory Dwelling Units~~
~~Manufactured dwelling park~~	~~N~~	~~III~~	~~III~~	~~**Subsection 19.910.3** Manufactured Dwelling Parks.~~
~~Senior and retirement housing~~	~~CU~~	~~CU~~	~~CU~~	~~**Subsection 19.905.9.G** Senior and Retirement Housing~~
~~Commercial Uses~~				

~~Bed and breakfast or Vacation rental~~	~~CU~~	~~CU~~	~~CU~~	~~**Section 19.905** Conditional Uses~~
~~**Accessory and Other Uses**~~				
~~Accessory use~~	~~P~~	~~P~~	~~P~~	~~**Section 19.503** Accessory Uses~~
~~Agricultural or horticultural use~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.301.3** Use Limitations and Restrictions~~
~~Community service use~~	~~CSU~~	~~CSU~~	~~CSU~~	~~**Section 19.904** Community Service Uses~~
~~Home occupation~~	~~P~~	~~P~~	~~P~~	~~**Section 19.507** Home Occupation Standards~~
~~Short-term rental~~	~~P~~	~~P~~	~~P~~	~~**Section 19.507** Home Occupation Standards~~

~~P = Permitted.~~

~~N = Not permitted.~~

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

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

~~II = Type II review required.~~

~~III = Type III review required.~~

19.301.3 Use Limitations and Restrictions

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

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

B. Marijuana production is not permitted in ~~low~~ moderate density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.301.4 Development Standards

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

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

Table 19.301.4
Moderate Density Residential Development Standards

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage[1]	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster,	**Subsection 19.501.1** Lot Size Exceptions
B. Lot Standards					
1. Minimum lot width (ft)	20	30	50	60	
2. Minimum lot depth (ft)	70	80	80	80	
3. Minimum street frontage requirements (ft)					
a. Townhouse	20				
b. Standard lot	35	30	35	35	
c. Flag lot	NA[2]	25	25	25	
d. Double flag lot	NA[2]	35	35	35	
C. Development Standards					
1. Minimum yard requirements for primary structures (ft)[3]					**Subsection 19.301.5.A** Yards **Subsection 19.501.2** Yard

[1] For a Cottage within a Cottage Cluster only
[2] Townhouses are not permitted on flag lots
[3] Cottage Cluster developments are subject to the standards in Section 19.505.4

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
a .Front yard	20 [4]	20	20	20	Exceptions **Subsection 19.504.8** Flag Lot and Back Lot Design and Development Standards **Subsection 19.505.4** Cottage Cluster Housing **Subsection 19.505.5** Townhouses
b. Side yard	5 [4]	5	5	5/10	
c. Street side yard	15 [4]	15	15	20	
d. Rear yard	15 [4]	20	20	20	
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage(percent of total lot area)	45%	35%	35%	30%	**Section 19.201 "Lot coverage"** definition **Subsection 19.301.5.B** Lot Coverage
5. Minimum vegetation(percent of total lot area)	15%	25%	25%	30%	**Subsection 19.301.5.C** Front Yard Minimum Vegetation **Subsection 19.504.7** Minimum

[4] For lots 3,000 sq ft and smaller: Where a newly created small lot abuts a larger or pre-existing lot, when abutting a 5,000-sq-ft lot, rear and side yard setback standards for 5,000-sq-ft lots apply; when abutting a 7,000-sq-ft lot, rear and side yard setback standards for 7,000-sq-ft lots apply, and when abutting a 10,000-sq-ft lot, rear and side yard setback standards for 10,000-sq-ft lots apply.

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
					Vegetation
C. Other Standards					
1. Density requirements(dwelling units per acre)					**Subsection 19.301.5.D** Residential Densities **Subsection 19.501.4** Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
a. Minimum	25	7.0	7.0	5.0	
b. Maximum	25 [6]	8.7 [5]	8.7 [5]	6.2 [5]	

19.301.5 Additional Development Standards

A. ~~Side~~ Yards

On lots greater than 7,000 sq ft in the R-MD Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single~~-family~~ detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single~~-Family~~ Detached Dwelling~~s~~

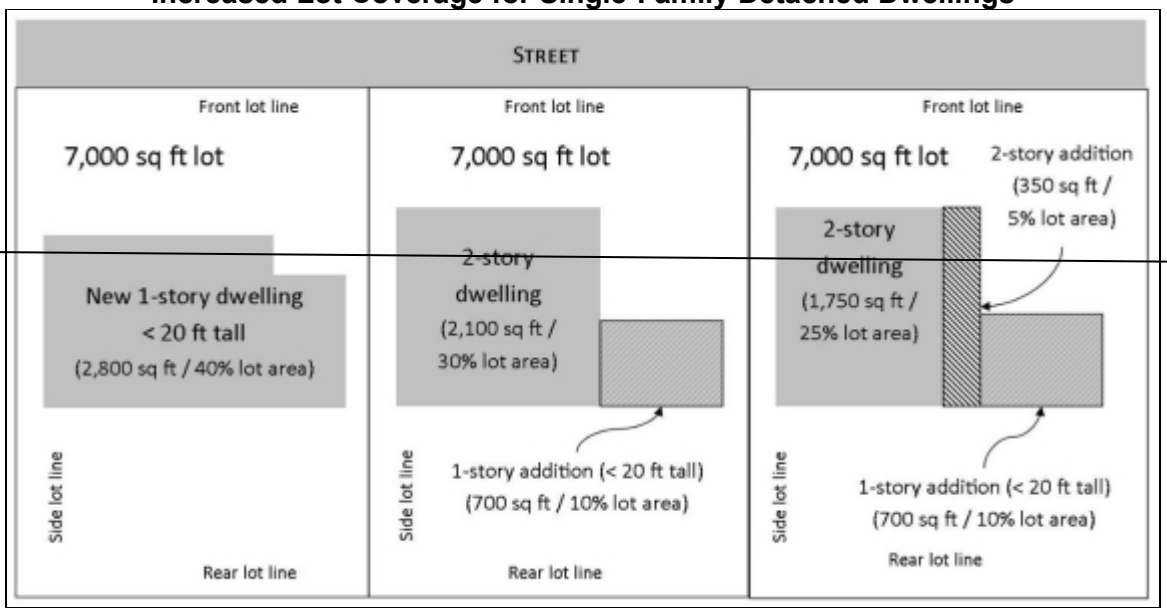
   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of ~~a single-family detached dwelling, or~~ an

[5] Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

addition to an existing single ~~-family~~ detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

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



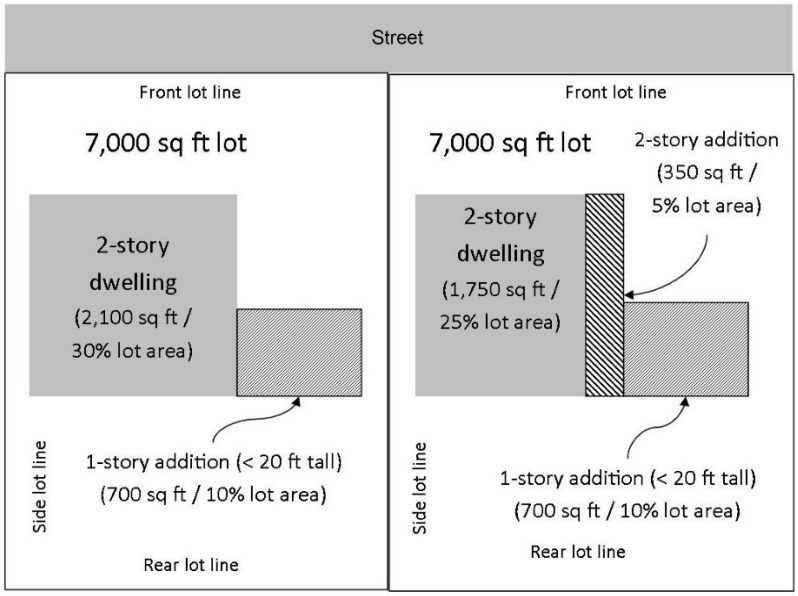


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD. ~~R-7 based on 7,000 sq ft lot area.~~

3. Increased 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~~ One to Four Dwelling Units, provided that the portions of the structure(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.

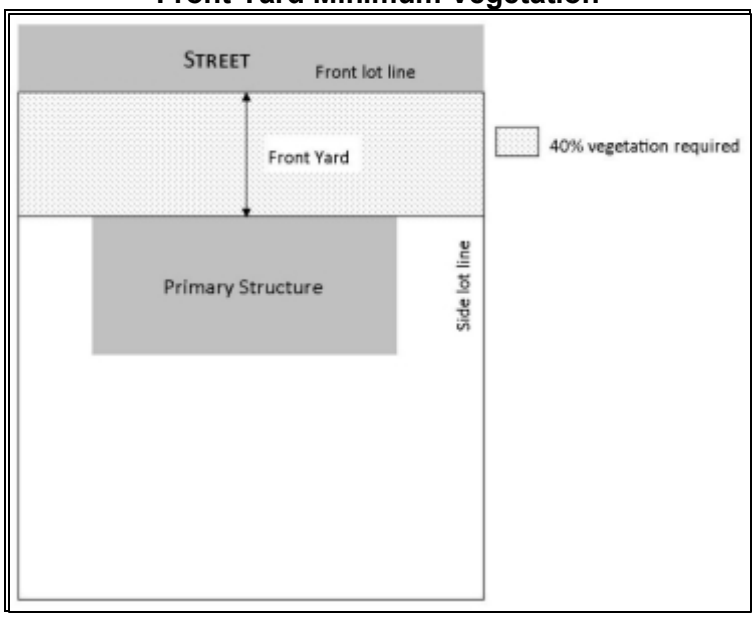
4. Increased Lot Coverage for Detached Accessory Dwelling Units

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

C. Front Yard Minimum Vegetation

   At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

The minimum ~~and maximum~~ development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density, except for townhouses.

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

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

~~F. Number of Dwelling Structures~~

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

F. ~~G.~~ Off-Street Parking and Loading

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

G. ~~H.~~ Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

H. ~~I.~~ Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 ~~Single-Family Dwellings and Duplexes~~ One to Four Dwelling Units
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2051 § 2, 2012)

~~19.301.4 Development Standards~~

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

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

~~Table 19.301.4~~
~~Low Density Residential Development Standards~~

~~Standard~~	~~R-10~~	~~R-7~~	~~R-5~~	~~Standards/ Additional Provisions~~
~~A. Lot Standards~~				
~~1. Minimum lot size (sq ft)~~				~~**Subsection 19.501.1** Lot Size Exceptions~~
~~a. Single-family detached~~	~~10,000~~	~~7,000~~	~~5,000~~	
~~b. Duplex~~	~~14,000~~	~~14,000~~	~~10,000~~	
~~2. Minimum lot width (ft)~~	~~70~~	~~60~~	~~50~~	
~~3. Minimum lot depth (ft)~~	~~100~~		~~80~~	
~~4. Minimum street frontage requirements (ft)~~				
~~a. Standard lot~~			~~35~~	

~~Table 19.301.4 CONTINUED~~
~~Low Density Residential Development Standards~~

~~Standard~~	~~R-10~~	~~R-7~~	~~R-5~~	~~Standards/ Additional Provisions~~
~~A. Lot Standards CONTINUED~~				
~~b. Flag lot~~			~~25~~	
~~c. Double flag lot~~			~~35~~	

B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				**Subsection 19.301.5.A** Side Yards
a. Front yard	20	20	20	**Subsection 19.501.2** Yard Exceptions
b. Side yard	10	5/10	5	**Subsection 19.504.8** Flag Lot Design and Development Standards
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	

Table 19.301.4 CONTINUED
Low Density Residential Development Standards

Standard	R-10	R-7	R-5	Standards/ Additional Provisions
B. Development Standards CONTINUED				
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less			**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)			20	
b. Slope of plane (degrees)			45	
4. Maximum lot coverage(percent of total lot area)		30%	35%	**Section 19.201 "Lot coverage"** definition **Subsection 19.301.5.B** Lot Coverage
5. Minimum vegetation(percent of total lot area)	35%	30%	25%	**Subsection 19.301.5.C** Front Yard Minimum Vegetation **Subsection 19.504.7** Minimum Vegetation
C. Other Standards				
1. Density requirements(dwelling units per acre)				**Subsection 19.301.5.D** Residential Densities
a. Minimum	3.5	5.0	7.0	**Subsection 19.501.4** Density Exceptions
b. Maximum	4.4	6.2	8.7	

19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the High Density residential land use designations in the Milwaukie Comprehensive Plan.

19.302.1 Purpose

The high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

19.302.2 Allowed Uses in ~~Medium and~~ High Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the high density residential zone~~s~~ are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

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

Table 19.302.2
~~Medium and~~ High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Single~~-family~~ detached dwelling	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~
Duplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~
Triplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~
Accessory dwelling	P/~~II~~	P/~~II~~	P/~~II~~	P/~~II~~	P/~~II~~	**Subsection 19.910.1**

unit						Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	**Subsection 19.910.3** Manufactured Dwelling Parks
~~Rowhouse~~ Townhouse	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~ **Subsection 19.505.5** Standards for ~~Rowhouses~~ Townhouses
Cottage cluster ~~housing~~	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing ~~Cottage cluster land division requires Type III review~~

Table 19.302.2 CONTINUED
Medium and High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
~~Multifamily~~ Multi-unit	CU	CU	P	P	P	**Subsection 19.505.3** ~~Multifamily Housing~~ Multi Unit Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Congregate housing facility	CU	CU	P	P	P	**Subsection 19.505.3** ~~Multifamily Housing~~ Multi Unit Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	**Subsection 19.905.9.G** Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	**Subsection 19.302.3** Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	**Section 19.905** Conditional Uses

Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	**Subsection 19.302.3** Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	P	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	P	P	P	P	**Section 19.507** Home Occupation Standards

19.302.3 Use Limitations and Restrictions

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

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

B. Office uses allowed in the ~~medium and~~ high density zone~~s~~ are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

C. Marijuana production is not permitted in ~~medium and~~ high density residential zone~~s~~ except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.302.4 Development Standards

In the ~~medium and~~ high density residential zone~~s~~, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

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

In the high density residential zones the following housing types are permitted on lot sizes as follows:

Between 1,500 to 2,999 sq ft: Townhouse, Cottage, Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 3,000 to 4,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, and Triplex.

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, Quadplex, Cottage Cluster, Multi Unit Housing.

Table 19.302.4
~~Medium and~~ High Density Residential Development Standards

Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					**Subsection 19.501.1** Lot Size Exceptions **Subsection 19.505.4** Cottage Cluster Housing **Subsection 19.505.5** Rowhouses
2. Minimum lot width (ft)	20				-	-
3. Minimum lot depth (ft)	70				-	-
4. Minimum street frontage requirements (ft)	-				-	-
a. Rowhouse	20					
b. Standard lot	35					

c. Flag lot	25			
d. Double flag lot	35			
B. Development Standards				
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	- - - -	- 20 See Subsection 19.302.5.A 15 15		**Subsection 19.302.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions **Subsection 19.504.8** Flag Lot and Back Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less	3 stories or 45 ft,whichever is less		**Subsection 19.302.5.E** Height Exceptions **Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection 19.302.5.I** Transition Measures
3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	- - 20 - 45	- - 25 - 45		**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (percent of total lot area)	35%	15%		**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation

				Subsection **19.302.5.C** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum[5]	- 11.6 14.5	- 11.6 17.4	- 25.0 32.0	**Subsection** **19.202.4** Density Calculations **Subsection** **19.302.5.F** Residential Densities **Subsection** **19.501.4** Density Exceptions

[5] Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

~~Table 19.302.4~~

~~Medium and High Density Residential Development Standards~~

~~Standard~~	~~R-3~~	~~R-2.5~~	~~R-2~~	~~R-1~~	~~R-1-B~~	~~Standards/ Additional Provisions~~
~~A. Lot Standards~~						
~~1. Minimum lot size (sq ft)~~ ~~a. Rowhouse~~ ~~b. Duplex~~ ~~c. All other lots~~	- ~~3,000~~ ~~6,000~~ ~~5,000~~	- ~~2,500~~ ~~5,000~~ ~~5,000~~	- ~~2,500~~ ~~7,000~~ ~~5,000~~	- ~~1,400~~ ~~6,400~~ ~~5,000~~		**~~Subsection 19.501.1~~** ~~Lot Size Exceptions~~ **~~Subsection~~** **~~19.505.4~~** ~~Cottage Cluster Housing~~ **~~Subsection~~** **~~19.505.5~~** ~~Rowhouses~~
~~2. Minimum lot width (ft)~~ ~~a. Rowhouse~~ ~~b. All other lots~~	- ~~30~~ ~~50~~		- ~~25~~ ~~50~~	- ~~20~~ ~~50~~		-
~~3. Minimum lot depth (ft)~~ ~~a. Rowhouse~~ ~~b. All other lots~~	- ~~80~~ ~~80~~	- ~~75~~ ~~75~~	- ~~80~~ ~~80~~	- ~~70~~ ~~80~~		-

4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	- 30 35 25 35	- 25 35 25 35	- 20 35 25 35	-
B. Development Standards				
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	See Subsection 19.302.5.A		- 15 15 15	**Subsection 19.302.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions **Subsection 19.504.8** Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less	3 stories or 45 ft,whichever is less		**Subsection 19.302.5.E** Height Exceptions **Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection 19.302.5.I** Transition Measures
3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	- 20 45	- 25 45		**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum	35%	15%		**Subsection**

~~vegetation (percent of total lot area)~~				~~**19.504.7** Minimum Vegetation~~ ~~**Subsection 19.302.5.D** Front Yard Minimum Vegetation~~ ~~**Subsection 19.302.5.C** Minimum Vegetation~~
~~**C. Other Standards**~~				
~~1. Density requirements (dwelling units per acre)~~ ~~a. Minimum~~ ~~b. Maximum~~	- ~~11.6~~ ~~14.5~~	- ~~11.6~~ ~~17.4~~	- ~~25.0~~ ~~32.0~~	~~**Subsection 19.202.4** Density Calculations~~ ~~**Subsection 19.302.5.F** Residential Densities~~ ~~**Subsection 19.501.4** Density Exceptions~~

19.302.5 Additional Development Standards

A. Side Yards

In the ~~medium and~~ high density zone~~s~~, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a ~~row~~townhouses shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior ~~row~~townhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior ~~row~~townhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

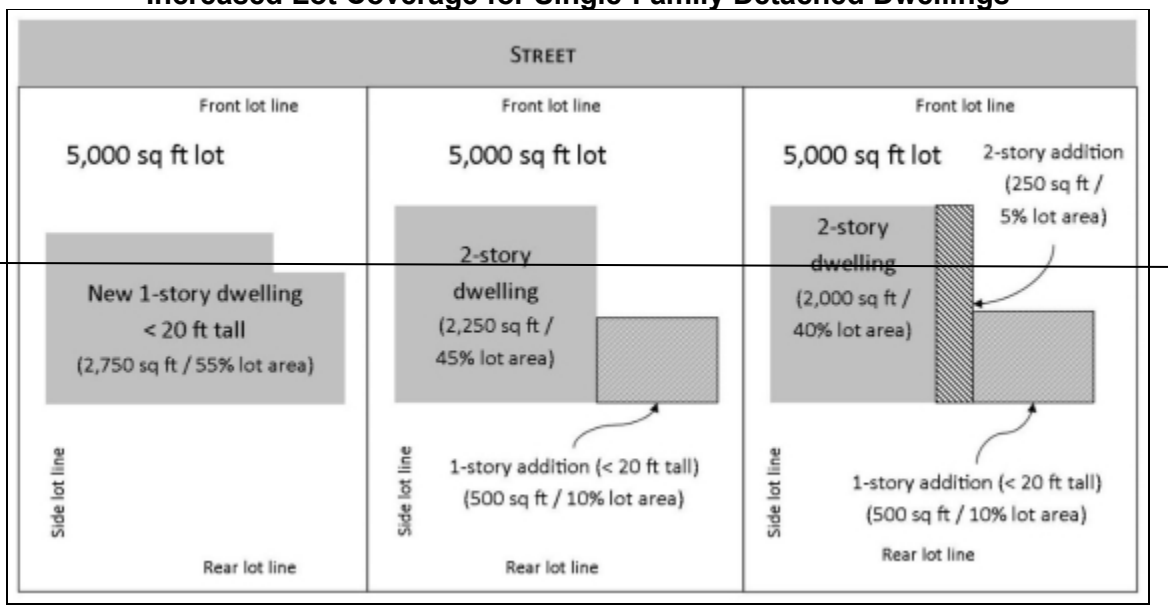
1. Increased Lot Coverage for Single~~-Family~~ Detached Dwelling~~s~~

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of ~~a single-family detached dwelling, or~~ an addition to an existing single~~-family~~ detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to

exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

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

Figure 19.302.5.B.1
Increased Lot Coverage for Single-~~Family~~ Detached Dwellings



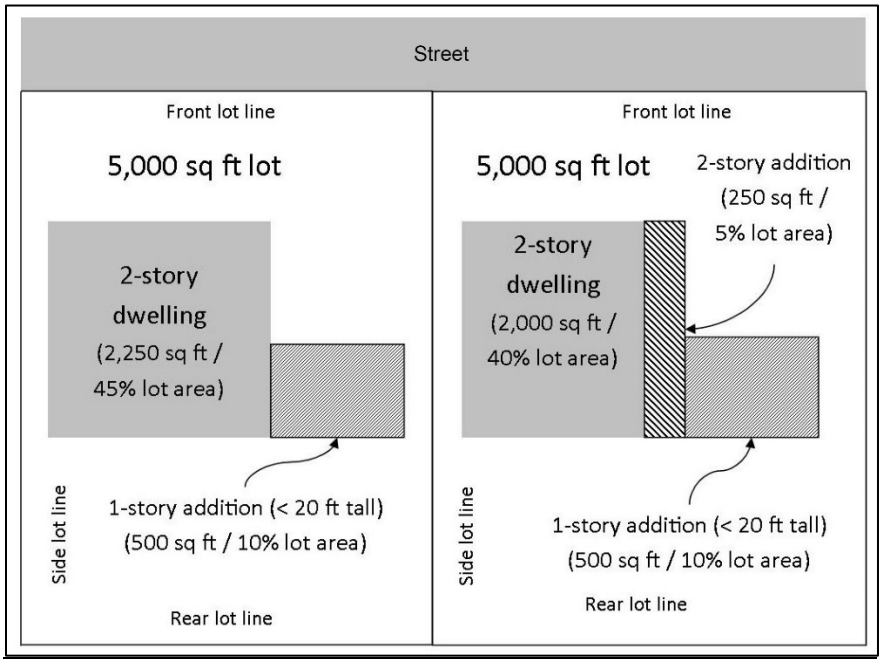


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units ~~Duplexes~~ and Townhouses. ~~Rowhouses.~~

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by ~~20~~ 10 percentage points for One to Four Dwelling Units ~~a duplex~~ or Townhouse ~~rowhouse~~.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

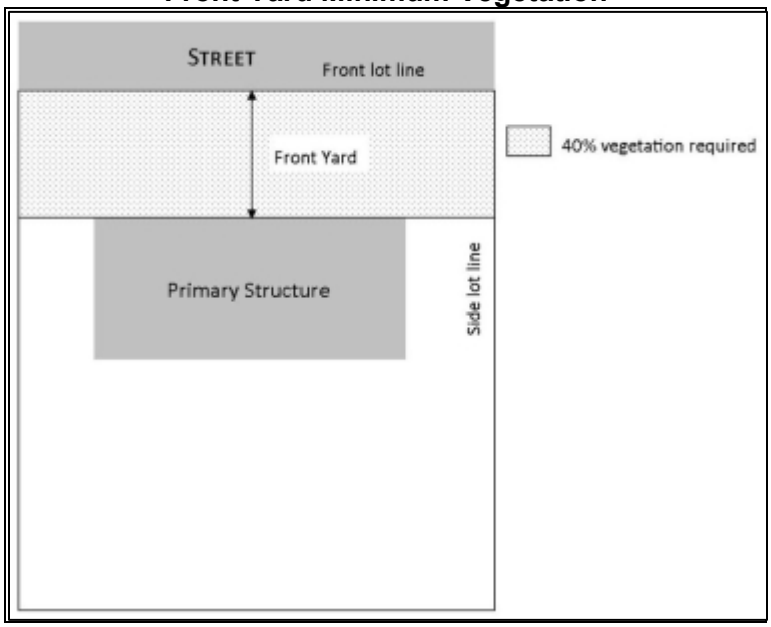
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.302.5.D
Front Yard Minimum Vegetation



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For the ~~each~~ additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of ~~a~~ One to Four Dwelling Units, Cottage Clusters, ~~single-family detached dwelling~~ or an accessory dwelling ~~is~~ are exempt from the minimum and maximum density requirements.

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

   2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2
Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones

Units	R-2 Zone	R-1 and R-1-B Zone
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	~~2,500~~ 1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

~~1. In the R-3 Zone, 1 single-family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.~~

~~2. Multifamily~~ Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

~~I. Transition Measures~~

~~The following transition measures apply to multifamily development that abuts an R-10, R-7, or R-5 zoned property.~~

~~1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.~~

~~2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.~~

~~J~~I. Off-Street Parking and Loading

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

~~K~~J. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

~~L~~K. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multi~~family~~ Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses
10. Subsection 19.505.8 Building Orientation to Transit
11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

~~19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES~~

~~The medium and high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the Medium Density and High Density residential land use designations in the Milwaukie Comprehensive Plan.~~

~~**19.302.1 Purpose**~~

~~The medium and high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.~~

~~**19.302.2 Allowed Uses in Medium and High Density Residential Zones**~~

~~Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.~~

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

~~**Table 19.302.2**~~

Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Single-family detached dwelling	P	P	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes
Residential home	P	P	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	P/II	P/II	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	**Subsection 19.910.3** Manufactured Dwelling Parks
Rowhouse	P	P	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes **Subsection 19.505.5** Standards for Rowhouses
Cottage cluster housing	P	P	P	P	P	**Subsection 19.505.4** Cottage Cluster Housing Cottage cluster land division requires Type III review

Table 19.302.2 CONTINUED Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
Multifamily	CU	CU	P	P	P	**Subsection 19.505.3** Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Congregate housing facility	CU	CU	P	P	P	**Subsection 19.505.3** Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	**Subsection 19.905.9.G** Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses

Commercial Uses						
Office	CU	CU	CU	CU	P	**Subsection 19.302.3** Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	**Section 19.905** Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	**Subsection 19.302.3** Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	P	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	P	P	P	P	**Section 19.507** Home Occupation Standards

P = Permitted.

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

"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.

"Large trees" means trees with at least a 6-in diameter at breast height (DBH) caliper at 5 ft of height.

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for

development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

   The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

   The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

   The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

   a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.

   b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.

   c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. Restore Native Vegetation

   The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. Enhance Vegetation Buffer Area

   The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan will be Carried Out

The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.

2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.

3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.

4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

6. Removal of trees under any of the following circumstances:

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an

increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

a. Trails shall be confined to a single ownership or within a public trail easement.

b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.

c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.

d. Trails shall be located at least 15 ft from the top of bank of all water bodies.

e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.

f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning Manager ~~Director~~ may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager ~~Director~~. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

c. The proposal would remove more than 3 trees during any 12-month period that are categorized as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List. ~~Milwaukie Native Plant List.~~

d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.

e. The tree is a nuisance species, but more than 150 sq ft of earth disturbance is necessary to remove it.

f. The tree is not categorized as either a nuisance or native species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~on the Milwaukie Native Plant List~~ and is not located in a WQR categorized as Class A ("Good"), according to Table 19.402.11.C, provided that no more than 3 such trees will be removed during any 12-month period, and complies with the applicable requirements in Chapter 16.32.

3. The Planning Manager ~~Director~~ shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.

2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.

3. Location of site access and egress that construction equipment will use.

4. Equipment and material staging and stockpile areas.

5. Erosion and sediment control measures.

6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F. ~~A root protection zone shall be established around each tree in the WQR or HCA that is adjacent to any approved work area. The root protection zone shall extend from the trunk to the outer edge of the tree's canopy, or as close to the outer edge of the canopy as is practicable for the approved project. The perimeter of the root protection zone shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Material storage and construction access is prohibited within the perimeter. The root protection zone shall be maintained until construction is complete.~~

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. ~~Detached and Attached Single-Family~~ Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for ~~detached and attached single-family~~ residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA
for ~~Detached and Attached Single-Family~~ Single-unit and Middle Housing Residential Uses

X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

Y = The area of the lot or parcel outside the total resource area (WQR and HCA).

Z = The net amount of disturbance area allowed within the HCA (Z = X - Y)

If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree

replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within ~~low and~~ moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the ~~low and~~ moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, ~~with the following limitations:~~ provided the

~~A. The~~ development ~~must~~ conforms ~~to~~ with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

~~B. Single-family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.~~

19.501.2 Yard Exceptions

C. A covered porch on a single-~~family~~ unit detached dwelling, or middle housing unit, may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.

2. The surface of the porch does not exceed 18 in high above the average grade.

3. The porch is at least 5 ft from the front lot line.

19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.

~~2. The gable end of a roof, provided that the encroachment is not more than 8 ft high above the side yard height plane or more than 40 ft wide.~~

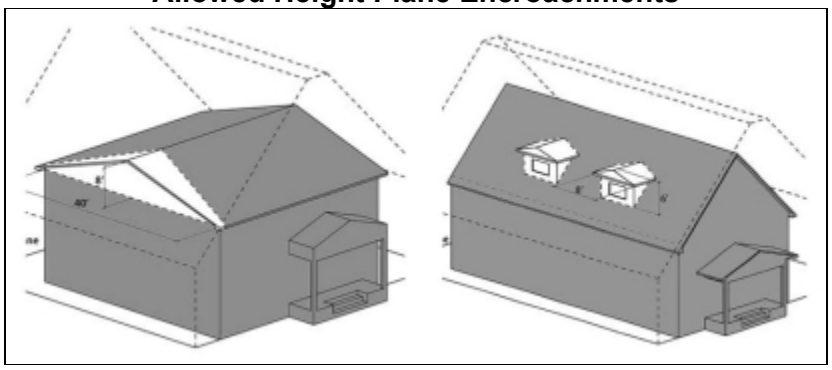
~~3. Dormers, with the following limitations:~~

~~a. The highest point of any dormer is at or below the height of the primary roof ridge.~~

~~b. The encroachment is not more than 6 ft high above the side yard height plane or more than 8 ft wide.~~

~~c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.~~

~~Figure 19.501.3.B~~
~~Allowed Height Plane Encroachments~~



~~19.504.4 Buildings on the Same Lot~~

~~A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.~~

~~B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.~~

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the

development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

~~C.~~ 3. Variances ~~Prohibited~~

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911. ~~are prohibited for flag lots.~~

~~D.~~ 4. Frontage, Accessway, and Driveway Design

~~1.~~ a. Flag lots shall have frontage ~~and~~ or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

~~2.~~ b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

~~3.~~ c. Driveway Design and Emergency Vehicle Access

(1) ~~a.~~ Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

~~(2) b. Driveways serving single flag lots shall have a minimum paved width of 12 ft.~~

(2) ~~c.~~ Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

(3) ~~d.~~ A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

~~e. Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.~~

(4) ~~f.~~ The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) ~~g.~~ Design standards for shared driveways serving ~~more than~~ 3 or more lots shall be specified by the ~~Engineering Director~~ City Engineer after consultation with the Fire Marshal.

(6) ~~h.~~ Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

~~E~~D. ~~Protection~~ Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. ~~to minimize potential adverse impacts to abutting properties.~~ Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. ~~Impacts to neighboring lots due to use of the flag lot, or back lot, driveway shall be mitigated to the greatest extent practicable through screening and planting.~~ Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

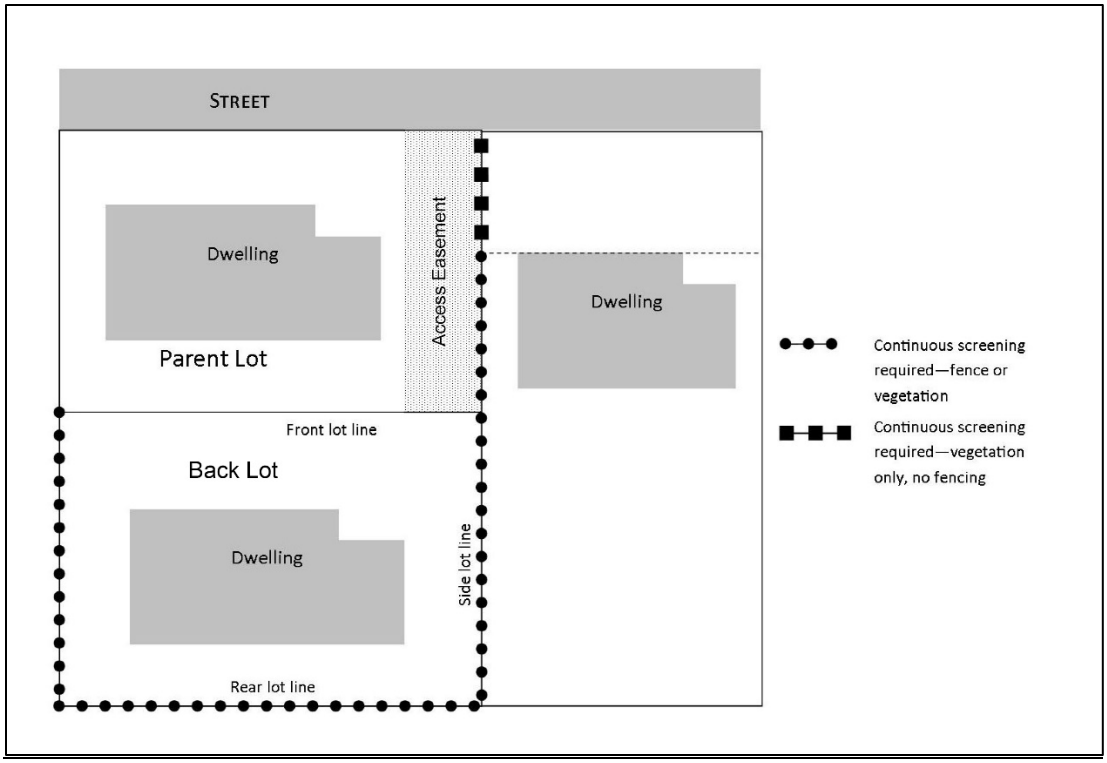
   a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.

   b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

   c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.F

Back Lot Screening



~~F~~E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

~~F. Tree Mitigation~~

~~All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed~~

~~for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.~~

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single~~-family~~ detached and multi-unit~~family~~ residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

route.

19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development

A. Purpose

The design standards for ~~single-family dwellings and duplexes~~ one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Dwellings must address the following design objectives:

- Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
- Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design is intended to meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. ~~New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots.~~ Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	

Privacy and screening	[1]	[1]	[1]
Recycling areas	[4]	[4]	[4]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4
5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
   a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
   b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
   c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
      (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
      (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
      (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
   d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
   e. ~~Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit.~~ Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.

3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

    a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

    b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

    All buildings ~~shall~~ must incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

    a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements ~~shall~~ must be provided along the street-facing façades.

        (1) A porch at least 5 ft deep.

        (2) A balcony that is at least 2 ft deep and is accessible from an interior room.

        (3) A bay window that extends at least 2 ft wide.

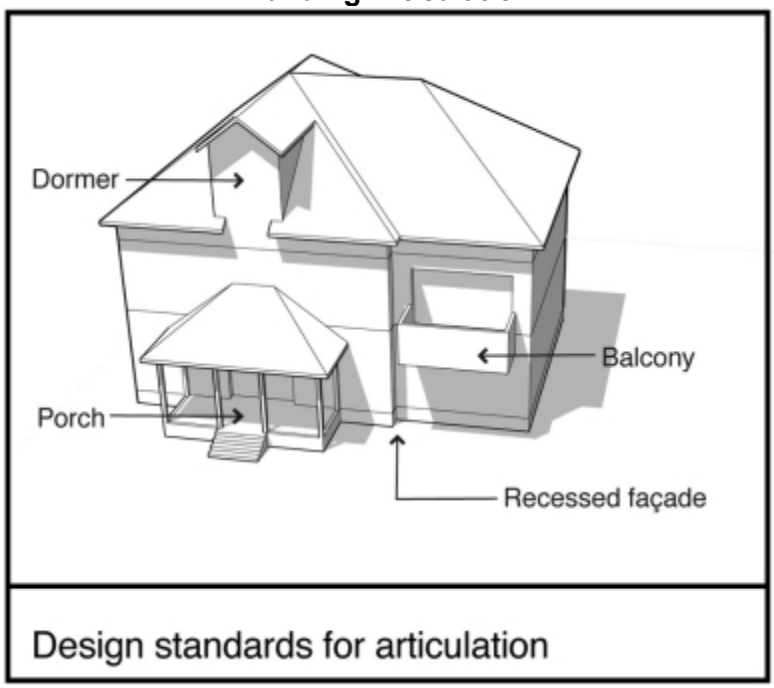
        (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.

        (5) A gabled dormer.

    b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above ~~shall~~ must be provided for every 30 ft of street frontage. Elements ~~shall~~ must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.

    c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

Figure 19.505.1.C.1
Building Articulation



2. Eyes on the Street

   At least ~~12%~~ 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

   a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.

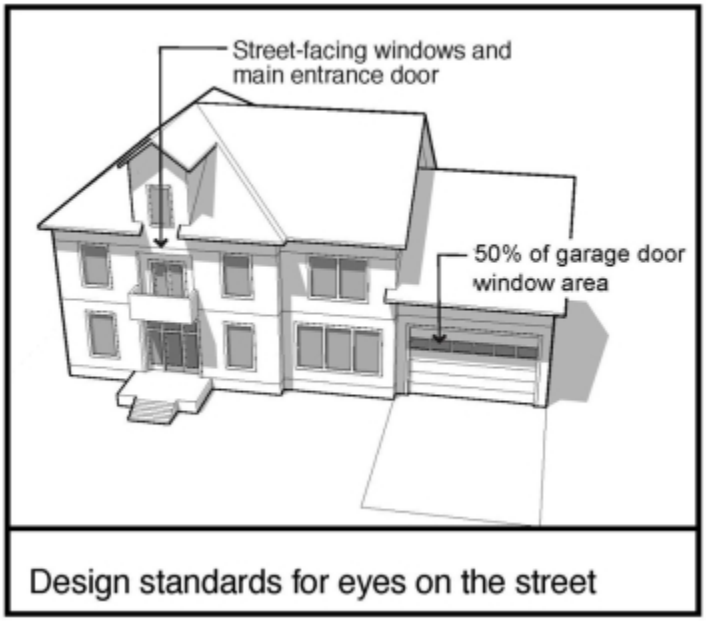
   b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.

   c. Window area is considered the entire area within the outer window frame, including any interior window grid.

   d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

   e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

Figure 19.505.1.C.2
Eyes on the Street



3. Main Entrance

   At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

   a. Be no further than 8 ft behind the longest street-facing wall of the building.

   b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.

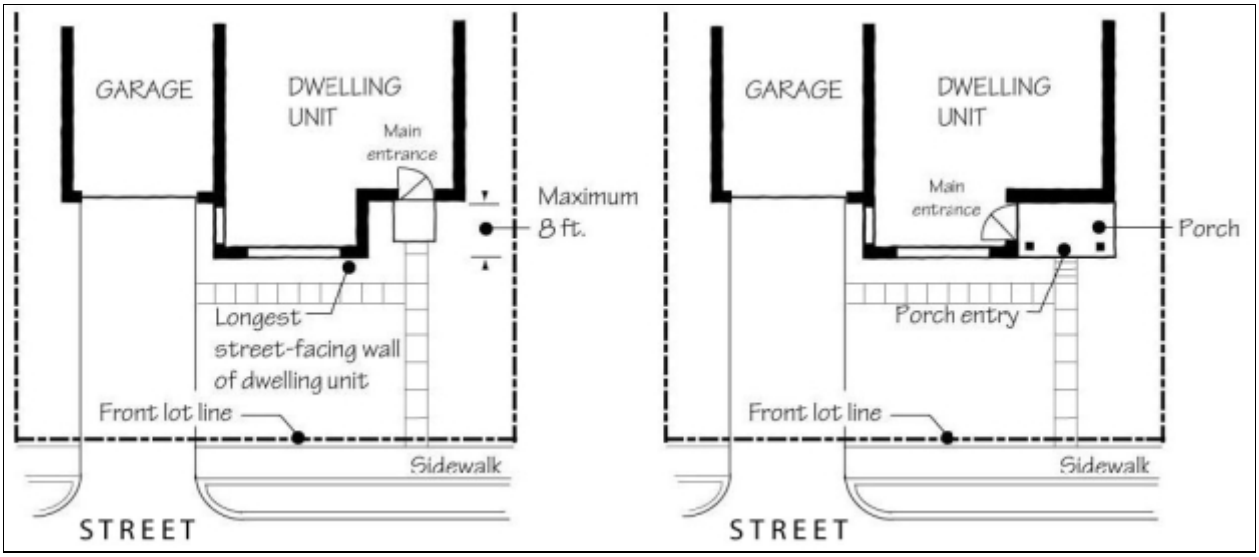
      (1) Be at least 25 sq ft in area with a minimum 4-ft depth.

      (2) Have at least 1 porch entry facing the street.

      (3) Have a roof that is no more than 12 ft above the floor of the porch.

      (4) Have a roof that covers at least 30% of the porch area.

Figure 19.505.1.C.3
Main Entrances



4. Detailed Design

   All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

   a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

   b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

   c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.

   d. Dormer that is at least 4 ft wide and integrated into the roof form.

   e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

   f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.

   g. Tile or wood shingle roofs.

   h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

   i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.

   j. Gable roof, hip roof, or gambrel roof design.

   k. Window trim around all windows at least 3 in wide and 5/8 in deep.

   l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

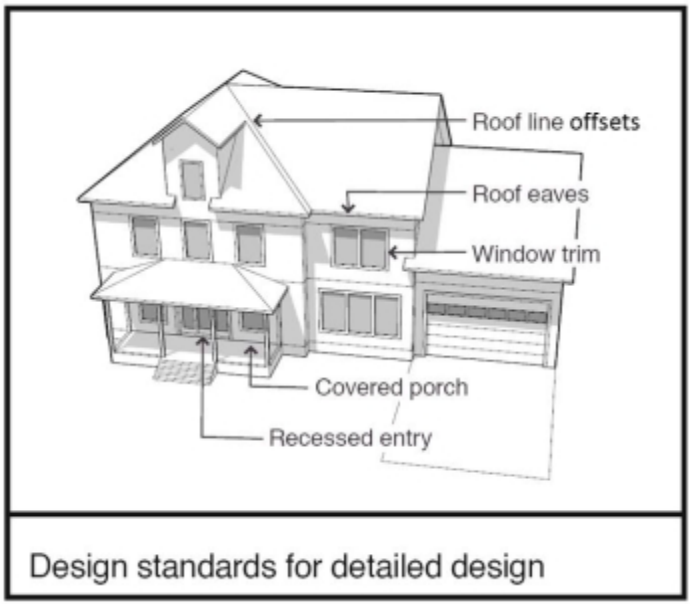
   m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft deep and 5 ft long.

p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

Figure 19.505.1.C.4
Detailed Design Elements



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

a. The common courtyard must be a single, contiguous piece.

b. Cottages must abut the common courtyard on at least two sides of the courtyard.

c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).

d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.

b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.

c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.

d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

a. Off-street parking may be arranged in clusters, subject to the following standards:
   i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
   ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
   iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
   iv. Clustered parking areas may be covered.

b. Off-street parking spaces and vehicle maneuvering areas must not be located:
   i. Within of 20 feet from any street property line, except alley property lines;
   ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
   iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

d. Garages and carports (whether shared or individual) must not abut common courtyards.

e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

f. Individual detached garages must not exceed 400 square feet in floor area.

g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.

b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must be not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.

c. All fences on the interior of the development must be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.

5. Windows that are operable by building occupants.

6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

~~5. Standards for Duplexes~~

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

~~a. The exterior finish of the structure must be the same for both units.~~

~~b. The eaves must be uniform for the entire structure.~~

~~c. The window and door trim must be the same in type, size, and location for the entire structure.~~

~~d. Windows must match in proportion and orientation for the entire structure.~~

~~e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.~~

~~f. For duplexes facing 1 frontage, the following standards apply.~~

~~(1) Only 1 entrance is required to face the frontage.~~

~~(2) Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.C.3.~~

~~(3) A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.~~

19.505.3 Multi~~family~~-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit ~~family~~ housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit ~~family~~ development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit ~~family~~ development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit ~~family~~ and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3.

Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit ~~family~~ or congregate housing development is subject to the design elements in this subsection.

2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.

   a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.

   b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.

   c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.

   d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.

   e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.

   f. Subsection 19.505.3.D.8 Landscaping, for the entire site.

   g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.

   h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

   i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.

   j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.

3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit ~~family~~ or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.

2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit ~~family~~ and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D
Multi-unit ~~family~~ Design Guidelines and Standards

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	Landscaping of multi-unit ~~family~~ developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management	a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List. b. Trees shall be planted to provide, within 5 years, canopy coverage for at least ⅓ of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees. c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting. d. For projects with more than 20 units: (1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (2) To reduce the "heat island" effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.

10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.	A recycling area or recycling areas within a multi-unit ~~family~~ development shall meet the following standards. a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum. b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area. c. Recycling containers must be covered by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.
11. Sustainability	Multi-unit ~~family~~ development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the	In order to promote more sustainable development, multi-unit ~~family~~ developments shall incorporate the following elements. a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch

	context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	greater than 3/12. (3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface. (4) An integrated solar panel system for a minimum of 30% of the total roof or building surface. (5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof. (6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.
12. Privacy Considerations	Multi-unit ~~family~~ development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	In order to protect the privacy of adjacent properties, multi-unit ~~family~~ developments shall incorporate the following elements: a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties. b. Where windows on a multi-unit ~~family~~ development are within 30 ft of windows on adjacent residences, windows on the multi-unit ~~family~~ development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit ~~family~~ unit.
13. Safety	Multi-unit ~~family~~ development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through	a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill. b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street. c. Uses on the site shall be illuminated as follows:

	Environmental Design: • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	(1) Parking and loading areas: 0.5 footcandle minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way. e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

~~C. Land Division~~

~~1. A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.~~

~~2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.~~

~~3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed~~

~~for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.~~

~~4. Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.~~

~~5. Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.~~

~~D~~C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.~~The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.~~

~~Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.~~

Table 19.505.4.C.1

Cottage Cluster Development Standards

Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
A. Home Types		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 8 maximum dwelling units
B. Home Size		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	
C. Height		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot	15 ft	

line		
3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum)[6]	6 ft[7]	
b. Side and rear site setbacks	5 ft[8]	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
E. Impervious Area, Vegetated Area		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
F. Community and Common Space		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	0.5	0.5
2. Dry, secure bicycle parking	1.5	

[6] If the structure has eaves, the 6-foot minimum separation applies between eaves.

[7] For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.

[8] Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

spaces per home (minimum)	
3. Guest bicycle parking spaces perhome (minimum)	0.5

~~1.~~ D. Cottage Standards

1. Size

The total footprint of a cottage unit ~~shall~~ must not exceed ~~700~~ 900 sq ft, and the ~~the total floor area of each cottage unit shall not exceed 1,000 sq ft.~~ maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures ~~shall~~ must not exceed 25 feet or two (2) stories, whichever is greater~~. 18 ft. Cottages or amenity buildings having pitched roofs with a minimum slope of 6/12 may extend up to 25 ft at the ridge of the roof.~~

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

(1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.

(2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

(a) Have a main entrance facing the common courtyard;

(b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

(c) Be connected to the common courtyard by a pedestrian path.

(3) Cottages within 20 feet of a street property line may have their entrances facing the street.

(4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

~~The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.~~

~~(2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.~~

~~d. Required Yards~~

~~(1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.~~

~~(2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.~~

~~(3) The required yard depth for all yards other than a front or rear yard is 5 ft.~~

~~(4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections—such as eaves, overhangs, or chimneys—may project into this required separation by 18 in.~~

~~(5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.~~

~~e. Cottage Design Standards~~

~~The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.~~

~~(1) Cottages fronting a street shall avoid blank walls by including at least one of the following:~~

~~(a) Changes in exterior siding material.~~

~~(b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.~~

~~(c) Wall offsets of at least 1 ft deep.~~

~~(2) Trim around windows and doors shall be at least 3 in wide and ⅝ in deep.~~

~~(3) All roofs shall have a minimum roof pitch of 4/12.~~

~~(4) Windows and doors shall account for at least 15% of the façade area for façades oriented toward a public street or common open space.~~

~~(5) At least 60% of the siding material on each wall shall be either horizontal lap siding, between 3 to 7 in wide once installed, or shake siding.~~

~~f. Front Porches~~

~~Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semipublic area between the cottage and the open space.~~

~~(1) The minimum porch depth shall be 6.5 ft.~~

~~(2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.~~

~~(3) The front door of the dwelling must open onto the porch.~~

~~(4) The entire area of the front porch must be covered.~~

~~(5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.~~

~~2.~~E. Site Design and Other Standards

~~a.~~ 1. Number of Cottages Allowed

~~The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4.~~ A cottage cluster ~~development~~ ~~shall~~ must include a minimum of ~~4~~ 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

~~b. Common Open Space~~

~~An adequately sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards.~~

~~(1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.~~

~~(2) The minimum dimension for the common open space is 20 ft on 1 side.~~

~~c. Private Open Space~~

~~Each cottage shall have a private open space on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on 1 side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.~~

~~d. Maximum Lot Coverage and Impervious Area~~

~~The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.~~

~~e. Internal Pedestrian Circulation~~

~~The cottage cluster development shall include continuous pedestrian paths for internal circulation on site. The minimum width for pedestrian paths shall be 3~~ 6 ft. ~~Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within the development.~~

~~f. Perimeter Setback Areas~~

~~All structures within a cottage cluster development shall be located at least 15 ft from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed,~~

~~g~~ 2. Off-Street Parking

a. There shall be at least 0.5 off-street parking spaces per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.
b. A cottage cluster parking area ~~shall~~ must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
c. If there are more than 8 units in a cottage cluster, there ~~shall~~ must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.
e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

~~h.~~ 3. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;

b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;

c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;

d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

~~**Figure 19.505.4**~~
~~**Cottage Cluster Development**~~

19.505.5 ~~Rowhouses~~ Townhouses

A. Purpose

Townhouses ~~Rowhouses~~ provide a type of housing that includes the benefits of a single~~-family~~ detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. ~~The purpose of these standards is to allow rowhouses in medium to high density residential zones.~~ Townhouses ~~Rowhouses~~ are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, ~~the same density as single-family detached and multifamily dwellings~~, and the general design requirements are very similar to the design requirements for single~~-family~~ detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses ~~Rowhouses~~.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single~~-family~~ dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse ~~rowhouse~~ lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse ~~Rowhouse~~ development may take place on existing lots that meet the lot standards for townhouse ~~rowhouse~~ lots or on land that has been divided to create new townhouse ~~rowhouse~~ lots.
2. Development standards for townhouses ~~rowhouses~~ are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single~~-family~~ detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses ~~rowhouses~~.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units ~~duplexes~~ or multi~~family~~ unit housing.

C. Townhouse ~~Rowhouse~~ Design Standards

1. Townhouses ~~Rowhouses~~ are subject to the design standards for single detached dwelling ~~-family~~ housing in Subsection 19.505.1.
2. Townhouses ~~Rowhouses shall~~ must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
    a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not

more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft ~~5 ft~~ from the front lot line.

b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it ~~shall~~ must be at least 4 ft ~~7 ft~~ from the front lot line.

D. Number of Townhouses ~~Rowhouses~~ Allowed

In the High Density Zones , no more than 4 consecutive townhouses ~~rowhouses~~ that share a common wall(s) are allowed. A set of 4 townhouses ~~rowhouses~~ with common walls is allowed to be adjacent to a separate set of 4 townhouses ~~rowhouses~~ with common walls.

In the R-MD zone, the maximum number of consecutive attached townhouses is 4 ~~2~~.

E. Townhouse ~~Rowhouse~~ Lot Standards

~~1. Townhouse Rowhouse development is not allowed on lots with a lot width of more than 35 ft.~~

1. ~~2~~. Townhouse ~~Rowhouse~~ development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

2. ~~3~~. Townhouse ~~Rowhouse~~ development ~~in the R-3 and R-2.5 Zones~~ must meet the minimum lot size of 1,500 sq ft. ~~standards in Subsection 19.302.4.A.1.~~

~~4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.4.~~

~~Table 19.505.5.E.4~~
~~Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones~~

~~Number of Rowhouses~~	~~R-2 Zone~~	~~R-1 and R-1-B Zone~~
~~2~~	~~7,500 sq ft~~	~~6,400 sq ft~~
~~3~~	~~10,000 sq ft~~	~~7,800 sq ft~~
~~4~~	~~12,500 sq ft~~	~~9,200 sq ft~~

F. Driveway Access and Parking

1. Garages on the front façade of a townhouse ~~rowhouse~~, off-street parking areas in the front yard, and driveway accesses in front of a townhouse ~~rowhouse~~ are prohibited unless the following standards are met. See Figure 19.505.5.F.1.

~~a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.~~

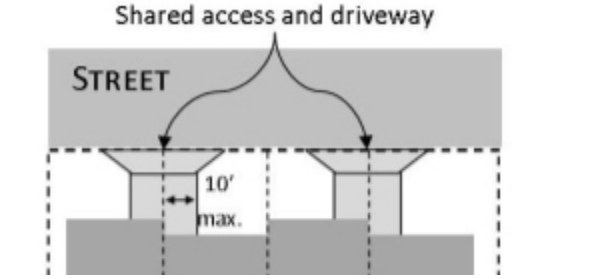
b. Development of 2 or 3 townhouses ~~rowhouses~~ has at least 1 shared access between the lots, and development of 4 townhouses ~~rowhouses~~ has 2 shared accesses.

c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.

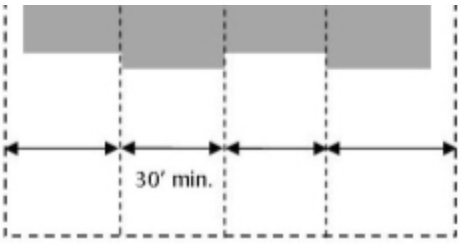
d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

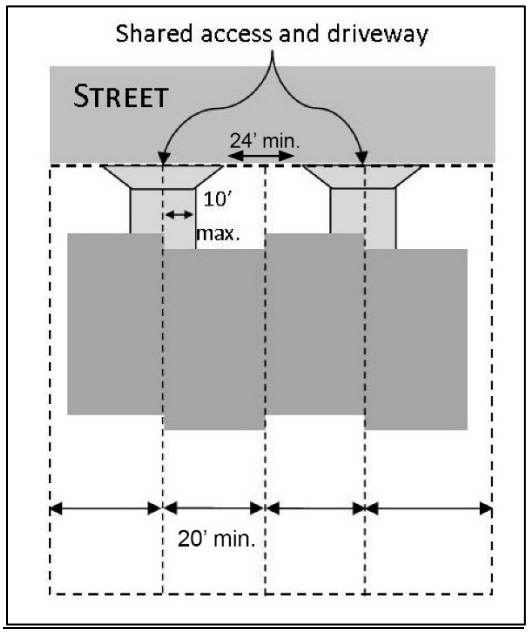
e. Shared accesses are spaced a minimum of 24 feet apart.

Figure 19.505.5.F.1
Townhouse ~~Rowhouse~~ Development with Front Yard Parking



Replace figure with figure below



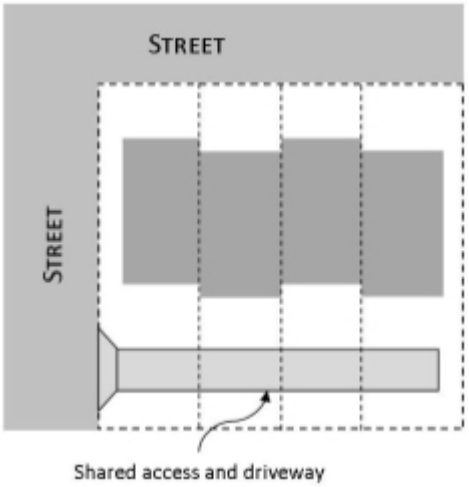


2. The following rules apply to driveways and parking areas for townhouse ~~rowhouse~~ developments that do not meet all of the standards in Subsection 19.505.5.F.1.

a. Off-street parking areas ~~shall~~ must be accessed on the back façade or located in the rear yard. ~~No off-street parking shall be allowed in the front yard or side yard of a rowhouse.~~

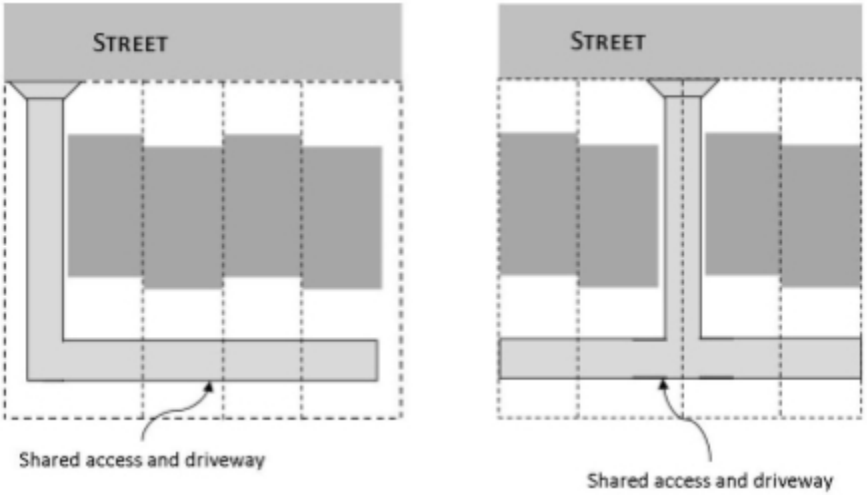
b. Townhouse ~~Rowhouse~~ development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The ~~Engineering Director~~ City Engineer may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

Figure 19.505.5.F.2.b
Townhouse ~~Rowhouse~~ Development with Corner Lot Access



c. Townhouse ~~Rowhouse~~ development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse ~~rowhouses.~~ See Figure 19.505.5.F.2.c.

Figure 19.505.5.F.2.c
Townhouse ~~Rowhouse~~ Development with Consolidated Access



d. A townhouse ~~rowhouse~~ development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse ~~rowhouse~~ lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse ~~rowhouse~~ lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

Manufactured homes are allowed by right in any zone that allows single-family detached dwellings by right. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

~~A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1,000 sq ft.~~

A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 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; ~~avoid parking-related congestion~~ support efficient ~~on the~~ 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.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

A. On the same site as the primary use for which the parking is accessory.

B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.

C. Where parking is approved in conformance with Subsection 19.605.2

~~C~~ D. Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

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~~-family~~ detached dwellings, including ~~rowhouses and~~ manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings ~~a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone.~~ ~~b. Dwelling units with more than 800 sq ft of floor area.~~	1 space per dwelling unit. ~~1.25 spaces per dwelling unit.~~	 2 spaces per dwelling unit. ~~2 spaces per dwelling unit.~~
3. Middle Housing a. Duplexes b. Triplexes c. Quadplexes d. Town Houses e. Cottage Clusters	 0 0 0 0 0.5 spaces 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
~~3~~ 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.
4. 5. Accessory dwelling units (ADU)~~—Types I and II~~.	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with ~~large~~ parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning ~~Director~~ Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
    a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
    b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
    c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
    d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within one block of the middle housing development.

e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.

4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.

5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Manager ~~Director~~ shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager ~~Director~~, based on the applicant's materials and other data the Planning Manager ~~Director~~ deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:

   a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.

   b. The reduction of off-street parking will not adversely affect available on-street parking.

   c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.

3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:

   a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.

   b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.

   c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

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

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

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

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

2. Proximity to Public Transit

   a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
   b. Parking for ~~multifamily~~ multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
   c. Parking for all uses except single~~-family attached and~~ detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as

defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.

d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager ~~Director~~ shall have the authority to determine when multiple uses exist on a site.

a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.

b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for ~~all~~ non-single~~-family~~ unit residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager ~~Director~~, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing
Parking minimums in Table 19.605.1 may be reduced for the following:

a. For any multiunit dwelling unit or middle housing dwelling unit that that meets the exemption standards as defined in MMC 3.60.050, the minimum parking requirement for that unit may be reduced by 25 percent.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for ~~cottage clusters, rowhouses, duplexes,~~ middle housing, single ~~-family~~ detached dwellings, and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, ~~rowhouses, cottage clusters, duplexes, single-family detached dwellings,~~ and residential homes in all zones, unless specifically stated otherwise.

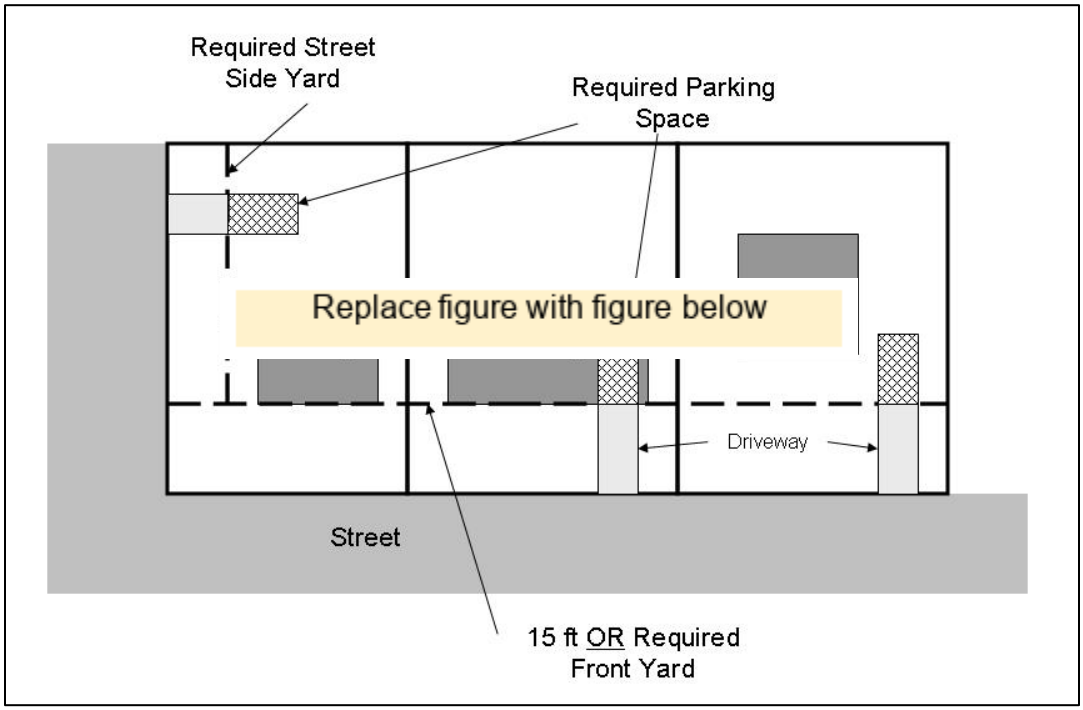
A. Dimensions

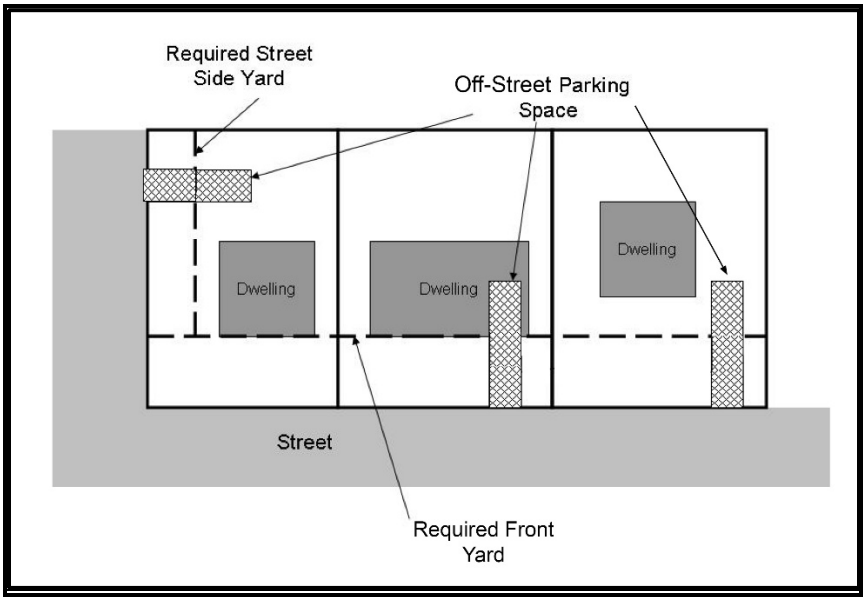
Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
    a. Within ~~the required front yard or within 15 ft of the front lot line, whichever is greater~~ an adjacent public street right-of-way or access easement.
    b. ~~Within a required street side yard~~ Over a public sidewalk.

Figure 19.607.1.B.2
Required Parking Space Location





C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
    a. Required parking space(s).
    b. All vehicle parking spaces and maneuvering areas located within a ~~required~~ front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
    c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

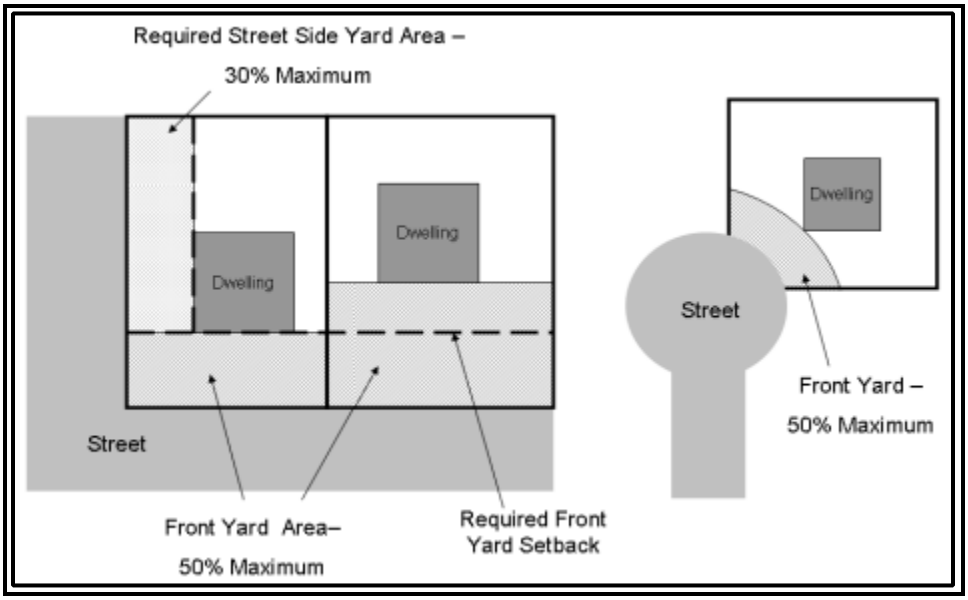
D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses ~~rowhouses,~~ which are subject to the standards in Subsection 19.505.5.

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

Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits



E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the ~~front property line~~ right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

Figure 19.607.1.E.1
Driveway Widening Limitation—Option 1

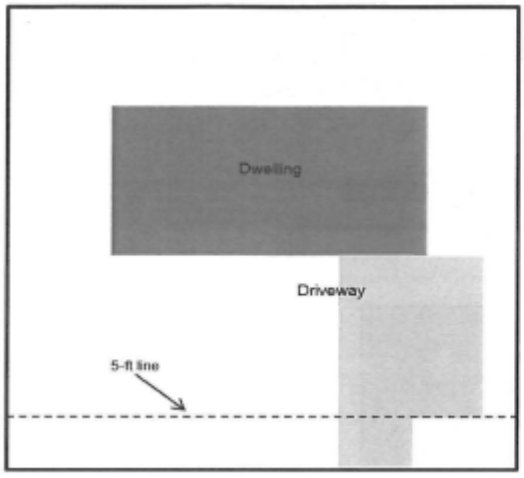
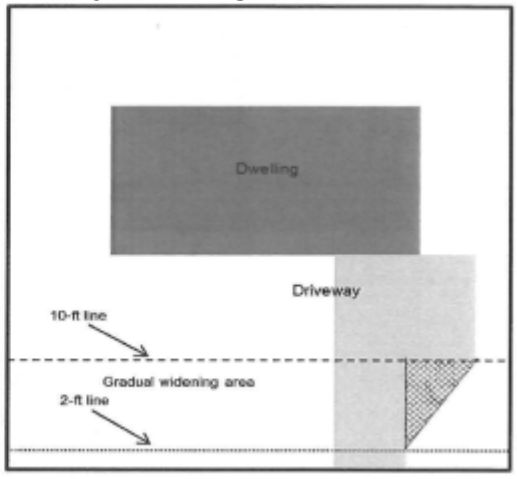


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats.

D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single ~~-family~~ detached residential development and development in downtown zones.

1. A new dwelling unit.

2. Any increase in gross floor area.

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

19.702.2 Single ~~-Family~~ Detached and Duplex Residential Expansions

Chapter 19.700 applies to single ~~-family~~ detached and duplex residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single ~~-family~~ detached and duplex residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least ~~200~~ 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than ~~200~~ 800 sq ft, none of Chapter 19.700 applies.

D. single ~~-family~~ detached and duplex residential expansions shall provide adequate public utilities as determined by the ~~Engineering Director~~ City Engineer pursuant to Section 19.709.

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

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

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

19.703 REVIEW PROCESS

19.703.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the ~~Engineering Director~~ City Engineer will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the ~~Engineering Director~~ City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the ~~Engineering Director~~ City Engineer will also determine whether a ~~transportation impact study~~Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there ~~are~~ could be impacts to the transportation system if the proposed single~~-family~~ detached residential expansion/conversion is greater than ~~200~~ 800 sq ft.

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the ~~Engineering Director~~ City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage

improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the ~~Engineering Director~~ City Engineer will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The ~~Engineering Director~~ City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

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

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.

2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.

3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.

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

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

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

7. On-street parking in industrial zones ~~shall~~ must have a minimum width of 8 ft.

8. On-street parking in commercial zones ~~shall~~ must have a minimum width of 7 ft.

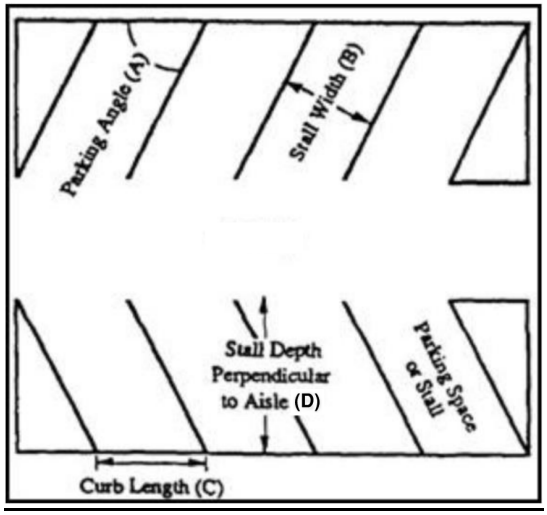
9. On-street parking in residential zones ~~shall~~ must have a minimum width of 6 ft.

10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3			
Full and Mid-Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpindicular)	8	8	18
Compact Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpindicular)	7	7	16

Figure 19.708.1

Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.

12.~~10~~. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

13.~~11~~. Landscape strip widths shall be measured from back of curb to front of sidewalk.

14.~~12~~. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

15. ~~13~~. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.

16. ~~14~~. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED
Land Use Applications

Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
~~Accessory Dwelling Unit~~	~~Subsection 19.910.1~~	~~I, II~~
~~Duplex~~	~~Subsection 19.910.2~~	~~II~~
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies

Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager ~~Director~~ at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C**.**

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

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

1. New or expanded ~~single-family~~ single detached dwelling or middle housing detached or attached residential dwellings.
2. ~~Single-family r~~ Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.
5. Temporary events as allowed in Chapter 11.04.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. ~~It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.~~

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be ~~evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per~~ allowed by right. Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

~~Where a detached accessory dwelling unit is proposed that would undergo a Type I review, properties adjoining the site shall receive mailed notice of the proposed development. The notice shall include a site plan, building elevations, and a description of the standards and review process for the development. The notice shall be mailed within 7 days of the date that the application is deemed complete per Subsection 19.1003.3.~~

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided ~~reviewed through a Type I review shall be approved~~ each of the following standards are met.
    a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
    b. The primary use of property for the proposed accessory dwelling unit is a single~~-family~~ detached dwelling.
    c ~~One accessory dwelling unit per lot is allowed~~. Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
    d. The development standards of Subsection 19.910.1.E are met.
    e. The proposal complies with all other applicable standards of this title.

~~2. An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.~~

~~a. The standards in Subsection 19.910.1.D.1 are met.~~

~~b. The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.~~

~~c. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.~~

~~d. There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.~~

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

~~The more restrictive provisions shall be applicable in~~ In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property. ~~An attached accessory dwelling unit shall be reviewed by a Type I review per Subsection 19.1004.~~

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

(1) The façade of the structure that faces the front lot line ~~shall~~ must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

(2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.

(3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.

(a) The exterior finish on the addition ~~shall~~ must match the exterior finish material of the primary dwelling unit in type, size, and placement.

(b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

(c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

(d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a ~~Type I~~ Type B ADU ~~review~~ require Type II ~~review. Structures are not allowed to exceed any of the maximums associated with a Type II review without~~ approval of a variance per Section 19.911.

Table 19.910.1.E.4.b
Footprint, Height, and Required Yards for Detached Accessory Dwelling Units

Standard	~~Type I~~ Type A ADU	~~Type I~~ Type B ADU
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft ~~Base zone requirement for side and rear yard~~	Base zone requirement for side and rear yard ~~5 ft~~
Required Front Yard	10′ behind front yard as defined in Section 19.201, unless located at least 40′ from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

c. Design Standards

(1) A detached accessory structure ~~shall~~ must include at least ~~2~~ two of the design details listed below. An architectural feature may be used to comply with more than ~~1~~ one standard.

(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.

(3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

(4) ~~A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.4.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards.~~

d. Privacy Standards

(1) Privacy standards are required for detached accessory dwelling units~~. processed through a Type I review. A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.~~

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

(a) The wall is within 20 ft of a side or rear lot line.

(b) The wall is at an angle of 45 degrees or less to the lot line.

(c) The wall faces an adjacent residential property.

(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.

(a) All windows on a wall ~~shall~~ must be placed in the upper third of the distance between a floor and ceiling.

(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening ~~shall~~ must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs ~~shall~~ must be no less than 5 ft above grade at time of planting, and they ~~shall~~ must reach a 6-ft ~~high~~ height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the time of the ADU permit submittal ~~established on or after December 1, 2012, the effective date of Ordinance #2051,~~ is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal ~~prior to December 1, 2012, the effective date of Ordinance #2051,~~ is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. ~~However, the~~ The conversion ~~shall~~ must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

~~1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.~~

~~The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 of the dwelling units.~~

1~~2~~. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.

2~~3~~. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

~~19.910.2 Duplexes~~

~~A. Purpose~~

~~This subsection is intended to allow duplexes in order to increase available housing in the city. while maintaining the coherence of single-family residential neighborhoods.~~

~~B. Applicability~~

~~The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert, or add on to, an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.~~

~~C. Review Process~~

~~1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of, or addition to, an existing structure.~~

a. In Residential Zones R-5, R-3, R-2.5, R-2, R-1, R-1-B, and R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review of applicable development and design standards that occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.

b. A duplex in Residential Zone R-10 or R-7 is allowed outright, subject to the lot size requirements for the zone, in either of the following situations. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.

(1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.

(2) The property is a corner lot.

c. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b is allowed through a Type II review per Section 19.1005.

d. A duplex in the Limited Commercial Zone C-L is allowed through a Type II review per Section 19.1005.

2. For additions or modifications to an existing duplex, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.

D. Approval Criteria

1. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use, under Subsection 19.910.2.C.1.b, must meet the following criteria.

a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings within the general vicinity of the site.

b. The design of the proposed duplex is generally consistent with the surrounding development.

c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.

2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.

a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial Zone.

b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.

2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.

4. A variance of up to 10% to lot width or depth standards.

5. A variance of up to 10% to a lot frontage standard.

6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.

10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.

11. For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:

a. Front yard: 10 ft
b. Rear yard: 15 ft
c. Side yard: 5 ft
d. Street side yard: 10 ft

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

4. Impacts from the proposed variance will be mitigated to the extent practicable.

5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

19.911.8 Tree Preservation and Tree Canopy Standards Variance

A. 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.

B. 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.

C. Review Process

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.

D. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the approval criteria found in MMC 16.32.042.E.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager ~~Director~~ and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E
Zoning and Land Use Designations for Boundary Changes

County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	~~R-10~~ R-MD	~~Low~~ Moderate density residential
R-15	~~R-10~~ R-MD	~~Low~~ Moderate density residential
R-10	~~R-10~~ R-MD	~~Low~~ Moderate density residential
R-8.5	~~R-7~~ R-MD	~~Low~~ Moderate density residential

R-7	~~R-7~~ R-MD	~~Low~~ Moderate density residential
MR1	R-2	~~Medium~~ High density residential
MR2	R-2	~~Medium~~ High density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C3	C-G	Commercial
OC	C-L	Commercial

Table 19.1104.1.E CONTINUED
Zoning and Land Use Designations for Boundary Changes

County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
RTL	C-L	Commercial
PC	C-CS	Commercial
LI	BI	Industrial
GI	M	Industrial
BP	BI	Industrial
OSM	R-10/CSU	Public

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone ~~single-family zones~~, except to the extent the ~~Director~~ Planning Manager finds that the applicant has shown one or more of the conditions

listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS ~~LIMITATIONS~~

Flag lots and back lots are permitted ~~prohibited~~ in new subdivisions. ~~and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)~~

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the ~~Engineering Director~~ City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the ~~Engineering Director~~ City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include ~~three (3) copies of~~ an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The ~~Engineering Director~~ City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

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

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.

c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered ~~professional traffic engineer~~ Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The ~~access study~~ Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design;

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;

c. Review of all modes of transportation to the site;

d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the ~~Engineering Director~~ City Engineer.

C. Accessway Location

1. Double Frontage

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

2. Location Limitations

Individual access to single~~-family~~ detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the ~~Engineering Director~~ City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least ~~seven and one-half (7½)~~five (5) feet from the side property line in residential districts and at least ten (10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

a. At least forty-five (45) feet for single~~-family~~ detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least one hundred (100) feet for multi-unit ~~family~~ residential properties and all other uses accessing local and neighborhood streets.

c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit ~~family~~ areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single~~-Family~~ Detached Residential

One accessway per property is allowed for single~~-family~~ detached residential uses.

a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by the ~~Engineering Director~~ City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.

c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single~~-Family~~ Detached Residential

The number of accessways for uses other than single~~-family~~ detached residential is subject to the following provisions:

a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;

b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The ~~Engineering Director~~ City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

a. Cause or increase existing hazardous traffic conditions;

b. Provide inadequate access for emergency vehicles; or

c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single~~-family~~ detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The ~~Engineering Director~~ City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single~~-family~~ detached attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.

3. Multi-unit ~~family~~ residential Middle Housing units ~~uses~~ comprised of up to four (4) units,~~with three (3) dwellings~~ shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.

4. Multi-unit~~family~~ residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between ~~four (4)~~five (5) and ~~seven (7)~~eight (8) ~~dwellings~~ units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.

5. Multi-unit~~family~~ residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of ~~twelve (12)~~sixteen (16) feet and a maximum width of thirty-six (36) feet.

7. Industrial uses shall have a minimum driveway apron width of ~~fifteen (15)~~twenty-four (24) feet and a maximum width of forty-five (45) feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the ~~Engineering Director~~City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets." ~~The clear vision area for all street and driveway or accessway intersections shall be that area within a twenty (20) foot radius from where the lot line and the edge of a driveway intersect.~~

B. Modification of this computation may be made by the ~~Engineering Director~~City Engineer after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

The following terms are definitions for the purposes of this chapter.

"Applicant" means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

"City" means the City of Milwaukie.

"~~Engineering Director~~ City Engineer" means the person who is the manager/supervisor of the city's Engineering Department, or the City Manager's designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager. ~~holding the position of Engineering Director or any officer or employee designated by that person to perform duties stated within this chapter.~~

"Front footage" means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the ~~Engineering Director~~City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.

LAND USE

(EXISTING)

Milwaukie Comprehensive Plan
Map 8

- City Boundary
- Tacoma Station Area
- LD - Low Density
- MD - Moderate Density
- MED. D - Medium Density
- HD - High Density
- C - Commercial
- C/HD - Mixed Use
- I - Industrial
- P - Public
- TC - Town Center
- Water Body

Rev. as of Ord. #2194 , effective August 28th, 2020

Data Sources: City of Milwaukie GIS, Metro Data Resource Center

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Please check with Planning Department for most up-to-date information.
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planning@milwaukieoregon.gov

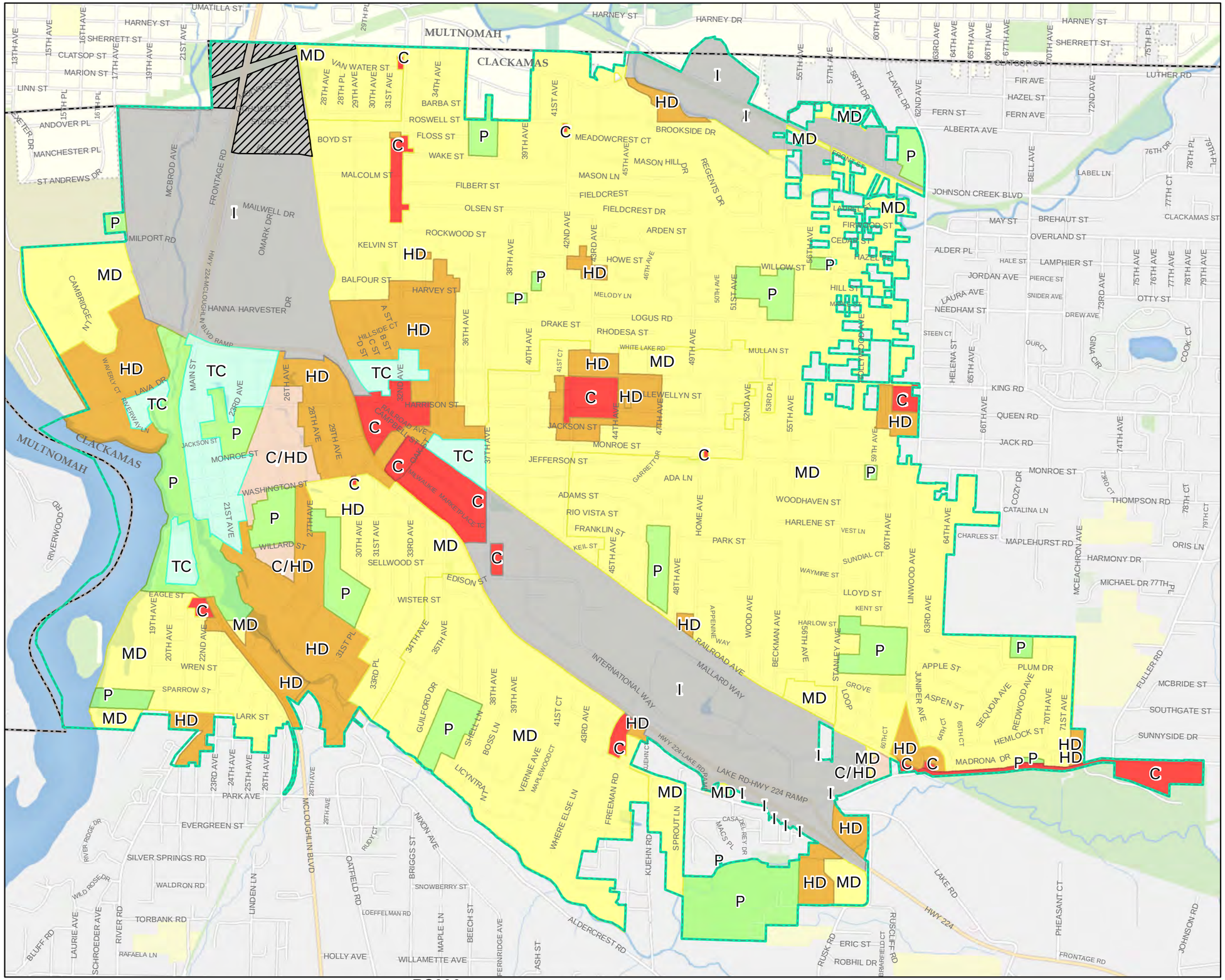
CITY OF MILWAUKIE

0 0.25 0.5 Miles

CITY OF MILWAUKIE

Milwaukie Comprehensive Plan
Proposed Landuse

- City of Milwaukie
- County Boundary
- Tacoma Station Area
- C -Commercial
- C/HD - Mixed Use
- HD - High Density
- I - Industrial
- MD - Moderate Density
- P - Public
- TC - Town Center



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

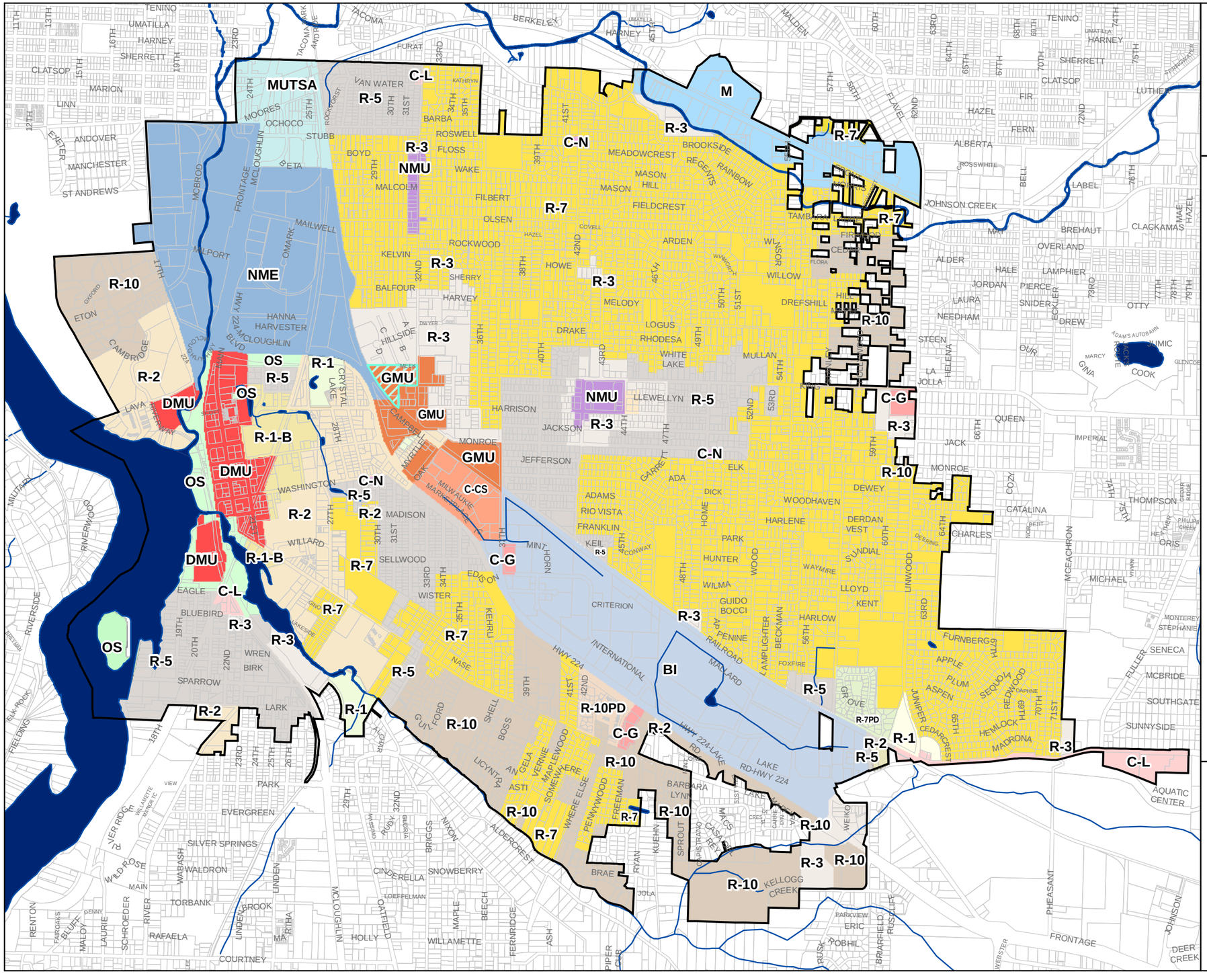
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0 0.25 0.5 Miles

RS306



ZONING

(EXISTING)

Industrial
- BI
- M
- MUTSA
- NME

Residential
- R-1
- R-1-B
- R-2
- R-2.5
- R-3
- R-5
- R-7
- R-7PD
- R-10
- R-10PD

Commercial and Mixed Use
- NMU
- C-N
- C-L
- C-G
- C-CS
- GMU

Downtown
- DMU
- OS

- Flex Space Overlay
- City Boundary
- Water Body

Adopted by Ord. #1438, effective Dec. 5, 1979
Rev. as of Ord. #2194 , effective August 28th, 2020

Data Sources: City of Milwaukie GIS, Metro Data Resource Center
9/10/2020

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CITY OF MILWAUKIE

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CITY OF MILWAUKIE

Milwaukie Comprehensive Plan Zoning Proposed Designations

- City of Milwaukie
- County Boundary
- MUTSA
- BI
- GMU
- C-CS
- DMU
- C-G
- C-L
- C-N
- NMU
- OS
- M
- NME
- R-MD
- R-1
- R-1-B
- R-2
- R-2.5
- R-3

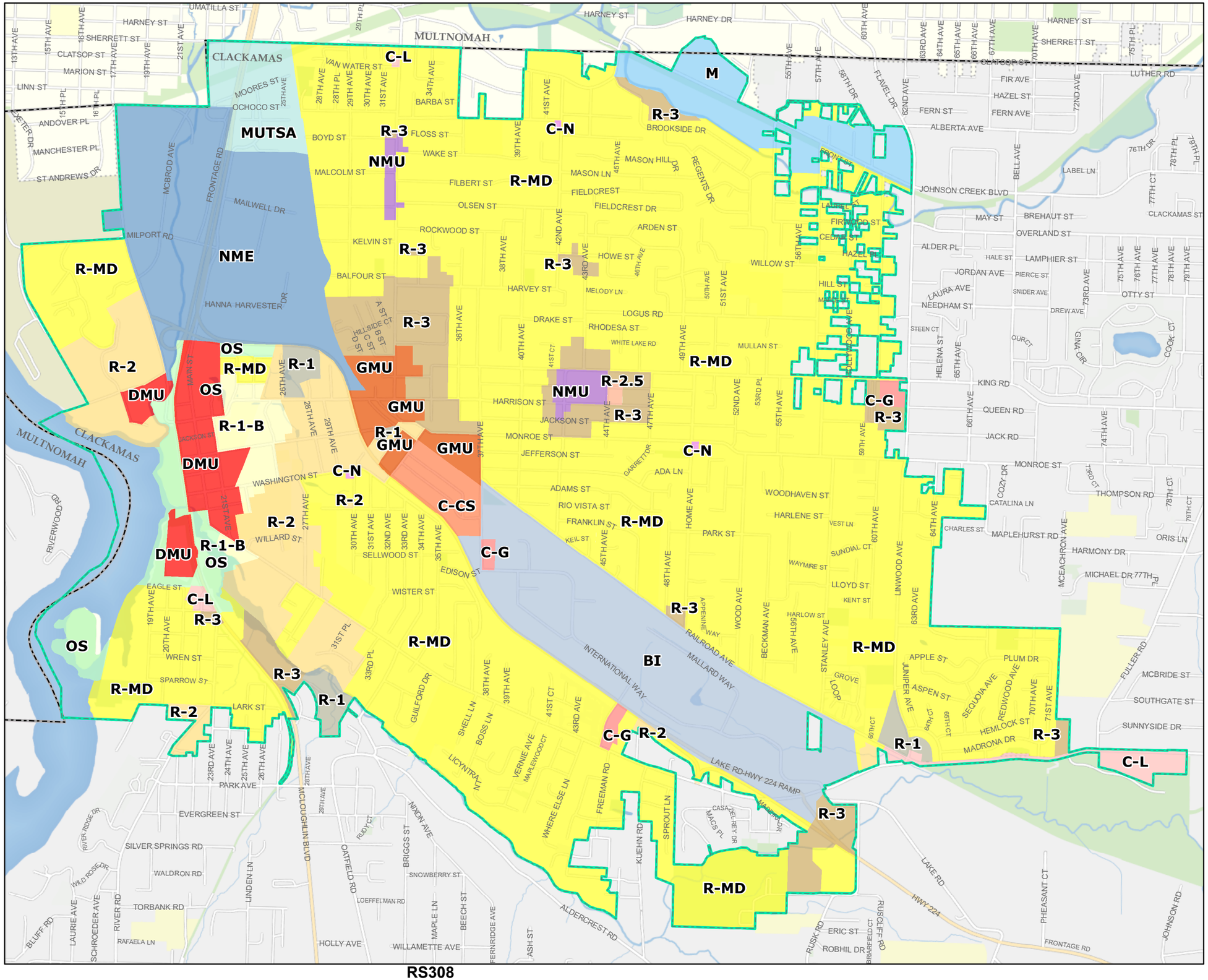
Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Thursday, July 22, 2021

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0 0.25 0.5 Miles



RS308

Clean Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

Updated to show two residential designations reflecting changes to zoning map per 19.107. (Attachment 1)

Comprehensive Plan Residential Land Use Designations

Moderate Density Residential: Zone R-MD (5.0 – 34.8 units/acre)
a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
b. Transportation routes are limited primarily to collectors and local streets.
c. Sites with natural resource or natural hazard overlays may require a reduction in density.

High Density: Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)
a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and-duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
c. Access to High Density areas should be primarily by major or minor arterials.
d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1Classification of Zones	
Zone Description	**Abbreviated Description**
Base Zones	
Residential	R-MD
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B

Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

19.107.2 Zoning Map

Updated to show six residential designations reflecting changes to zoning map per 19.107.1 (Attachment 2).

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

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

"Back lot" means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

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

"Interior lot" means a lot other than a corner lot.

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

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

"Through lot" means an interior lot having frontage on 2 streets.

"Allowed By Right" means any land use permitted without land use approval by the City's Planning Department or Planning Commission, such as is required by a Type I – V review process.

"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

"Planning Manager" means the person who is the manager/supervisor of the city's Planning Department, or the City Manager's designee to fill this position. This position can also be described as the Planning Director.

"Street tree" means a tree shrub, or other woody vegetation on land within the right-of-way.

"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.

Residential Uses and Structures

"Duplex" means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

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

"Cottage Cluster" means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

"Cottage Cluster Project" means two or more cottage clusters constructed, or proposed to be constructed.

"Manufactured home" means a single residential structure, as defined in ORS 446.003(25)(a)(C), which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Section 5401 et seq.) as amended on August 22, 1981.

"Middle Housing" means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

Multi-unit development" means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums.

"Quadplex" means four dwelling units on a lot or parcel in any configuration.

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

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

"Triplex" means three dwelling units on a lot or parcel in any configuration.

19.202 MEASUREMENTS

19.202.4 Density Calculations

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

C. Discrepancy between Minimum Required and Maximum Allowed Density

If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-MD. This zone implements the Moderate Density residential land use designation in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The moderate density residential zone is intended to create, maintain, and promote neighborhoods with larger lot sizes while allowing a broad range of housing types. Some non-household living uses are allowed, but overall the character is one of residential neighborhoods.

19.301.2 Allowed Uses in Moderate Density Residential Zones

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

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

Table 19.301.2
Moderate Density Residential Uses Allowed

Use	R-MD	Standards/Additional Provisions
Residential Uses		
Single detached dwelling	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Duplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Triplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Townhouse	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.5** Standards for Townhouses
Cottage Cluster	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing
Residential home	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	N	**Subsection 19.910.3** Manufactured Dwelling Parks.
Senior and retirement housing	CU	**Subsection 19.905.9.G** Senior and Retirement Housing
Commercial Uses		
Bed and breakfast or Vacation rental	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses		
Accessory use	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	**Subsection 19.301.3** Use Limitations and Restrictions

Community service use	CSU	**Section 19.904** Community Service Uses
Home occupation	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	**Section 19.507** Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

19.301.3 Use Limitations and Restrictions

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

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

B. Marijuana production is not permitted in ~~low~~ moderate density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.301.4 Development Standards

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

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

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage[1]	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster,	**Subsection 19.501.1** Lot Size Exceptions
B. Lot Standards					
1. Minimum lot width (ft)	20	30	50	60	
2. Minimum lot depth (ft)	70	80	80	80	
3. Minimum street frontage requirements (ft)					
a. Townhouse	20				
b. Standard lot	35	30	35	35	
c. Flag lot	NA[2]	25	25	25	
d. Double flag lot	NA[2]	35	35	35	
C. Development Standards					
1. Minimum yard requirements for primary structures (ft)[3]					**Subsection 19.301.5.A** Yards **Subsection 19.501.2** Yard

[1] For a Cottage within a Cottage Cluster only
[2] Townhouses are not permitted on flag lots
[3] Cottage Cluster developments are subject to the standards in Section 19.505.4

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
a .Front yard	20 [4]	20	20	20	Exceptions **Subsection 19.504.8** Flag Lot and Back Lot Design and Development Standards **Subsection 19.505.4** Cottage Cluster Housing **Subsection 19.505.5** Townhouses
b. Side yard	5 [4]	5	5	5/10	
c. Street side yard	15 [4]	15	15	20	
d. Rear yard	15 [4]	20	20	20	
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage(percent of total lot area)	45%	35%	35%	30%	**Section 19.201 "Lot coverage"** definition **Subsection 19.301.5.B** Lot Coverage
5. Minimum vegetation(percent of total lot area)	15%	25%	25%	30%	**Subsection 19.301.5.C** Front Yard Minimum Vegetation **Subsection 19.504.7** Minimum

[4] For lots 3,000 sq ft and smaller: Where a newly created small lot abuts a larger or pre-existing lot, when abutting a 5,000-sq-ft lot, rear and side yard setback standards for 5,000-sq-ft lots apply; when abutting a 7,000-sq-ft lot, rear and side yard setback standards for 7,000-sq-ft lots apply, and when abutting a 10,000-sq-ft lot, rear and side yard setback standards for 10,000-sq-ft lots apply.

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
					Vegetation
C. Other Standards					
1. Density requirements(dwelling units per acre)					**Subsection 19.301.5.D** Residential Densities **Subsection 19.501.4** Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
a. Minimum	25	7.0	7.0	5.0	
b. Maximum	25 [6]	8.7 [5]	8.7 [5]	6.2 [5]	

19.301.5 Additional Development Standards

A. Yards

On lots greater than 7,000 sq ft in the R-MD Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single ~~-family~~ detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single Detached Dwelling~~s~~

   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of an addition to an existing single ~~-family~~

[5] Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

detached dwelling, provided that the portions of the structure 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. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

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

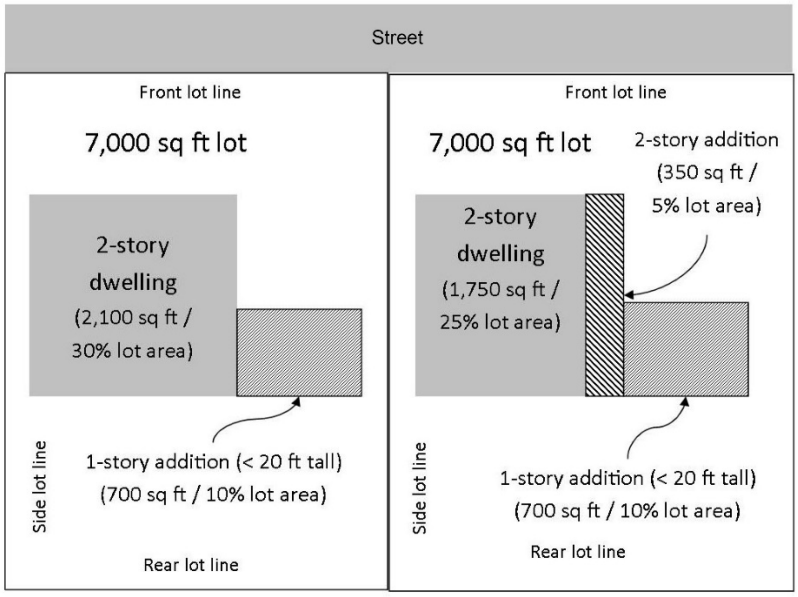


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD.

3. Increased Lot Coverage for Middle Housing

   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units, provided that the portions of the structure(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.

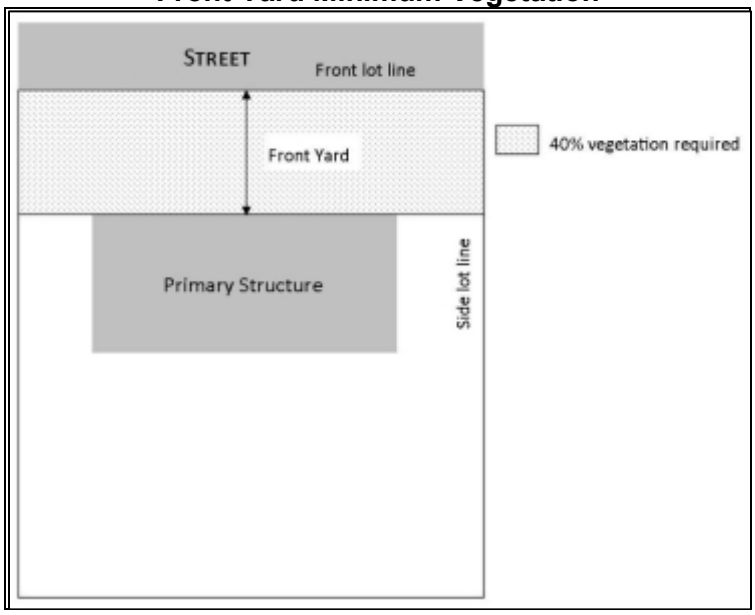
4. Increased Lot Coverage for Detached Accessory Dwelling Units

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

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

The minimum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density, except for townhouses.

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

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Off-Street Parking and Loading

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

G. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

H. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 One to Four Dwelling Units
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2051 § 2, 2012)

19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the High Density residential land use designations in the Milwaukie Comprehensive Plan.

19.302.1 Purpose

The high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

19.302.2 Allowed Uses in High Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

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

Table 19.302.2
High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Single detached dwelling	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle

						Housing Residential Development
Duplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Triplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	P	P	P	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	**Subsection 19.910.3** Manufactured Dwelling Parks
Townhouse	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.5** Standards for Townhouses
Cottage cluster	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing

Table 19.302.2 CONTINUED
Medium and High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
Multi-unit	CU	CU	P	P	P	**Subsection 19.505.3** Multi Unit Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Congregate housing facility	CU	CU	P	P	P	**Subsection 19.505.3** Multi Unit Housing **Subsection 19.302.5.F**

						Residential Densities **Subsection 19.302.5.H** Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	**Subsection 19.905.9.G** Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	**Subsection 19.302.3** Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	**Section 19.905** Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	**Subsection 19.302.3** Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	P	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	P	P	P	P	**Section 19.507** Home Occupation Standards

19.302.3 Use Limitations and Restrictions

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

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

B. Office uses allowed in the high density zone~~s~~ are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

C. Marijuana production is not permitted in high density residential zones ~~s~~ except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.302.4 Development Standards

In the high density residential zones~~s~~, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

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

In the high density residential zones the following housing types are permitted on lot sizes as follows:

Between 1,500 to 2,999 sq ft: Townhouse, Cottage, Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 3,000 to 4,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, and Triplex.

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, Quadplex, Cottage Cluster, Multi Unit Housing.

Table 19.302.4
~~Medium and~~ High Density Residential Development Standards

Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					**Subsection 19.501.1** Lot Size Exceptions **Subsection 19.505.4** Cottage Cluster Housing **Subsection**

			19.505.5 Rowhouses
2. Minimum lot width (ft)	20		
3. Minimum lot depth (ft)	70		
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	 20 35 25 35		
B. Development Standards			
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	 20 See Subsection 19.302.5.A 15 15		**Subsection** **19.302.5.A** Side Yards **Subsection** **19.501.2** Yard Exceptions **Subsection** **19.504.8** Flag Lot and Back Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less	3 stories or 45 ft,whichever is less	**Subsection** **19.302.5.E** Height Exceptions **Subsection** **19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection** **19.302.5.I** Transition Measures
3. Side yard height plane limit a. Height above ground at minimum	20	25	**Subsection** **19.501.3** Building Height and Side Yard Height Plane

required side yard depth (ft) b. Slope of plane (degrees)	45	45		Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (percent of total lot area)	35%	15%		**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation **Subsection 19.302.5.C** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum[5]	11.6 14.5	11.6 17.4	25.0 32.0	**Subsection 19.202.4** Density Calculations **Subsection 19.302.5.F** Residential Densities **Subsection 19.501.4** Density Exceptions

[5] Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

19.302.5 Additional Development Standards

A. Side Yards

In the ~~medium and~~ high density zone~~s~~, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a ~~row~~townhouses shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior ~~row~~townhouse that has only 1 common wall is 0 ft

for the common wall and 5 ft for the opposite side yard. An exterior ~~row~~townhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

1. Increased Lot Coverage for Single~~-Family~~ Detached Dwelling~~s~~

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of ~~a single-family detached dwelling, or~~ an addition to an existing single~~-family~~ detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

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

Figure 19.302.5.B.1
Increased Lot Coverage for Single Detached Dwellings

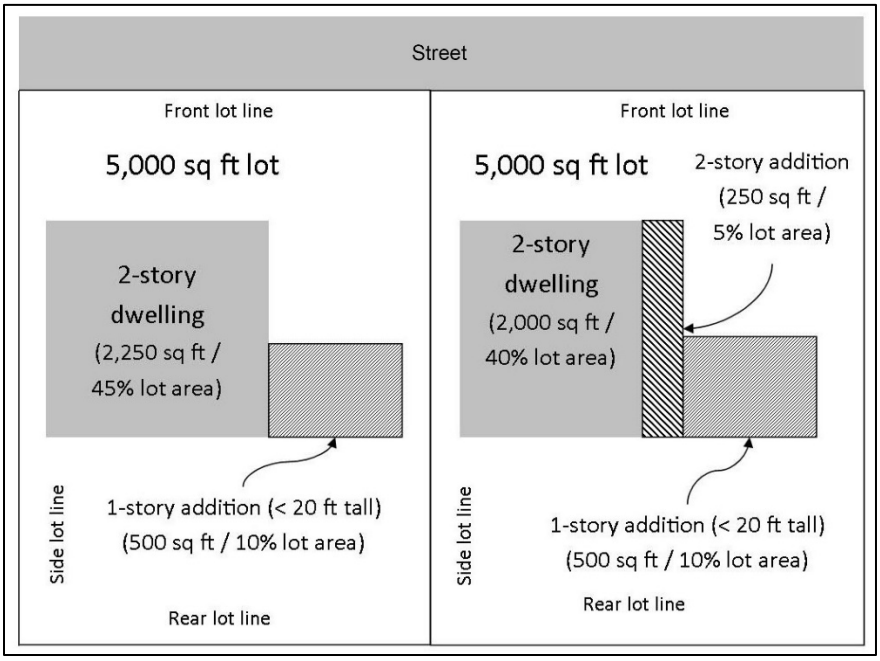


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units and Townhouses.

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units or Townhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

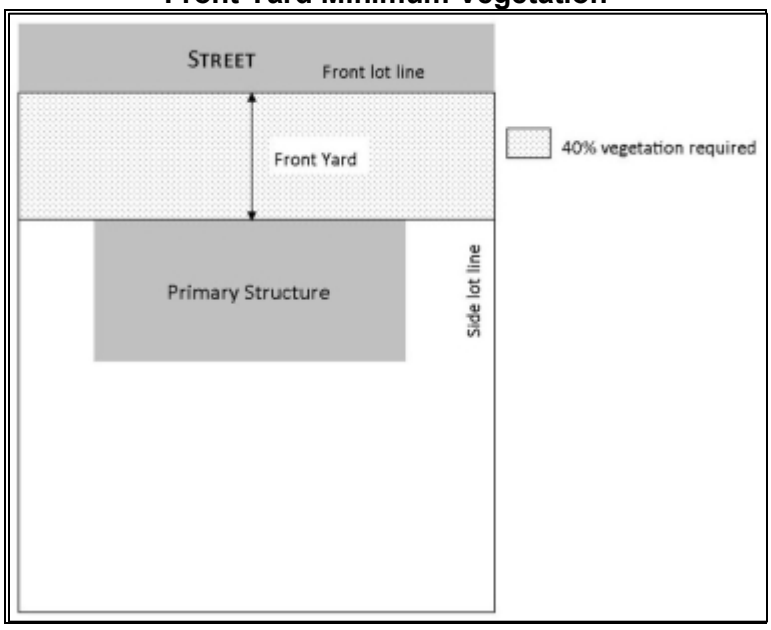
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.302.5.D
Front Yard Minimum Vegetation



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For the additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any

development that would change the number of dwelling units on a lot. Development of One to Four Dwelling Units, Cottage Clusters, or an accessory dwelling are exempt from the minimum and maximum density requirements.

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

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2
Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones

Units	R-2 Zone	R-1 and R-1-B Zone
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	~~2,500~~ 1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

I. Off-Street Parking and Loading

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

J. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

K. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit

5. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multi Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses
10. Subsection 19.505.8 Building Orientation to Transit
11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

"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.

"Large trees" means trees with at least a 6-in diameter at breast height (DBH).

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

   The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

   The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

   The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

   a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.

   b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.

   c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. Restore Native Vegetation

   The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. Enhance Vegetation Buffer Area

   The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan will be Carried Out

   The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.

2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.

3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.

4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

6. Removal of trees under any of the following circumstances:

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

a. Trails shall be confined to a single ownership or within a public trail easement.

b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.

c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.

d. Trails shall be located at least 15 ft from the top of bank of all water bodies.

e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.

f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning Manager ~~Director~~ may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager ~~Director~~. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

c. The proposal would remove more than 3 trees during any 12-month period that are categorized as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List.

d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.

e. The tree is a nuisance species, but more than 150 sq ft of earth disturbance is necessary to remove it.

f. The tree is not categorized as either a nuisance or native species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List and is not located in a WQR categorized as Class A (“Good”), according to Table 19.402.11.C, provided that no more than 3 such trees will be removed during any 12-month period, and complies with the applicable requirements in Chapter 16.32.

3. The Planning Manager shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.

2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.

3. Location of site access and egress that construction equipment will use.

4. Equipment and material staging and stockpile areas.

5. Erosion and sediment control measures.

6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F.

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for ~~detached and attached single-family~~ residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA for Single-unit and Middle Housing Residential Uses

X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

Y = The area of the lot or parcel outside the total resource area (WQR and HCA).

Z = The net amount of disturbance area allowed within the HCA (Z = X - Y)

If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within ~~low and~~ moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the ~~low and~~ moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, provided the development conforms with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

19.501.2 Yard Exceptions

C. A covered porch on a single unit detached dwelling, or middle housing unit, may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.

2. The surface of the porch does not exceed 18 in high above the average grade.

3. The porch is at least 5 ft from the front lot line.

19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

3. Variances

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911.

4. Frontage, Accessway, and Driveway Design

a. Flag lots shall have frontage or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

c. Driveway Design and Emergency Vehicle Access

(1) Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

(3) A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

(4) The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) Design standards for shared driveways serving 3 or more lots shall be specified by the City Engineer after consultation with the Fire Marshal.

(6) Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

D. Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

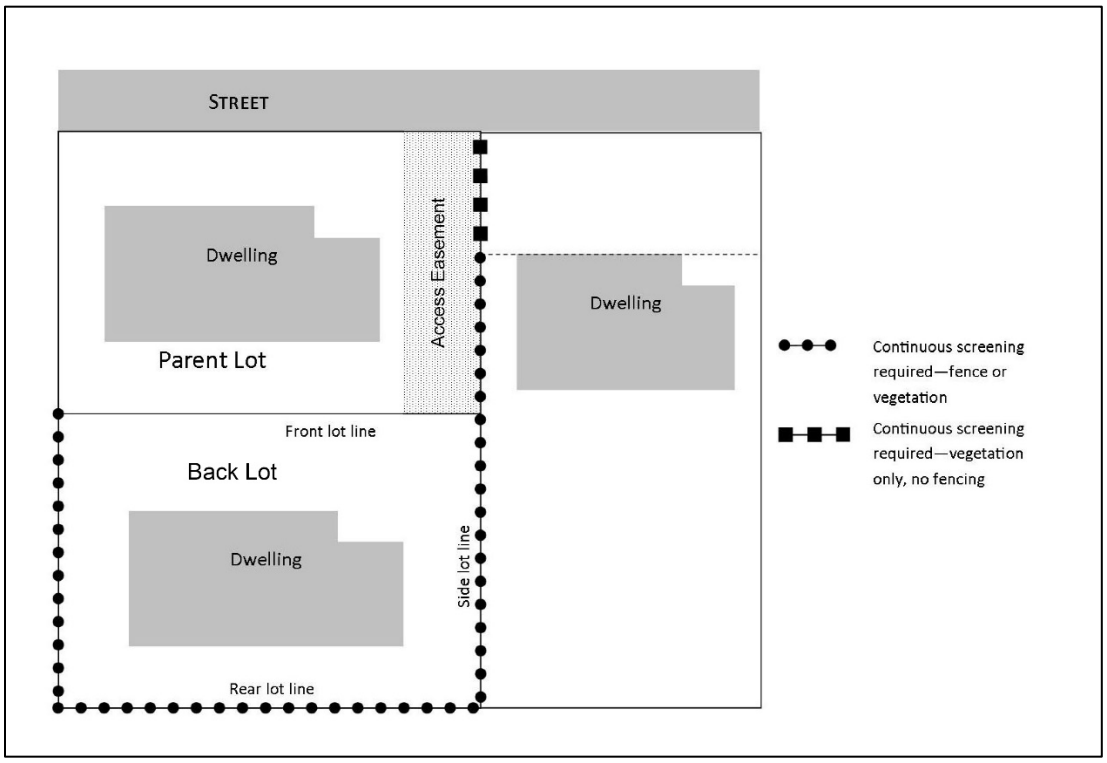
a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.

b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.F

Back Lot Screening



E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single detached and multi-unit residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

route.

19.505.1 Single Detached and Middle Housing Residential Development

A. Purpose

The design standards for one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Dwellings must address the following design objectives:

- Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
- Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design is intended to meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	
Privacy and screening	[1]	[1]	[1]
Recycling areas	[4]	[4]	[4]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4

5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
    a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
    b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
    c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
        (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
        (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
        (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
    d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
    e. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
    a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
    b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as

requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

   All buildings must incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

   a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements must be provided along the street-facing façades.

      (1) A porch at least 5 ft deep.

      (2) A balcony that is at least 2 ft deep and is accessible from an interior room.

      (3) A bay window that extends at least 2 ft wide.

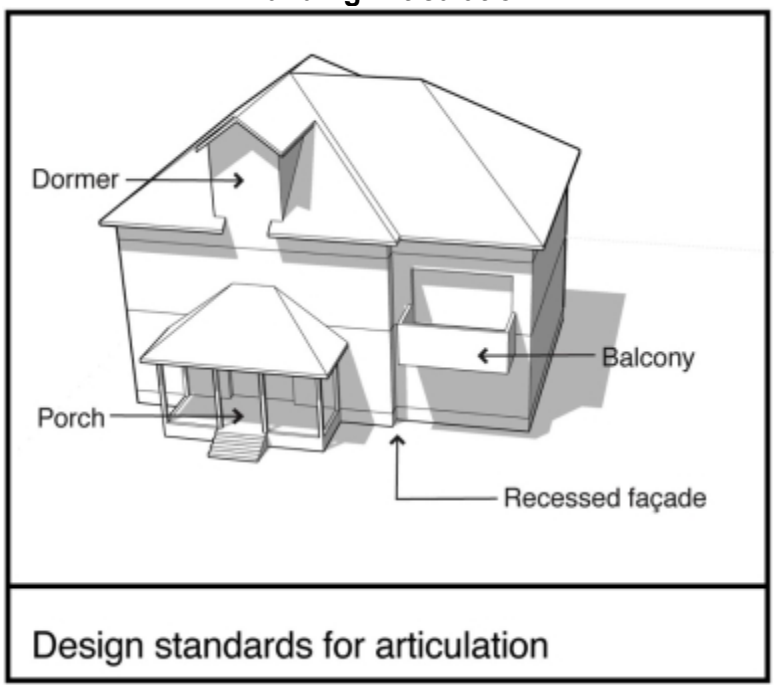
      (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.

      (5) A gabled dormer.

   b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above must be provided for every 30 ft of street frontage. Elements must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.

   c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

Figure 19.505.1.C.1
Building Articulation



2. Eyes on the Street

   At least 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

   a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.

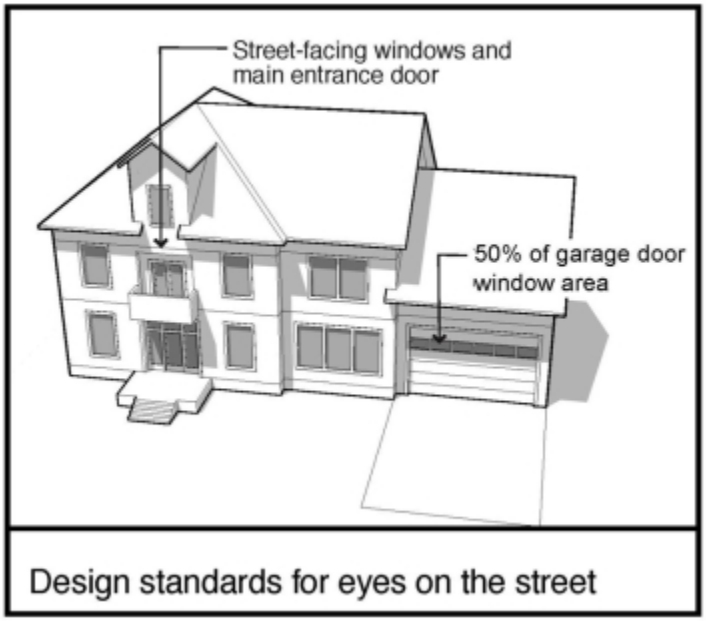
   b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.

   c. Window area is considered the entire area within the outer window frame, including any interior window grid.

   d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

   e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

Figure 19.505.1.C.2
Eyes on the Street



3. Main Entrance

   At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

   a. Be no further than 8 ft behind the longest street-facing wall of the building.

   b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.

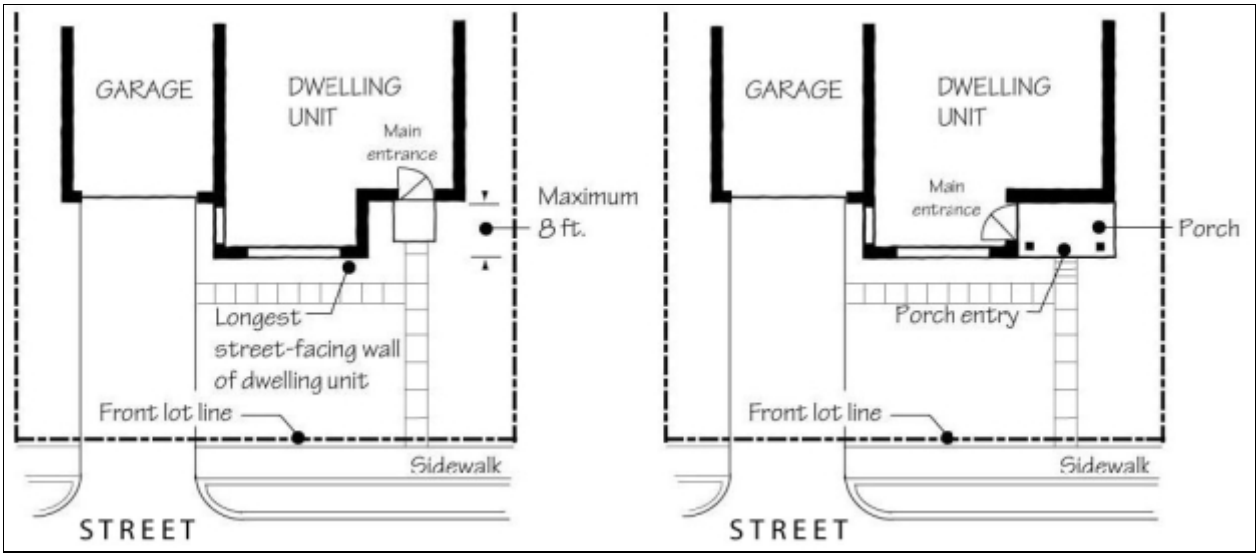
      (1) Be at least 25 sq ft in area with a minimum 4-ft depth.

      (2) Have at least 1 porch entry facing the street.

      (3) Have a roof that is no more than 12 ft above the floor of the porch.

      (4) Have a roof that covers at least 30% of the porch area.

Figure 19.505.1.C.3
Main Entrances



4. Detailed Design

   All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

   a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

   b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

   c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.

   d. Dormer that is at least 4 ft wide and integrated into the roof form.

   e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

   f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.

   g. Tile or wood shingle roofs.

   h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

   i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.

   j. Gable roof, hip roof, or gambrel roof design.

   k. Window trim around all windows at least 3 in wide and 5/8 in deep.

   l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

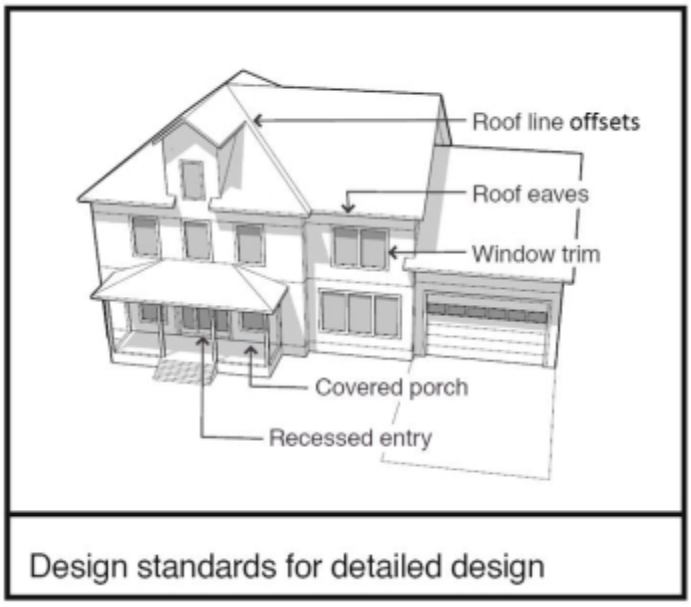
   m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft deep and 5 ft long.

p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

Figure 19.505.1.C.4
Detailed Design Elements



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

a. The common courtyard must be a single, contiguous piece.

b. Cottages must abut the common courtyard on at least two sides of the courtyard.

c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).

d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.

b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.

c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.

d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

a. Off-street parking may be arranged in clusters, subject to the following standards:

i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.

ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.

iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.

iv. Clustered parking areas may be covered.

b. Off-street parking spaces and vehicle maneuvering areas must not be located:

i. Within of 20 feet from any street property line, except alley property lines;

ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.

iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

d. Garages and carports (whether shared or individual) must not abut common courtyards.

e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

f. Individual detached garages must not exceed 400 square feet in floor area.

g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.

b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must be not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.

c. All fences on the interior of the development must be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.

5. Windows that are operable by building occupants.

6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

19.505.3 Multi-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit or congregate housing development is subject to the design elements in this subsection.

2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.

a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.

b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.

c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.

d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.

e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.

f. Subsection 19.505.3.D.8 Landscaping, for the entire site.

g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.

h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.

j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.

3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit ~~family~~ or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.

2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D
Multi-unit Design Guidelines and Standards

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	Landscaping of multi-unit developments should be used to provide a canopy for open spaces and courtyards, and to buffer the	a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a

	development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management	nuisance species in the Milwaukie Native Plant List. b. Trees shall be planted to provide, within 5 years, canopy coverage for at least ⅓ of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees. c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting. d. For projects with more than 20 units: (1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (2) To reduce the "heat island" effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.
10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.	A recycling area or recycling areas within a multi-unit development shall meet the following standards. a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum. b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area. c. Recycling containers must be covered by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise

		collection service.
11. Sustainability	Multi-unit development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	In order to promote more sustainable development, multi-unit developments shall incorporate the following elements. a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12. (3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface. (4) An integrated solar panel system for a minimum of 30% of the total roof or building surface. (5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof. (6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.
12. Privacy Considerations	Multi-unit ~~family~~ development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	In order to protect the privacy of adjacent properties, multi-unit ~~family~~ developments shall incorporate the following elements: a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties. b. Where windows on a multi-unit ~~family~~ development are within 30 ft of windows on adjacent residences,

		windows on the multi-unit ~~family~~ development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit ~~family~~ unit.
13. Safety	Multi-unit ~~family~~ development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design: • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill. b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street. c. Uses on the site shall be illuminated as follows: (1) Parking and loading areas: 0.5 footcandle minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way. e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners

and households that do not require as much living space. These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

Table 19.505.4.C.1
Cottage Cluster Development Standards

Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
A. Home Types		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 8 maximum dwelling units
B. Home Size		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	
C. Height		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot line	15 ft	
3. Max height to	1.618 times the narrowest average width between two closest buildings	

eaves facing common green		
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum)[6]	6 ft[7]	
b. Side and rear site setbacks	5 ft[8]	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
E. Impervious Area, Vegetated Area		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
F. Community and Common Space		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	0.5	0.5
2. Dry, secure bicycle parking spaces per home (minimum)	1.5	
3. Guest bicycle parking spaces	0.5	

[6] If the structure has eaves, the 6-foot minimum separation applies between eaves.

[7] For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.

[8] Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

perhome (minimum)	

~~1.~~ D. Cottage Standards

1. Size

The total footprint of a cottage unit must not exceed 900 sq ft, and the maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures must not exceed 25 feet or two (2) stories, whichever is greater.

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

(1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.

(2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

(a) Have a main entrance facing the common courtyard;

(b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

(c) Be connected to the common courtyard by a pedestrian path.

(3) Cottages within 20 feet of a street property line may have their entrances facing the street.

(4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

E. Site Design and Other Standards

1. Number of Cottages Allowed

A cottage cluster must include a minimum of 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

2. Off-Street Parking

a. There shall be at least 0.5 off-street parking spaces per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.

b. A cottage cluster parking area must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.

c. If there are more than 8 units in a cottage cluster, there must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.

d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.

e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

3. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;

b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;

c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;

d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

19.505.5 Townhouses

A. Purpose

Townhouses provide a type of housing that includes the benefits of a single detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. Townhouses are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, and the general design requirements are very similar to the design requirements for single detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse development may take place on existing lots that meet the lot standards for townhouse lots or on land that has been divided to create new townhouse lots.
2. Development standards for townhouses are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single-detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units or multiunit housing.

C. Townhouse Design Standards

1. Townhouses are subject to the design standards for single detached dwelling - housing in Subsection 19.505.1.
2. Townhouses must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
    a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft from the front lot line.
    b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it must be at least 4 ft from the front lot line.

D. Number of Townhouses Allowed

In the High Density Zones, no more than 4 consecutive townhouses that share a common wall(s) are allowed. A set of 4 townhouses with common walls is allowed to be adjacent to a separate set of 4 townhouses with common walls.

In the R-MD zone, the maximum number of consecutive attached townhouses is 4

E. Townhouse Lot Standards

1. Townhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area

meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

2. Townhouse development must meet the minimum lot size of 1,500 sq ft.

F. Driveway Access and Parking

1. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.

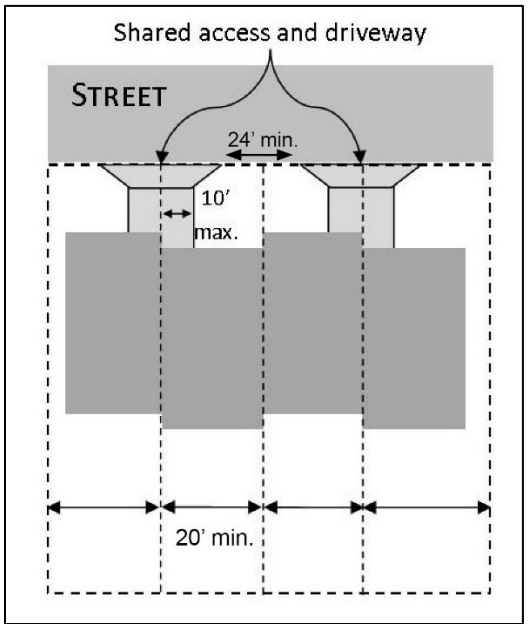
   a. Development of 2 or 3 townhouses has at least 1 shared access between the lots, and development of 4 townhouses has 2 shared accesses.

   b. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.

   c. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

   d. Shared accesses are spaced a minimum of 24 feet apart.

Figure 19.505.5.F.1
Townhouse Development with Front Yard Parking

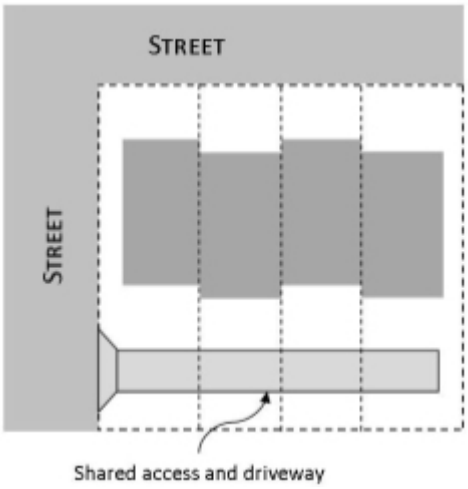


2. The following rules apply to driveways and parking areas for townhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.

a. Off-street parking areas must be accessed on the back façade or located in the rear yard.

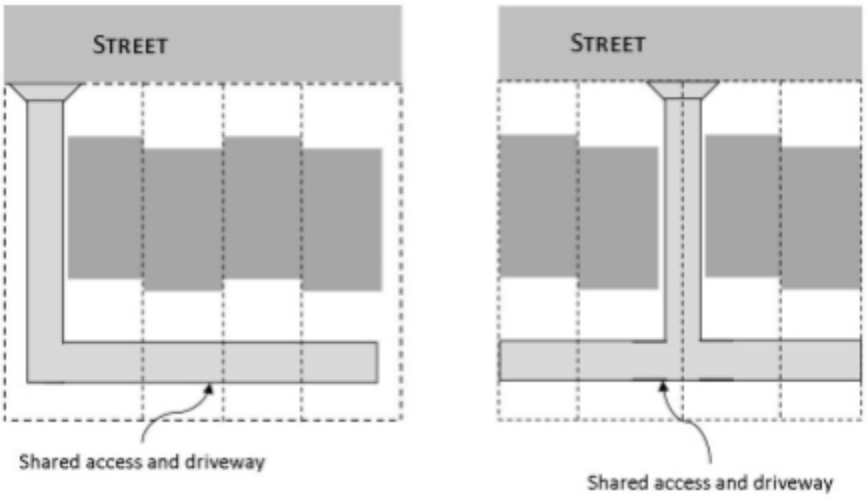
b. Townhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The City Engineer may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

Figure 19.505.5.F.2.b
Townhouse Development with Corner Lot Access



c. Townhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse. See Figure 19.505.5.F.2.c.

Figure 19.505.5.F.2.c
Townhouse ~~Rowhouse~~ Development with Consolidated Access



d. A townhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

Manufactured homes are allowed by right in any zone that allows single-family detached dwellings by right. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 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.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

A. On the same site as the primary use for which the parking is accessory.

B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.

C. Where parking is approved in conformance with Subsection 19.605.2

~~C~~ D. Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

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	 0 0 0 0 0.5 spaces 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
~~3~~ 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.
4. 5. Accessory dwelling units (ADU)	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.

2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
    a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
    b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
    c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
    d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within one block of the middle housing development.
    e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Manager shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager, based on the applicant's materials and other data the Planning Manager deems relevant, shall set the

minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.
2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
    a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
    b. The reduction of off-street parking will not adversely affect available on-street parking.
    c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
    a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
    b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
    c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

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

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

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

   a. Properties zoned Commercial Limited (C-L).

   b. Properties zoned Commercial Neighborhood (C-N).

   c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.

   d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

   a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   b. Parking for multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   c. Parking for all uses except single detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.

   d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

   Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager shall have the authority to determine when multiple uses exist on a site.

   a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.

b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for non-single detached residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing
Parking minimums in Table 19.605.1 may be reduced for the following:

a. For any multiunit dwelling unit or middle housing dwelling unit that that meets the exemption standards as defined in MMC 3.60.050, the minimum parking requirement for that unit may be reduced by 25 percent.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for middle housing, single detached dwellings, and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, and residential homes in all zones, unless specifically stated otherwise.

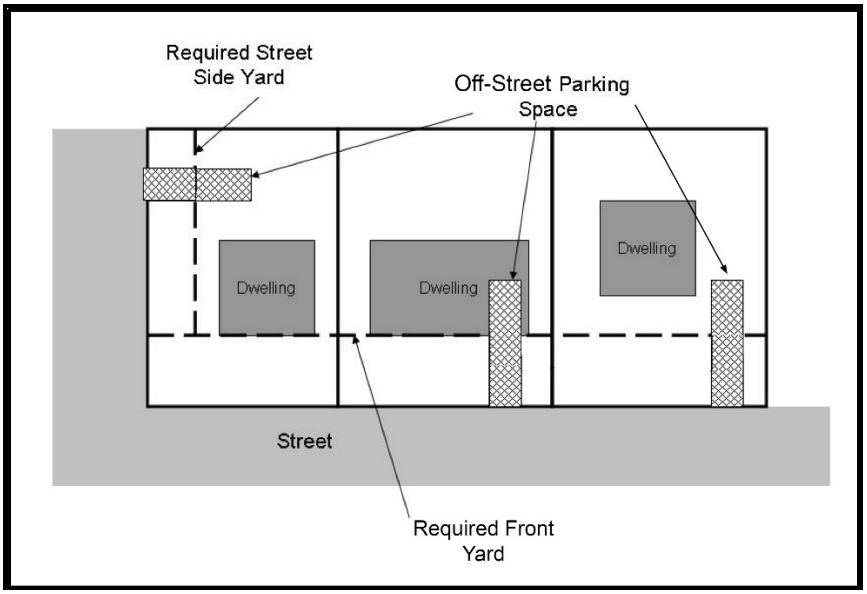
A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
   a. Within an adjacent public street right-of-way or access easement.
   b. Over a public sidewalk.

Figure 19.607.1.B.2
Required Parking Space Location



C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
    a. Required parking space(s).
    b. All vehicle parking spaces and maneuvering areas located within a ~~required~~ front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
    c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

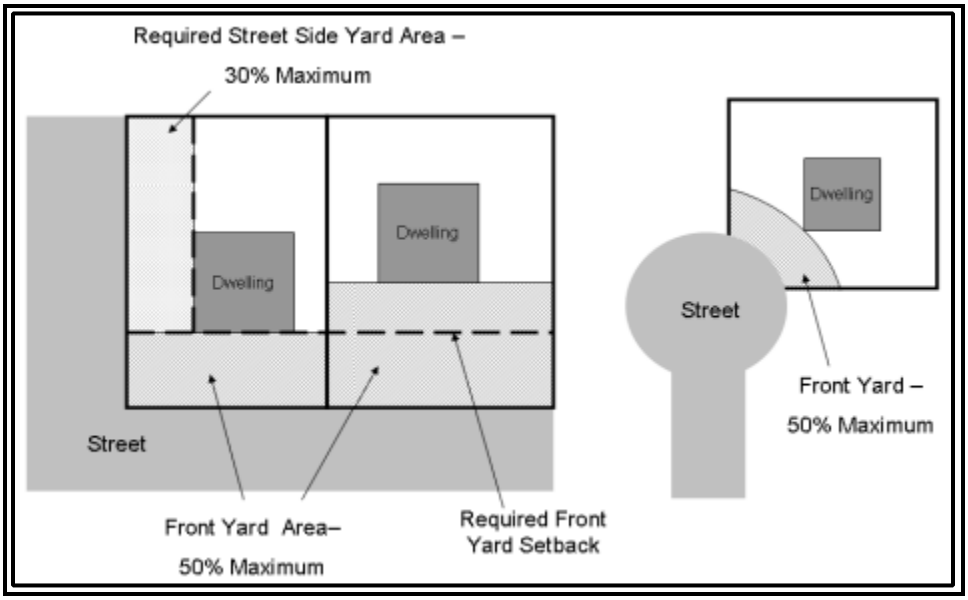
D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses which are subject to the standards in Subsection 19.505.5.

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

Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits



E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

Figure 19.607.1.E.1
Driveway Widening Limitation—Option 1

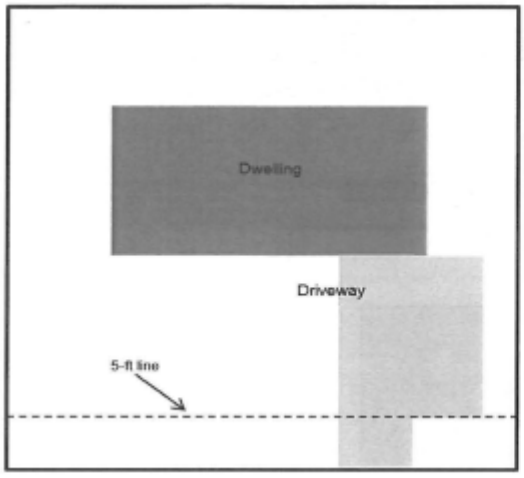
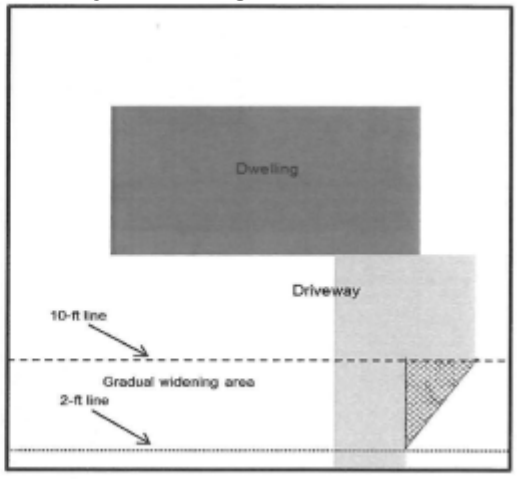


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats.

D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single detached residential development and development in downtown zones.

1. A new dwelling unit.
2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the City Engineer.

19.702.2 Single Detached and Duplex Residential Expansions

Chapter 19.700 applies to single detached and duplex residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single detached and duplex residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 800 sq ft, none of Chapter 19.700 applies.

D. single detached and duplex residential expansions shall provide adequate public utilities as determined by the City Engineer pursuant to Section 19.709.

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

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

A. Modifications to existing single detached and duplex residential structures that do not result in an increase in gross floor area.

19.703 REVIEW PROCESS

19.703.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the City Engineer will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the City Engineer will also determine whether a Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there could be impacts to the transportation system if the proposed single detached residential expansion/conversion is greater than 800 sq ft.

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the City Engineer will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

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

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.

2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.

3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.

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

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

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

7. On-street parking in industrial zones must have a minimum width of 8 ft.

8. On-street parking in commercial zones must have a minimum width of 7 ft.

9. On-street parking in residential zones must have a minimum width of 6 ft.

10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3

Full and Mid-Size Vehicles

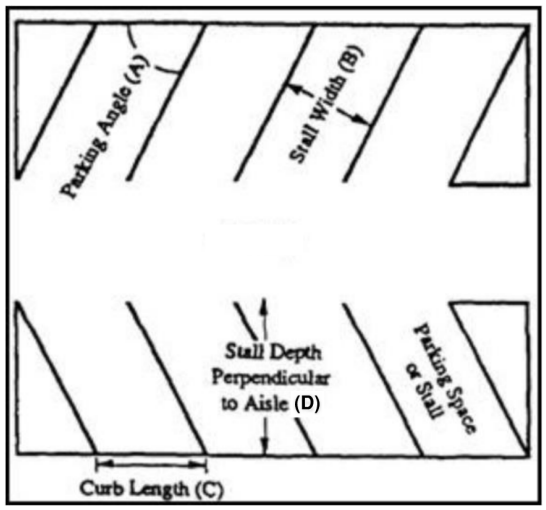
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpindicular)	8	8	18

Compact Size Vehicles

Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpindicular)	7	7	16

Figure 19.708.1

Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.

12. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

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

14. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

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

16. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED Land Use Applications		
Application Type	**Municipal Code Location**	**Review Types**
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C**.**

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

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

1. New or expanded single detached dwelling or middle housing detached or attached residential dwellings.
2. Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.
5. Temporary events as allowed in Chapter 11.04.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be allowed by right. Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided each of the following standards are met.

   a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.

   b. The primary use of property for the proposed accessory dwelling unit is a single detached dwelling.

   c . Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.

   d. The development standards of Subsection 19.910.1.E are met.

   e. The proposal complies with all other applicable standards of this title.

E. Standards

1. Creation

   An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

   In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

   The standards listed below apply to accessory dwelling units that are part of the primary structure on the property.

   a. Maximum Allowed Floor Area

      The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

   b. Design Standards

      (1) The façade of the structure that faces the front lot line must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

(2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.

(3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.

(a) The exterior finish on the addition must match the exterior finish material of the primary dwelling unit in type, size, and placement.

(b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

(c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

(d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a Type B ADU require Type II approval of a variance per Section 19.911.

Table 19.910.1.E.4.b
Footprint, Height, and Required Yards for Detached Accessory Dwelling Units

Standard	Type A ADU	Type B ADU
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft	Base zone requirement for side and rear yard
Required Front Yard	10′ behind front yard as defined in Section 19.201, unless located at least 40′ from the front lot line.	
Required Street	Base zone requirement for street side yard	

Side Yard	

c. Design Standards

(1) A detached accessory structure must include at least two of the design details listed below. An architectural feature may be used to comply with more than one standard.

(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.

(3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

d. Privacy Standards

(1) Privacy standards are required for detached accessory dwelling units.

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

(a) The wall is within 20 ft of a side or rear lot line.

(b) The wall is at an angle of 45 degrees or less to the lot line.

(c) The wall faces an adjacent residential property.

(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.

(a) All windows on a wall must be placed in the upper third of the distance between a floor and ceiling.

(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs must be no less than 5 ft above grade at time of planting, and they must reach a 6-ft height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the time of the ADU permit submittal is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. The conversion must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

1. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.

2. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.

2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.

4. A variance of up to 10% to lot width or depth standards.

5. A variance of up to 10% to a lot frontage standard.

6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.

10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.

11. For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:

a. Front yard: 10 ft
b. Rear yard: 15 ft
c. Side yard: 5 ft
d. Street side yard: 10 ft

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

4. Impacts from the proposed variance will be mitigated to the extent practicable.

5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

19.911.8 Tree Preservation and Tree Canopy Standards Variance

A. 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.

B. 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.

C. Review Process

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.

D. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the approval criteria found in MMC 16.32.042.E.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	R-MD	Moderate density residential
R-15	R-MD	Moderate density residential
R-10	R-MD	Moderate density residential
R-8.5	R-MD	Moderate density residential
R-7	R-MD	Moderate density residential
MR1	R-2	High density residential
MR2	R-2	High density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C3	C-G	Commercial
OC	C-L	Commercial

Table 19.1104.1.E CONTINUED Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
RTL	C-L	Commercial
PC	C-CS	Commercial
LI	BI	Industrial
GI	M	Industrial
BP	BI	Industrial
OSM	R-10/CSU	Public

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone, except to the extent the Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS
Flag lots and back lots are permitted in new subdivisions.

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING
A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

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

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.

c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design;

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;

c. Review of all modes of transportation to the site;

d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future

consolidated accessways, or other measures that would be acceptable to the City Engineer.

C. Accessway Location

1. Double Frontage

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

2. Location Limitations

Individual access to single detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least five (5) feet from the side property line in residential districts and at least ten (10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

a. At least forty-five (45) feet for single detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least one hundred (100) feet for multi-unit residential properties and all other uses accessing local and neighborhood streets.

c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single Detached Residential

One accessway per property is allowed for single detached residential uses.

a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by the City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.

c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single Detached Residential

The number of accessways for uses other than single detached residential is subject to the following provisions:

a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;

b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

a. Cause or increase existing hazardous traffic conditions;

b. Provide inadequate access for emergency vehicles; or

c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single detached attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.

3. Multi-unit residential or Middle Housing units comprised of up to four (4) units, shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.

4. Multi-unit residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between five (5) and eight (8) units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.

5. Multi-unit residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.

7. Industrial uses shall have a minimum driveway apron width of twenty-four (24) feet and a maximum width of forty-five (45) feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets."

B. Modification of this computation may be made by the City Engineer after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

The following terms are definitions for the purposes of this chapter.

"Applicant" means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

"City" means the City of Milwaukie.

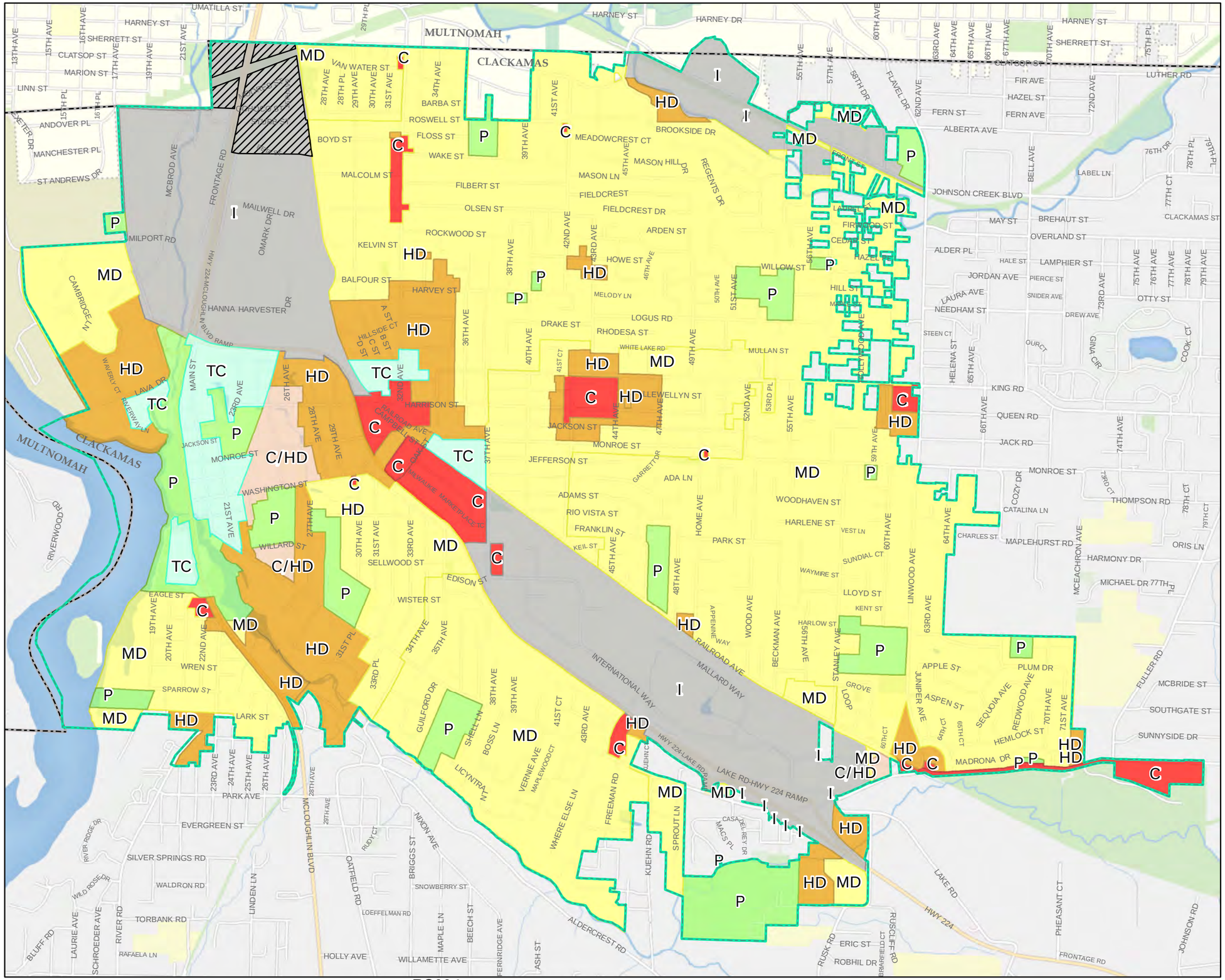
"City Engineer" means the person who is the manager/supervisor of the city's Engineering Department, or the City Manager's designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager.

"Front footage" means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.

CITY OF MILWAUKIE

Milwaukie Comprehensive Plan
Proposed Landuse

- City of Milwaukie
- County Boundary
- Tacoma Station Area
- C -Commercial
- C/HD - Mixed Use
- HD - High Density
- I - Industrial
- MD - Moderate Density
- P - Public
- TC - Town Center



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Wednesday, June 9, 2021

The information depicted on this map is for general reference only.The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator
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Milwaukie, OR 97206
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0 0.25 0.5 Miles

RS394

CITY OF MILWAUKIE

Milwaukie Comprehensive Plan Zoning Proposed Designations

- City of Milwaukie
- County Boundary
- MUTSA
- BI
- GMU
- C-CS
- DMU
- C-G
- C-L
- C-N
- NMU
- OS
- M
- NME
- R-MD
- R-1
- R-1-B
- R-2
- R-2.5
- R-3

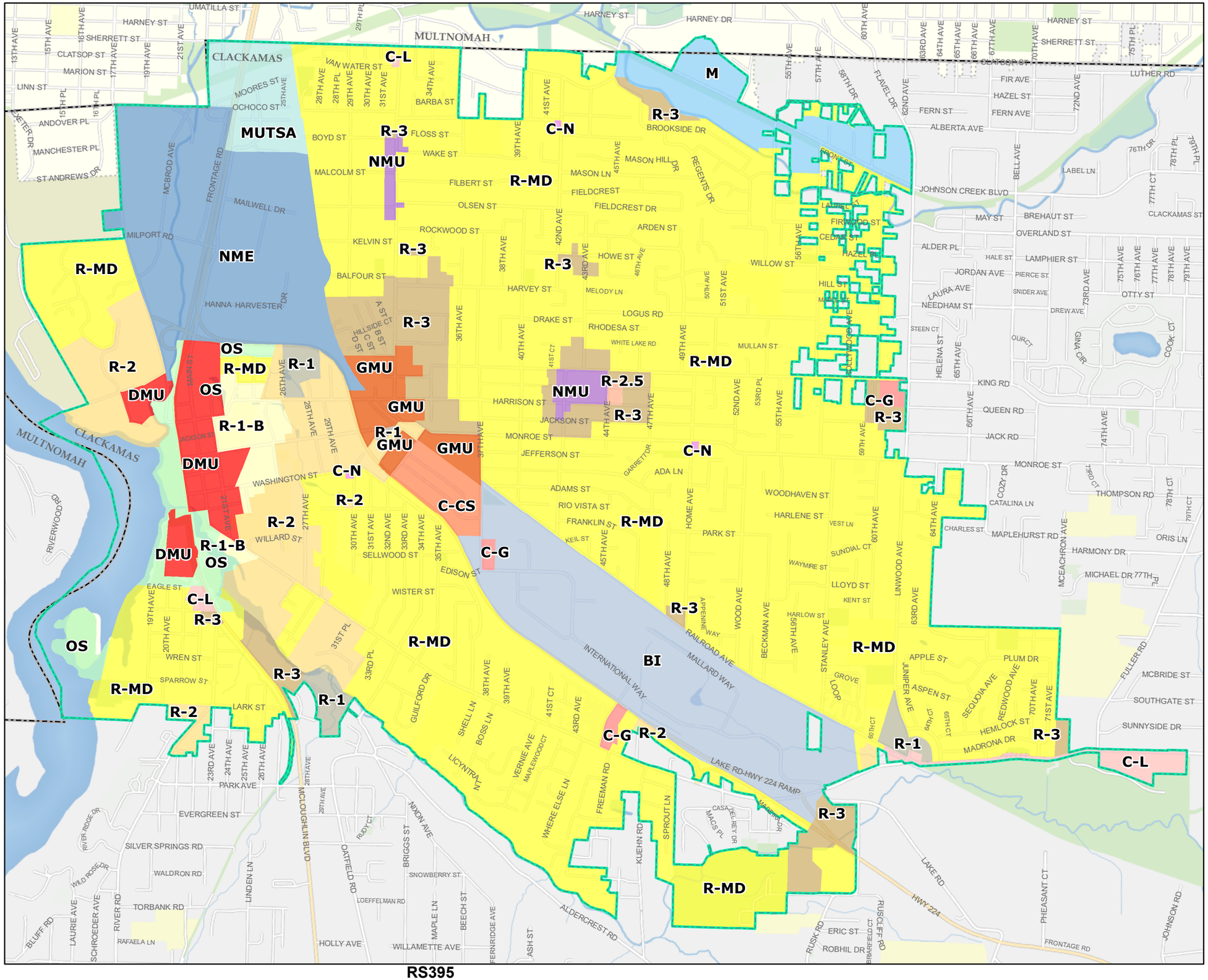
Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Thursday, July 22, 2021

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Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation – Code Audit Report

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

CODE AUDIT SUMMARY REPORT

Introduction

Implementing the Comprehensive Plan

In 2015, as part of its project Milwaukie All Aboard, the city initiated a dialogue with the community to update its 20-year old vision statement and identify an Action Plan. Building on its visioning process, the city then spent two years working hand in hand with the community to update its Comprehensive Plan. Updating the Comprehensive Plan is a major undertaking that Oregon requires cities to complete on a periodic basis. An update can be conducted as a check-the-boxes exercise, or it can be used to bring a community together, to foster important conversation about the future, and to memorialize a compelling vision. The Milwaukie Comprehensive Plan adopted in August of 2020 is an example of the latter. Now that it is adopted, the Plan will guide decisions that shape Milwaukie for the next ten to twenty years.

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 in single dwelling residential areas. These areas of the zoning code will need to be amended in order to achieve a number of Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

The effect of these zoning changes will be both very large and very slow. Very large in that the Milwaukie areas affected equal over 70% of the land within the City; very slow in that these changes will occur somewhat randomly, lot by lot, and gradually over a long period of time. While the changes are very important, they will not happen overnight. Making the changes does create a framework for addressing historic patterns of inequity.

Exclusion and lack of affordability

Changes to Milwaukie's zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type.

The Comprehensive Plan touches on how Oregon, as a state, and areas in Milwaukie enacted "Exclusion Laws." These laws banned slavery but also prohibited Black people from settling or remaining in the territory, and later from owning property or entering into contracts. Exclusion was further enacted through specific discriminatory laws and housing practices, such as racist deed restrictions (only banned in 1948). More subtle forms of exclusion continued, largely through the mapping and designation of single family zoning over wide expanses of America cities, including Milwaukie. By the time of the 1968 passage of federal Fair Housing Laws, racial exclusion practices continued "de facto," through zoning.

Richard Rothstein, in "The Color of Law," details how even after all of the achievements of the civil rights movement—the desegregation of schools, swimming pools, water fountains, employment, and transportation—one remaining

form of segregation in neighborhoods remained: segregated zoning. Single family zoning enacts systemic exclusion that still exists today. By end of 1960s, the civil rights movement had persuaded much of the country that racial segregation was wrong, and harmful, to both Blacks and whites, and "incompatible with our self-conception as a constitutional democracy"—but zoning in cities was largely left untouched.

After decades of exclusion ranging from being denied home loans, having neighborhoods in which they lived "redlined" (when federal certifiers designated neighborhoods ineligible for loans), facing discrimination in employment, and receiving less pay, Black people were denied the opportunity to own a home. Unable to join the middle class and build generational wealth through homeownership, they were essentially excluded from the American dream which White people had access to for decades. Generations of denial have compounded to make it harder for Black people to buy single family homes today. Exclusion and segregation persists between Black and White people in neighborhoods zoned exclusively for single family homes.

Milwaukie's history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

Addressing a housing crisis, needs, and goals

Major generational and demographic shifts that affect housing supply and demand are taking place in Oregon and the country. Some of these affect the entire country and state—such as the recent Great Recession, new households forming, young people growing up, older people downsizing. Some of these affect Milwaukie in particular, such as the development of the MAX Orange Line light rail and increasing population. These national and local trends have combined to create a housing crisis; the supply of housing is not keeping up with the demand, and the need for affordable housing has reached a state of emergency.

The Oregon legislature recently passed House Bill 2001 (HB 2001) intended to address this crisis. Milwaukie, having declared a state of housing emergency since 2015, is ahead of other cities in Oregon. Using its vision and adopted Comprehensive Plan, Milwaukie is well prepared to address housing needs. The City has already made numerous incremental amendments that partially address the issues of housing choice and affordability and bring the zoning code closer in alignment with city goals. The purpose of this project is to think bigger and be bolder—to rethink the single-family neighborhood, and in the process, rethink the role of parking and how to codify the contribution of trees.

A policy mandate and how the current zoning code falls short

The purpose of this document is to explain which zoning provisions and procedures fall short of or prevent the city from meeting its Comprehensive Plan goals. A code audit is one of the first steps. In Milwaukie, the code audit is primarily targeting the zoning code, but there are many related documents that will need to be amended—either as a part of this project or future efforts.

A policy mandate

Adopted policy documents establish a clear policy mandate for this project, which can be summarized in three main themes: housing, tree canopy, and parking.

1. Increase the supply of middle or attainable housing and provide equitable access and housing choice for all
2. Increase the tree canopy and preserve existing trees
3. Manage parking to enable middle housing and protect trees

The code audit

In September the consultant team initiated the Milwaukie Comprehensive Plan Implementation Code Audit. The team audited existing policies and regulations to identify barriers preventing the city from achieving the goals of the Comprehensive Plan. Specifically, the team identified existing policies in the Comprehensive Plan and other policy documents that support the city's goals and vision and reviewed regulations, including policy documents related to urban forestry, affordable housing, and House Bill 2001. The team then reviewed regulations including the zoning code, public works standards, and draft tree code to pinpoint requirements in conflict with identified policies that need to be changed. This memo summarizes key findings and recommendations to address identified obstacles.

FINDINGS AND ISSUES

Following is a summary by the three primary themes of the major findings of code regulations that fail to meet the project objectives identified through the code audit.

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

Goal 7 of the Comprehensive Plan recognizes that the shift to permit more forms of housing will require zoning and code changes in order to remove barriers. Additional housing types will need to be allowed in low and medium density zones. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Further support for the development of denser forms of housing is found in the recent Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. Both the Comprehensive Plan and Milwaukie Housing Affordability Strategy cite the need to enable equitable housing options that meet the needs of all residents, including in low and medium density zones.

Milwaukie's Comprehensive Plan goals are aligned with the intent of Oregon's Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed in order for the City of Milwaukie to be compliant with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

- Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
- Title 19 – Zoning (all sections)

Removing barriers to middle housing

Many sections of the land division and zoning code place requirements on developments with multiple units or multiple lots that single detached dwellings are not also required to meet. These types of requirements negatively affect the cost and feasibility of middle housing and are not required of detached single dwelling development. For example, land use review is required for Accessory Dwelling Units (ADUs) and duplexes, but not for single dwellings.

HB 2001 generally prohibits additional requirements for middle housing that are more restrictive or create a greater burden than are faced by single detached dwellings in the same zone. For example, the maximum height of a middle

housing-type dwelling cannot be lower than the maximum height allowed for single detached dwellings in the same zone, and setbacks cannot be greater.

Similarly, Title 17 land division requirements, particularly those in 17.12.020 - Application Procedure and Approval Criteria, create a greater burden on development with four or more lots by requiring a Type III review, which is a more difficult review procedure. This will negatively affect cottage cluster or townhouse developments.

Key Issues

- **Large number of undifferentiated residential zones that do not permit middle housing equitably**
  While eight residential zones exist in Milwaukie, several of them are minimally used and are almost identical to other zones in terms of development standards and permitted uses. This creates a lack of clarity about the intent of each residential zone and how it meets stated Comprehensive Plan Goals. Also of note is that the large majority of residentially zoned lands are mapped in the R-10 and R-7 zones. These low-density zones only allow duplexes and ADUs through land use review, including a discretionary Type II review using subjective approval criteria; as a result the vast majority of the city does not meet the policy goal to provide opportunities for a wide range of rental and ownership housing choices and to remove barriers to development of these middle housing types. While the code does permit some middle housing types (duplexes, rowhouses, cottage clusters and ADUs) in some zones, not all types are defined and permitted as required by HB 2001. All middle housing types will need to be allowed in zones that permit single detached dwellings, with duplexes permitted on all lots and other middle housing types permitted in areas defined through this code update and engagement process.

- **Housing types are regulated using permitted land use table**
  Currently each housing type is treated as a separate permitted use regulated in the permitted use tables and defined across base zones (Tables 19.301.2 and 19.302.2). This approach confuses housing types with the broader residential land use category. It would be more consistent with the Milwaukie vision to separate housing types from land uses so that the "uses allowed" table for residential zones only lists land uses (e.g., commercial). The categories of residential land uses should be limited (e.g. group living or household living). A separate housing types table would specify which housing types are permitted in which zones and how (e.g. permitted, not permitted, conditional).

- **Housing types confused with household types**
  The zoning code uses terms for housing types that are in conflict with goals for equity, affordability, and also conflict with HB 2001 requirements. Definitions for housing types should be based on the building form and lot type rather than who lives in it; for example "single detached dwelling" refers to one house not attached to any other houses located on its own fee-simple lot whereas "single-family detached home" refers to both the building form and lot type but also who lives in the home. Who lives in a home is irrelevant. Definitions should be clearly defined to be consistent with the Milwaukie vision and implementation goals in order to truly promote a wide range of housing types for all types of households living in the city. Terms should be updated and used consistently in all applicable sections of the code (e.g. parking provisions, land use table, etc.).

- **Restrictive standards limit the development of certain housing types**
  The middle housing types that are currently allowed are subject to further restrictive and subjective development standards (including in Section 19.500 Supplementary Development Regulations) that discourage their development. For example, cottage cluster housing is subject to standards for size, height, orientation, and required yards in addition to prescriptive design standards addressing individual units and the site. Another example is if a duplex is not allowed outright in a zone, it is required to be located so as "not to have substantial impact on the existing pattern of single-family detached dwellings within the general vicinity," and its design must be "generally

consistent with surrounding development." Similar restrictive development and design standards impact the potential development of ADUs, rowhouses, and flag lots.

- **Lack of equitable review processes for housing types**
  Different housing types are subject to different review processes in the Milwaukie code. The current regulations need to be carefully evaluated to reduce or eliminate any procedural discrimination for certain housing types. For example, duplexes are currently subject to Type II review in the R-10 and R-7 zones when single dwelling detached homes are not subject to any land use review (Table 19.301.2). This difference in review creates a barrier to achieving the city's goal of permitting the development of middle housing through new construction and conversions and promoting housing choice for all by creating a more difficult process for certain housing types and in certain zones.

- **Expensive street and frontage improvements**
  Public facility improvements (including street, sidewalk, and planter strips) are required for an additional unit as well as an addition greater than 1,500 square feet to an existing home. This includes the development of ADUs and conversions of single units into duplexes. These improvements present barriers to development of these housing types by adding cost. In addition, a traditional curbed street improvement creates a potential conflict with existing established trees that may be in the right-of-way; the required width for new planter strip widths may not be generous enough to accommodate larger trees. More flexible options that allow for rural-character street design would reduce the burden of cost on new and converted middle housing units while maintaining an essential element of Milwaukie's character. For example, the Island Station Neighborhood Greenway has street types with gravel shoulders and no planter strips. This could be a good model for certain contexts.

Recommendations

- Allow duplexes across all residential zones
- Amend permitted residential types to include triplexes, quadplexes, and townhouses (currently referred to as rowhouses)
- Review low density and moderate density zones to identify areas where triplexes, quadplexes, townhouses, and cottage clusters are a permitted use
- Consolidate residential zones and revise zoning map to expand the area in which middle housing types are permitted equitably across the entire city
- Decouple housing types from uses table and clean up definitions to remove confusions with household types
- Simplify and reduce the amount of design standards applicable to middle housing types and make them clear and objective so that all housing types, whether detached single units or larger number of attached units, are subject to the same standards
- Permit all middle housing types to be permitted using the same approval type as single family dwellings are subject to today
- Increase flexibility for street and frontage improvements and permit creative street designs to reduce the burden of cost on middle housing development

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees

Trees are key to Milwaukie's quality of life. It is clear that trees are very important to Milwaukians and 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. They contribute to property value and are also important to reducing stormwater runoff, improving residents' health outcomes, helping the city meet its climate change goals and reducing heat island effect.

Because many of the most magnificent trees that contribute to Milwaukie are on private property, it is appropriate that there be greater protection of those trees in order to achieve the community's goals. This means trees on private property will be regulated differently than they have been in the past in order to preserve the existing and contribute to the future canopy of the city.

Changing the code to preserve trees on private property will have implications for city staff; there will be more applications to manage and a greater load on review boards. A culture shift may be required on the part of citizens, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. The city established a Tree Board recently and the committed Public Works department views trees as another form of citywide infrastructure. If site and tree specific conversations occur early in the application process, there will be a much better understanding of goals and priorities by all parties.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan. In Goal 3 of the Comprehensive Plan a target is established for a 40% tree canopy using a combination of development code and other strategies. Goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan 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:

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone
- 19.1200 Solar Access Protection
- Draft Tree Preservation Amendments

Other sections that were reviewed and for which amendments are recommended that are not part of this project:

- 19.401 Willamette Greenway Overlay Zone

Key Issues

- **Solar access requirements are potentially in conflict with tree canopy goals**
  Understanding how solar access provisions are enforced over time, especially regarding tree planting, growth and future shading, will be important. The approved tree list should be updated to clarify which trees are preferred, noting which do not interfere with solar collection. A list of solar-friendly trees should also be listed on the city website.
- **Additional consideration should be given to native trees and other climate change suited species**
  This should also include measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies to encourage the propagation of a diversity of species that increase forest resiliency.
- **Flexible standards for tree preservation, especially as it relates to middle housing development, should be further explored**
  Standards for tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into larger patterns of the area. Included in this analysis should be consideration given to areas identified as

deficient in tree canopy in an effort to make tree plantings more equitable across the city. These standards should include protection measures during construction.

- **Consider enforcement of tree planting and preservation after development is completed**
  Continued funding and staffing resources are needed for successful enforcement.

Recommendations

- Create more distinct code sections in Section 16.32-Tree Code for development and non-development related code criteria, and create standards for the preservation and planting of priority street tree species with development
- Reference desired tree species and conditions in updated public works standards and revised code for private residential property; ensure they include native trees , other climate change suited species and support canopy goals
- Ensure newly planted trees have access to adequate soil volumes that support their long term growth to maturity
- Create enforcement mechanisms to ensure newly planted trees become established and are properly managed for the long term as condition of permit approval
- For projects in which tree preservation on site is not feasible, explore fee-in-lieu programs, i.e., the property owner or developer pays into a fund

Policy Mandate 3: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments in order to reduce vehicle emissions and encourage the use of alternate transportation. There is a desire to create a more energy efficient land use pattern in Milwaukie. This includes infill development and neighborhood hubs that includes mixed-use development while providing a wider range of rental and ownership choices.

There is also a strong desire to create more housing opportunities for all income levels throughout Milwaukie, not just in areas where multi dwelling units are allowed. The Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

- 19.200 Definitions, Parking-related definitions
- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Other sections that were reviewed regarding to this policy mandate, and for which amendments are recommended but are not part of this project:

- Public works standards – 5.0110 Private Streets/Alleys

Key Issues

- **Ensure adequate parking**
  While many Milwaukians still drive and own cars, the community has expressed a clear desire to increase its share of people who don't own cars, who own fewer cars, and who bike or walk for many of their needs. It will continue to be

important consider parking that allows people to store their cars at or near their homes for the foreseeable future. However, there are a number of strategies that can be put into place that can help the city achieve multiple objectives while still providing enough parking to meet most people's needs. It does signal a major change in that parking will become the commodity it is and will no longer be as free or abundant. This change will happen over time, and hopefully in concert with other investments in transportation that provides people with more options to not drive.

- **Managing parking in residential zones (off-street)**
  Parking requirements are another area where the current zoning code (Section 19.600 Off-Street Parking and Loading) places additional burdens on middle housing. Parking requirement can impact the affordability of housing in a number of ways. Currently the requirement for a minimum of one space per dwelling unit and 1.25 spaces for housing that includes 3 or more dwelling units that are over 800 square feet makes many forms of middle housing infeasible, financially and physically. In order to comply with HB 2001, only one parking space may be required for middle housing, and on-street parking may be allowed to count toward the requirement.

- **Managing parking in residential zones (on-street)**
  Section 19.600 includes a purpose statement that generally supports many aspects of the policy mandate, such as "provide adequate, but not excessive, space for off-street parking. However, "avoid parking-related congestion on the streets," may be problematic. It assumes that on-street parking causes congestion, and also assumes auto congestion is an issue. On local streets in particular, on-street parking can reduce auto speeds (congestion) and make streets safer. This language may preclude ideas about reprioritizing and rethinking local streets that have been brought up by the community. Likewise managing parking is an important way for the city to achieve housing affordability and tree canopy goals. There are opportunities throughout Milwaukie to use the on-street parking system to help offset onsite parking demand. This approach may require some form of residential parking management at some point in the future. In addition to addressing off-street parking requirement in the zoning code, public works standards for streets and implications for on-street parking, will also need to be addressed. Historically, most cities have not managed on street parking in residential zones, however new approaches to parking will be needed to balance housing and transportation needs.

- **Achieving greater flexibility for parking**
  Currently Section 19.600 does not permit on-street parking to count toward meeting parking requirements for new development. This section also precludes unbundling of onsite parking from housing, and may prohibit parking spaces from being rented or sold separately from the dwelling unit. In future Milwaukie neighborhoods where managing parking and middle housing options are more prevalent, permitting the "unbundling" of parking from dwelling units can make middle housing more economically feasible and affordable. Additional design standards in Section 19.607 further regulate the location and design of parking and have an impact on the feasibility and cost of developing middle housing. For example, off-street parking is not permitted within the required front or side yard or within 15 feet of the front lot line. This requirement essentially requires two parking spaces for each unit as the parking cannot be provided in the first 15 feet of the driveway approach. This standard has been a barrier to the conversion of garages as ADUs and reduces the potential developable area for middle housing types.

- **Importance of on-street parking**
  Permitting parking on the street to count against parking requirements can make a lot of sense if the goal is to reduce the cost of housing, since even a surface parking space adds cost to housing. And if the street is already paved (or planned to be paved or widened), it makes sense to use already-paved space for parking instead of adding additional paved area on private property. Any strategy to reduce overall paved area in the city will benefit natural resource protections and trees, and reduce stormwater runoff.

Recommendations

- Explore the feasibility of reducing parking minimums in light of use of on-street space and on-site design
- Tailor reduction of parking minimums in tandem with use of on-street space, and on-site design to neighborhood supply and demand
- Ensure parking minimums comply with HB 2001
- Consider the usefulness of technology (e.g., car stackers), and if appropriate ensure the code does not preclude their use
- Consider defining active transportation and how it can be required in a residential development to address goals for better connectivity, transit, etc. in the Plan
- Clarify those active transportation measures which can be addressed by development, as opposed to ones which require infrastructure investments commonly made by the public sector
- Employ data to quantify underused on-street space in affected neighborhoods and "calibrate" to real impacts of new development on existing supply
- Adjust code requirements to reflect true capacity
- A request for "reducing" a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed. Amend approval criteria to permit lowering the minimum requirement or locating parking off-site
- Eliminating current exemptions/reductions process and use requirements of the Transportation Demand Management (TDM) in 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Consider building TDM measures in as options for developers along with lower parking minimums
- When considering stacker technology for parking solutions (see above), review height maximum of 8 feet for cottage cluster garages

APPENDICES

Attachment A: Code Audit

The Code Audit Summary (Attachment A) provides an in-depth review of relevant policies as well as relevant regulations. It is a spreadsheet with the following sheets:

1. Policy Review
    - Lists relevant goals and policies from the Comprehensive Plan
    - References related code sections
    - Identifies any issues or areas for discussion
2. Code Audit (regulatory review)
    - Lists relevant sections of the code that might be in conflict with identified goals and policies
    - Provides issues for discussion and recommended fixes to existing regulations
3. Public Works Audit
    - Lists relevant sections of the standards that might be in conflict with identified goals and policies
    - Provides issues for discussion and recommended fixes to existing regulations

Attachment B: Milwaukie Residential Zones – Summary Tables

Attachment B summarizes, in a series of tables, relevant regulations from the Milwaukie Municipal Code. Summary tables include the following:

Title 17– Land Division

- Boundary Change Actions Table

Title 19 – Zoning

- Use Comparison Summary Table
- Development Standards Comparison Summary Table
- Other Applicable Development Standards Table
    - Accessory Structures Standards Table
    - Site Design Standards Table
    - Cottage Cluster Housing Development and Design Standards
    - Rowhouse Design Standards
    - Off-Street Parking Standards / Additional Design Standards
    - Public Facility Improvements
    - ADU design and development standards and review requirements
    - Duplex development standards and review requirements
- Approval Types Summary Table / By Residential Zone

Attachment C: Summary of HB 2001 Compliance Paths

Attachment C summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Comprehensive Plan					
3 - Natural Resources and Environmental Quality					
				Most of the policies in this section appear to be addressed in the relevant development code, at least as it relates to trees and vegetation.	None
				Cities often divide tree regulations into development and non-development code standards. In reviewing the Milwaukie code as it relates to development, trees are regulated on public lands and rights-of-way (Chapter 16.32), in the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), and through solar access requirements (Chapter 19.1200). Public Works street design standards (Section 5.0030) and associated landscape standards influence planting and preservation options for street trees with public improvements. The Tree Board has also drafted potential development and non-development code amendments for street trees, public trees, and private trees. These standards should be further reviewed, amended, and reorganized as needed to ensure consistency with these Comprehensive Plan policies and with each other.	
	3.3.5	Require mitigation that restores ecological functions and addresses impacts to habitat connectivity as part of the development review process.		Requires mitigation that restores ecological functions and processes to address impacts to habitat connectivity. However, the revised draft tree code and other development code sections do not yet have the accounting methods for this process spelled out	Implement an accounting method to address function and processes. Potentially integrate functions and values of trees and replacement trees into development code by addressing tree size, canopy size, fruiting or flowering, use by cavity nesters, etc.
3.4	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.	16.32 Tree Code, 19.1203 Solar Access for New Development, Title 19 Zoning, Chapter 15 Building Code, Chapter 18.04 Flood Hazard Areas, Title 17 Land Division (H) Title 2	(A.) Lack of inclusion of non-city owned land, management within engineering (not arborist/PW) (B) Need to modify 19.1203.4C to better protect tree health and for monitoring requirements (C.) Title 19 Zoning reduces zoning protections to primarily riparian and wetland areas, potential value for upland habitat assessment and inclusion, zoning density could be in conflict w/ tree canopy expansion if not managed carefully (D) Building code w/o tree preservation code does not align w/ canopy goals (E) Fireworks in greenspaces increase vegetation damage and impact local wildlife (F.) Out of date floodplain maps could minimize protections for otherwise conserved riparian areas that would not be in conflict w/ new development (G) Land division code that supports smaller plots can likeliness of tree removal in division process for development (H) Title 2 Tree Board?	
	3.4.3	Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.	19.402.13	Desire for flexibility to preserve natural resouces (including trees on private property) will need to balanced with defining clear and objective standards	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	3.4.5	Through the development code, protect existing native-species and climate-adapted trees and create incentives for the retention of large and old-growth trees that contribute to a diverse and multi-aged tree canopy.	Policy # 3.4.2	See 3.4.2; Ensure PW standards and Yard tree lists promote species diversity for planting to increase resiliency and growth rate	
		Policy 3.4.5 discusses creation of incentive for retention of large and old-growth trees. The development code provides for protection of native species, but does not appear to create an incentive to retain large trees.			Add incentives for large tree retention, such as stormwater discounts.
4 - Willamette Greenway					

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
5 - Natural Hazards					
5.1	5.1.3	Encourage and prioritize development in areas with low risk of natural hazards and restrict development in areas with high risk that cannot be adequately mitigated.	Potentially a new section in 19.400 to create an overlay identifying these areas with mapping and regulations similar to 19.402.	No code language currently exists identifying these areas. Restricting development, or creating discretionary language related to housing development, in these areas will need to be carefully written.	
	5.4.6	Create designated emergency routes and provide an array of disaster recovery facilities, with emergency supplies, that can withstand major natural hazard events, and keep the public informed of them through a variety of different outreach methods.		Policy 5.4.6 regarding designated emergency routes. Would street trees become a hindrance to emergency response if they fall into the street? Could that become an issue during windstorms, ice storms, or earthquake response?	Identify emergency routes and plant trees with deep root systems and canopy types that are not as prone to wind, ice, and liquefaction effects.
6 - Climate Change and Energy					
6.1	6.1.1/6.1.4	Encourage the use of innovative design and building materials that increase energy efficiency and natural resource conservation, and minimize negative environmental impacts of building development and operation.		Tree-related policies call for resource conservation and standards and guidelines to contribute to a 40% citywide tree canopy	
		Develop standards and guidelines that contribute to a 40% citywide tree canopy.	Goal 6.2.3 mentions establishing desired mode splits for transportation	Clear relationships between Goals 6.1.1 - 6.1.4 and efforts to minimize parking in new developments. This includes innovative design (6.1.1), flexible standards (6.1.2), and reducing emitions (6.1.3). Without these goals, there can be conflicts with achieving 40% tree canopy (6.1.4).	Reduced parking minimums, use of on-street space, on-site design, even technology (e.g., car stackers) will need to be explored and tailored. Minimum parking requirements could be calibrated to drive alone mode split targets. This is also consistent with 6.2.6.
	6.1.5/6.1.6	Create a more energy efficient land use pattern that includes but is not limited to infill and cluster development, neighborhood hubs and increased density. / Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the city that provide a mix of uses and help reduce transportation emissions and energy usage.	19.504.8, 19.505.4	Housing-related policies call for more energy efficient land use pattern of walkable neighborhoods including infill and cluster development, neighborhood hubs and increased density	Revise zoning code to allow middle housing types in low-density zones. Re-write supplementary design standards to reduce barriers/encourage development. Consider changes to flag lot development standards to permit more infill housing throughout city to allow properties to take advantage of large/deep lots.
	6.1.9	Streamline review for solar projects on rooftops, parking lots, and other areas with significant solar capacity.		Solar projects are also encouraged	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7 - Housing					
7.1	7.1.1	Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukie, including additional middle housing types in low and medium density zones.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes (only allow detached single family residences or duplexes on larger lot sizes: 10K in R-5, 14K in R-7 and R-10; cottage cluster not permitted in low-density zones; MFR only with a CU in R-3 and R-2.5; confusing minimum lot size calculations in 19.302.5.F; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); 19.505.4 - cottage cluster design code very prescriptive; 19.505.5: minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.2	Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.	19.301, 19.302, 19.505.5, 19.910.3	Need option for form-based code that focus on clear and objective standards rather than discretionary standards that are disincentive to middle housing types	
	7.1.3	Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.5	Will require all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.		ADA modifications, such as ramps, are not included as exceptions to minimum setbacks, resulting in variance requirements if permanent (temp use permit if temporary).	
	7.1.6	Consider cultural preferences and values as well as diversity, equity and inclusion when adopting development and design standards, including but not limited to the need to accommodate extended family members and provide opportunities for multi-generational housing.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.2	7.2.2	Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.	19.301, 19.302, 19.505.5	Low density zones in 19.301 only allow detached single family residences or duplexes on larger lot sizes (10K in R-5, 14K in R-7 and R-10). Medium density zones in 19.302 (R-3 and R-2.5) allow for rowhouses and cottage clusters but not triplexes or quadplexes. 19.505.5 only allows a maximum of 4 attached rowhouses. There are currently no density or other incentives to encourage regulated affordable housing. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.2.3	Consider programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements.	19.605, 19.702	Potentially add regulated affordable housing to list of exemptions for frontage improvements in 19.702.4 (maybe subject to adequate backfill from city funds), or add a tiered level of applicability (similar to 19.702.2 for SFR).	
	7.2.4	Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-family homes into duplexes or other middle housing types.	19.910.1 (ADUs), 19.301.2	19,301.2 permits duplexes in R-7 and R-10 zones but only through Type II process, so conversions are not a streamlined process. ADUs over 600 sf in footprint or over 15 feet in height require a Type II process as well, although they do allow smaller setbacks than the Type I process. HB 2001 requires duplexes to be permitted on any lot that allows a detached SFR, so city will likely see some conversions and should make the process easier to encourage middle housing options	
	7.2.6	Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing type.	19.301, 19.302, 19.910.3, 19.505.1	Manufactured dwelling parks are only allowed through a Type III process in R-3, R-5 and R-7 zones. Manufactured homes are allowed on any lot that allows a detached SFR, but are subject to SF design standards in 19.505.1, which can be hard to meet sometimes for prefab buildings.	
	7.2.7	Support the use of tiny homes as an affordable housing type, while addressing adequate maintenance of these and other housing types through the City's code enforcement program.		Tiny homes are not specifically addressed in zoning code. Tiny home on wheels are treated as vehicles, and can't be occupied in residential zones. Tiny homes on foundations are essentially treated as the main SFR or and ADU (if there is already a primary residence).	
	7.2.8	Implement development code provisions to permit shelters and transitional housing for people without housing.	19.904	Homeless shelters are defined as temporary or transitional facilities, which are permitted through the city's Community Service Use (CSU) process. New CSUs are a Type III land use application and require a PC public hearing. City needs to decide if they want a more clear and objective process for shelters.	
	7.2.9	Monitor and regulate vacation rentals to reduce their impact on availability and long-term affordability of housing.	19.301.2, 19.302.2, 19.905.9	Vacation rentals require a CU in all residential zones. Short term rentals are less commercial in nature and are a permitted use in all residential zones, subject to city standards/process.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.3	7.3.1	Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.	19.301.4, 19.302.4, 19.303.4, 19.304.4.B.8, 19.304.5.H, 19.401, 19.402, 19.505.3.D	The city does not currently have a tree protection ordinance for private property, except for natural resource and WG areas. There is a lot coverage and minimum vegetation standards in SF zones, but not an open space standard. Private and public open space for MFR development is regulated by 19.505.3.D. The city has extensive regulations for areas within Willamette Greenway (19.401) and Natural Resource (19.402) overlay zones*. Natural hazard areas are generally covered in Title 16 and 18 (flood prevention). *NR zones are narrow (100ft) and do not promote sufficient buffer for wildlife/habitat connectivity. NR zones also prioritize riparian/wetland areas and typically not upland habitat w/o ESA or threatened species	
	7.3.2	Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.	19.402.14.C, 19.505.3	The NR code currently allows for residential cluster development. It only covers HCA and WQR areas, and so would not apply to projects looking to preserve trees outside of these areas. The MFR design standards call out tree preservation the sustainability section in 19.505.3.B and the table in 19.505.3.D, but other than requiring 1 tree be planted or preserved for every 2,000 sf (through the clear and objective process), don't have specific standards or incentives. There are no standards or incentives for SFR zones.	
	7.3.3	Incentivize, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, improve building durability, produce or use clean energy, conserve water, use deconstructed or sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices.	19.303.4.B.3, 19.304.5.B.3, 19.508, 19.510	The city offers one additional story in the GMU and DMU zones for buildings that meet green building standards in 19.510. The City has adopted the 2016 Portland Stormwater Manual, but is considering changing to the Clackamas County WES standards. The standards generally encourage but do not require natural stormwater management. The Zoning Code does not generally require or incentivize energy conservation measures beyond what is required by the state's building and energy codes, and it is difficult to require projects to exceed the requirements of the building code, so incentives may be the best we can do.	
	7.3.5	Increase economic opportunities for locally owned and operated businesses by encouraging the development and redevelopment of more housing near transit, shopping, local businesses, parks, and schools.	19.303.4.B.3, 19.304.5.B.3, 19.605.3.B	The city offers incentives for development near transit lines and within certain commercial and mixed use zones by reducing parking requirements, as detailed in 19.605.3.B. The city has a number of mixed use zones that allow both residential development and commercial development, and offers one story of additional building height for projects with a residential component in the DMU and GMU zones.	
	7.3.8	Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors.	19.605.3.B	As noted above, the city allows parking reductions along transit lines within certain distances of transit stops. However, these reductions are somewhat limited, and lower than many other jurisdictions.	
7.4	7.4.1 - HUBS??	Implement land use and public investment decisions and standards that foster creation of denser development in centers, neighborhood hubs, and along corridors	19.302, 19.303	19.302 - Medium and High Density Residential, 19.303 - Commercial Mixed-Use Zones, Hubs code language TBD	Hubs to still be determined of exact locations and how many. Centers is defined in the Comp Plan, is it the same in land use code? Corridor streets are defined in TSP.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	7.4.2	Require that new development improves the quality and connectivity of active transportation modes by providing infrastructure and connections that make it easier and more direct for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.	19.700	This would be part of the possible frontage improvements section of 19.700.	May need to figure out where those connections should be, if not already in TSP
	7.4.3	Administer development code standards that require new housing to complement the public realm and provide for appropriate setback and lot coverage standards.	19.301, 19.302, 19.505.3,	Update design standards in low-density residential, medium to high-density residential, and multifamily	
	7.4.4	Require that multi-family housing units have access to an adequate amount of usable open space, either on-site or adjacent to the site.	19.505.3.D	In the objective process for multifamily design standards, projects with 20 units or less are required to provide 2 common open space features. Projects over 20 units are required to provide 4 common open space features. Examples of open space features are provided in the code. Only projects with 5 or more units are required a minimum of 10% of the gross site area, or 750 sq ft, whichever is greater, shall be designated as common open space. In the discreationary process, no required minimum of space is provided or examples of common open space features. It only states that sufficient open space be required.	
	7.4.5	Implement development and design standards to transition between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.	19.504.6	This code section is about transition measures for commercial, mixed-use, and industrial uses that are next to lower density residential uses. There is no code language around transition measures between residential development.	
	7.4.6	Reduce development code barriers for intentional communities.	19.301, 19.302, 19.505.4	There is no code language around intentional communities. The closest is the cottage cluster code language. Language may need to exist in low-density residential and median to high-density residential.	
8 - Urban Design and Land Use					
8.2	8.2.1	Pedestrian and bicycle design policies	19.700; Title 12; Title 17?	required frontage improvements	
	8.2.2	Parking design policies	19.600	Variety of changes for commercial uses and parking, TDM, on-street parking, off-street parking, and much more.	
	8.2.3	Natural environment integration policies: require landscape plan approval as part of the development review process; use that process to ensure tree canopy and better habitat connectivity; integrate natural features into the site planning process, while also ensuring mapped natural resources are protected.	tree code; Title 17; 19.402	*Integrate with future habitat connectivity assessment/SAP to reflect transportation infrastructure barriers in devisionmaking processes?	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	8.2.5	Community character design policies: use standards for size, bulk, and scale to encourage compatibility with surrounding uses.		form-based code option, language to be written	
8.3	8.3.1	Use a two-track development review process to ensure that new non-residential development and redevelopment projects are well designed. Provide a clear and objective set of standards as well as an optional, discretionary track that allows for greater design flexibility provided design objectives are satisfied.	19.505.7, 19.907	19.505.7 non-residential development does not have a two-track review process, 19.907 Downtown Design Review has different review processes, but not in a two-track system	
	8.3.2	Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.	19.301, 19.302, 19.505.1, 19.505.3.D, 19.505.4, 19.505.5, 19.505.6	19.301 - Low Density Residential does not have a clear and objective process for middle housing types, 19.302 - Middle and High Density Residential, ensure that all housing types meet clear and objective standards	
	8.3.4	Refine development standards in order to: - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for the types of uses permitted as home occupations where it can be demonstrated that the home occupation will help meet the daily needs of residents in the surrounding neighborhood.	19.507	Neighborhood Hubs code TBD, 19.507 Home Occupations: add additional allowed uses or standards to allow flexibility, define "daily needs"	
Milwaukie HNA					
NSFR		52% of future need			
New attached SFR		15% of future need			
Duplexes, triplexes, quads		7% of future need			
MFR		23% of future need			
Mobile homes		1% of future need			
		Limited land with increasing need, 1,150 projected new units needed by 2036		Supports Comprehensive Plan policies requiring housing in low and medium density zones.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
		Strong current need for more affordable housing		Shortage of units for lowest pricing level, particularly rental units. In order for all households current and new, to pay less than 30% of their income toward housing, a total of 1,189 rental units affordable at $900 or less would by required in 2036. Also some renters/owners have ability to pay for higher price units, relieving some of the pressure on existing units in lower price range	
				Interesting number that 12,390 jobs in Milwaukie and only 678 (5.5%) are residents. In other words, 94.5% of employee commute trips (11,700) come from outside Milwaukie (page 10). Conversely, 9,086 employed Milwaukie residents, 93% of them commute elsewhere to employment (page 10).	
				93% of Milwaukie households own at least one car (page 17). This can have definite impact on trying to justify a lower minimum requirement. Supports need to be creative in allowing use of public right of way.	
				Figure 3.4 (page 23) shows combined surplus of housing per future demand, but significant unmet "need" in lower income categories. What is the total "unmet" need? Can new units meeting this unmet category come with lower parking requirements?	
				The model projects growth in the number of non-group households over 20 years of roughly 1,070 households, with accompanying population growth of 2,150 new residents (page 32). In order for all households, current and new to pay 30% or less of their income towards housing in 2036, a total of 1,189 rental units affordable at $900 or less would be required. This indicates that some of the current supply, while it shows up as existing available housing, would need to become less expensive to meet the needs of current households (page 36).	With LRT, close in neighborhoods can support lower and more flexible minimum requirements. Still a concern related to outer neighborhoods and previously referenced car ownership numbers. 1,070 units over 20 years is 54 units a year spread over neighborhoods. Not much impact on parking overall if demand is met for lower income groups. 1,189 = 59 units per year
Milwaukie Housing Affordability Strategy					
Action 1.4		Create an internal culture that is friendly to developers by exploring ways to streamline permitting and planning		Remove barriers such as parking requirements to reduce cost of development and reducing partial street improvement requirements. Be aware of additional cost of tree preservation.	
Action 1.8		Explore rightsizing parking requirements for ADUs, cottage clusters, tiny homes, etc.	19.605.1 - ADUs - completed; 19.505.4 g. - cottage cluster	removed off-street parking requirment for ADUs, cottage cluster requirement is currently 1 space per dwelling unit but located within common area for other cottage parking	
Action 1.9		Explore incentivizing/encouraging ADU and cottage cluster development.		Provide community-approved template plans; waive SDC fees; revise the zoning code and other development standards to facilitate creation of ADUs	
Action 1.14		Seek to adopt or modify existing land use policies to meet developer and community needs		Be prepared to move forward with code/zoning changes that the housing element of the comp plan recommends.	
Climate Action Plan					

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Land Use/ Transportation		Promote "neighborhood hubs" through Comprehensive Plan policies		Housing-related strategies call for "neighborhood hubs" to encourage walking/bicycling	
Vehicles and Fuels				Parking-related strategies call for reduction of vehicle emissions with EVs (pp. 36-37), parking pricing in downtown (p. 46), and lower parking ratios near high capacity transit (p. 46).	
Natural Resources		Increase tree canopy to 40%		Tree-related strategies call for developing a tree planting program for low income neighborhoods (p. 61) and planting trees (pp. 63-64). Community solar projects are encouraged (p. 30).	Determine how the tree planting/preservation strategy to increase the tree canopy will need to be balanced with the desire for more solar applications.
Urban Forestry Management Plan					
Forest Health		Consider updating tree protection measures for development		The recommendations in the Urban Forestry Management Plan are generally consistent with and supportive of Comprehensive Plan policies for trees. They add an additional level of specificity that should be used when reviewing and revising development related code standards for public lands and rights-of-way (Chapter 16.32), the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), solar access requirements (Chapter 19.1200), and Public Works design standards (Section 5.0030) and associated landscape standards. The draft Tree Board development and non-development code amendments for street trees, public trees, and private trees should also be evaluated for consistency with the Urban Forest Management Plan recommendations.	
Age/Species Diversity		Evaluate priority tree species and create stricter diameter thresholds for removal, Update street tree planting list, Include climate adapted species, Consider developing standards for mature tree preservation and planting for public infrastructure improvements			
Education/ Outreach		Engage with developers to showcase sustainable design			

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 16 - Environment				
16.32 Tree Code	Public Works (5.0030)		This code section is generally geared toward non-development tree issues as it relates to Tree Board responsibilities, and the preservation and planting of trees on public lands and rights-of-way. However, this code section does address permitting for the planting, pruning, and removal of trees for right of way improvements. This has major implications for development projects that are required to plant, preserve, and/or remove trees with right of way and/or site improvements. In many cases, due to the density of site development, the public right-of-way presents the best opportunity for the preservation and planting of tree canopy in support of the City's goals	This code section mixes both development and non-development standards for trees on public lands and in City rights-of-way. Considerations for implementing tree related policies of the Comprehensive Plan and Urban Forest Management Plan for development include: -Creating more distinct code sections for development and non-development related code criteria; Creating standards for the preservation and planting of priority street tree species with development; Ensuring flexible standards for right-of-way improvements that are context sensitive and allow for the preservation and planting of priority street tree species consistent with neighborhood character and/or vision; Reviewing and amending the City's Street Tree List and planting standards as needed to ensure they include priority species and support canopy goals; Amending Public Works design standards (Section 5.0030) and
			The existing Chapter 16.32 section has several inconsistencies within it and with other sections (notably Chapter 19.400). The revised adopted Chapter 16.32 (Nov. 2020) addresses some of the inconsistencies. The revised Chapter includes a reference to the Council of Tree and Landscape Appraisers. It is not referenced again in this chapter, and can be removed from the definitions. The revised Chapter 16.32 better incorporates the intent of the Urban Forestry Management Plan and Comprehensive Plan. However, it removes the differentiation of small, medium, and large trees. To meet policy goals of replacing ecological functions and creating a multi-level, uneven-aged canopy, review the possibility to include greater differentiation of tree types to include conifers, wide-canopy broadleaf, and narrow-canopy broadleaf.	Replace existing Chapter 16.32 with revised language. Remove CTLA (Council of Tree and Landscape Appraisers) reference. Revise chapter to integrate desired tree species and conditions.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 17 - Land Division				
17.12	17.12.020	Application Procedure / Approval Criteria	Requires any subdivision affecting 4 or more lots to follow Type III review, which would affect Cottage Cluster and Townhouse projects on fee-simple lots. May be changed to Type II Review if consistent with applicable standards and criteria, consistent with basis of findings of original approval, and does not increase number of lots.	
	17.12.030, 17.20.010, 17.24.050	Approval Criteria	Approval criteria include that boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which property is located.	
17.16	17.16.080		Requires preliminary plats for cottage clusters to demonstrate compliance with 19.505.4. Cottage Cluster Housing, which contains the requirements for a cottage cluster subdivision	
17.28	17.28.050	Flag Lot Design and Development Standards	Flag lots are permitted as interim measure where there is potential for future development on adjacent lots with new roadway development. However, Planning Commission review is required and flag lots must be designed to allow for future street development. This is problematic for long skinny lots found throughout city.	
Title 19 - Zoning				
19.100 Introductory Provisions				
		Zoning Map	There's an apparent inconsistency between the Comprehensive Plan's policy support in Section 7 for "middle housing" but then having the vast majority of the residential areas on the plan zoned for low density (R-10, R-7 and R-5).	Determine what zoning map changes may be necessary at the conclusion of this project. Decide which housing types/density levels are appropriate in which neighborhoods/zones.
		R-2 (Comp Plan High Density) - East of downtown	Comp Plan text says R-2 is MedD	Option 1 - Change the plan text to make R-2 an HD zone; Option 2 - Rezone all planned HD to areas to R-1. Note: Look to see if there are R-2/MedD locations
		R-7 (Comp Plan High	Built-out single detached lots zoned for apartments	Option 1 - redesignate as LD or MD; Option 2 - resone
		R-2.5 (Comp Plan High Density) - East of Safeway	Only location in town	Rezone as R-2; Eliminate R-2.5 zone; Revise R-2 language to capture R-2.5 requirements
		R-5 (Comp Plan Moderate	One zone for one plan designation	Eliminate Moderate Density - either combine with
		R-5 (Comp Plan High Density/C) - North of Pond	Density conflict	Reduce planned density to keep some lower density SF-type zoning near the downtown
		R-3 (Comp Plan Medium	One zone for one plan designation	Combine MD and MedD
		R-1-B (Comp Plan High Density/C) - East of	Names are not descriptive	Rename the zone and plan designation as Mixed Use Residential or Mixed Use Office; or OMU Office Mixed
		R-3 (Comp Plan High	Not a good office site - plans approved for apts	Change plan designation to correspond to R-3 -- MD or
19.200 Definitions				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		Definitions of housing types	Uses terms for housing types that are in conflict with goals for equity, affordability and also conflict with HB 2001 requirements	Clearly define housing types in definitions that are consistent with Milwaukie Vision and implementation goals and consistent with HB 2001 definitions. Avoid confusing housing types or building types with household category or land use. Use consistent terms
		Middle housing definitions	Some definitions outlined in the model code are not currently included in the Milwaukie code (building footprint, common courtyard, townhouse etc.) while others are but are not included in definitions but in body of code (door area, window area)	Update definitions with additional terms identified
		Tree-related definitions		Check native vegetation definition for consistency with other amendments related to this project
		Parking-related definitions	Parking-related issue is that off-street parking doesn't specifically include garage spaces (but perhaps is interpreted to include).	Confirm that off-street parking is interpreted to include garage space.
19.202.4			Minimum density deducts floodways (a relatively small area), while maximum density deducts the 100 year floodplain (a much larger area). So, minimum density in areas along rivers/creeks are always larger than maximum density, requiring the provision that when minimum density is larger than maximum density, then minimum density is also maximum density.	Either swap them (deduct floodways from maximum density and floodplains from minimum density) or come up with a different formula. Look at Metro's BLI formula for calculating capacity in Title 3/13 lands.
19.300 Base Zones				
19.301 Low Density Residential Zones		Table 19.301.2 - Residential Uses Allowed	Does not include middle housing types required by HB 2001 (R-10, R-7, R-5). Density standards for low density zones may be contrary to HB 2001 because tri/quadplex development could exceed maximum density. Cottage cluster development not permitted in low-density zones.	Include tri/quadplex buildings and cottage cluster housing in low-density zones. Test density standards against what could actually be built and adjust them as necessary to be consistent with city housing policy and HB 2001. Evaluate dimensional standards to
			Table lists out specific housing types	Separate housing types from land uses so that "uses allowed" table for residential zones only lists land uses (e.g. commercial). In the "uses allowed" table, limit the land uses that are listed to residential categories (e.g. group living or household living). Include a separate housing types table that specifies the housing types which are allowed where (in which
		Table 19.301.4 / Table 19.302.4 - Development Standards	Density standards (11.6/ac except to R-1) for medium density zones and ability to accommodate missing middle housing types	Remove density standard requirements for middle housing types to be in compliance with HB 2001

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.302. Medium and High Density Residential Zones		Table 19.302.2 - Residential Uses Allowed	Number of moderate to medium density residential zones (R-5, R-3, R-2.5, R-2) show minimal differences. Minimal differences in development standards between R-3, R-2.5, R-2, R-1, and R1.5. Few lots/total numbr of acres within several of these zones per GIS analysis.	Can be reduced to fewer zones and re-mapped. Zone purpose needs to be re-written to be in compliance with HB 2001 - not just single-detached dwellings. Additional changes to use table based on recommendations for Table 19.301.2 above.
		Table 19.302.4 - Development Standards	Duplexes require a minimum lot size of 6,000 sf in the R-3 zone, 5,000 sf in the R-2.5 zone, but 7,000 sf in the R-2 zone. This could be a deliberate attempt to discourage duplex development in a zone (R-2) that allows multi-family development, but a 4,000 sf R-2 lot essentially doesn't allow any type of development.	This is somewhat of a moot point, as under HB 2001 city will be required to allow duplexes on a 5,000 sf lot in the R-2, R-2.5 and R-3 zones if the minimum lot size for detached SFR's in these zones remains at 5,000 sf. However, it may be good to allow a duplex on a 4,000 sf lot as well, in case there are undersized
			Density requirements (min and max) discourage types of middle housing	Remove density standard requirements for middle housing types to be in compliance with HB 2001
			Maximum lot coverage allows for modifications - increased lot coverage for duplexes and rowhouses	Need to extend increased coverage option for other HB housing types.
			One primary building for dwelling purposes permitted per lot in low-density residential zones	Will need to be adjusted to include permission of duplexes.
	19.302.5.F.2		Requiring a minimum lot size of 5,000 sf for the first unit of a MFR development in the R-1 and R-2 zone effectively reduces the maximum density of a development and makes it hard to meet the minimum density for a triplex, which is considered MFR.	Get rid of Table 19.302.5.F.2. Setbacks and other development standards will influence how large the lot needs to be to feasibly accomodate a MFR development.
19.311 Planned Development Zone			PD functions as an overlay zone that allows greater design and density flexibility. A PD requires City Council approval of a final development plan. Approval standards are more subjective than the base zones and the process appears to be somewhat cumbersome.	Evaluate a potential modified PD zone as a way to enable middle housing. To the extent possible, the process would need to be more "user friendly" with more objective approval criteria.
19.400 Overlay Zones and Special Areas				
19.401 Willamette Greenway Overlay Zone	19.402		The Willamette Greenway code requires the preservation of native and large trees within 25 feet of the river but allows removal of dead, dying, and hazardous trees. It also allows tree removal for limited views. Pruning of vegetation is allowed. Tree protection standards for development is not specified. These code standards are generally supportive of the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. It will be important to work with City staff, residents, and the development community to identify potential issues with the existing code. There may be potential administration challenges	Upland tree groves should be identified and protected through the Goal 5 process and included in the natural resource protection program. This will support habitat connectivity work recommend in Comprehensive Plan. Discuss if large and other priority trees species are adequately defined and give them higher level protection from development. Define tree protection standards and draft code to implement them including mitigation standards, to the extent that new plantings become established. Discuss administrative challenges to mixing development and non-development tree removal replacement standards and

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			Willamette Greenway Zone provides definitions regarding vegetation that is not the same as in the existing Chapter 16. In particular, there are conflicting definitions regarding "large trees" and how to identify "native vegetation" when compared to the existing Chapter 16. Several of these inconsistencies might be addresses in the draft Chapter 16 from July 2020. The Chapter 19. 400 code has not been updated recently, as is still refers to the Division of State Lands. The designation was changed to the Department of State Lands almost 20 years ago.	Conform Chapter 16.32 and 19.400 with regard to vegetation.
			In 19.401.8.B.3 Vegetation Buffer Requirements – Retain Existing Native Vegetation and Large Trees, the code could be revised to better conform with updated tree code. The definition of small trees should be added. Integration tree and vegetation removal, as well as inclusion of an	Update Chapter 19.400 to integrate new terminology and revised 16.32 language. Revise Chapter 19.401.
19.402 Natural Resource Overlay Zone	19.401	The Natural Resources code applies within 100 feet of a WQR (water quality resource) and/or HCA (habitat conservation area). Limited tree removals and pruning is exempt for nuisance trees (less than 3), emergencies, and clearance from structures. Limited tree removal in non-development situations may be permitted for dead, dying, diseased, and hazardous trees, more than 3 nuisance trees, up to 3 non-native/non-nuisance trees, and tree removal that requires more than 150 square feet of ground disturbance. Replacement of removed trees is required when possible. Additional tree removal is permitted with approved development through a clear and objective track or a discretionary track. Discretionary development standards require the strategies to maintain existing and plant future tree canopy, and to maintain contiguous vegetated corridors. Approved development is required to protect trees through a construction management plan. Mitigation is required for tree removal through either a clear and objective formula or through a discretionary proposal. The main issue is the City's need to improve comfort/defensibility of balance between nondiscretionary and discretionary accounting/method/criteria/process so that acceptable levels of ecologic metrics and function are fostered and the staff feels comfortable managing submission/review process. Goal 5 requires clear and objective standards for regulations related to conflicting uses of a site/resource (OAR660-023-0050(2)). However, OAR 660-023-0050(3) provides for an alternative approval process that are not clear and objective (i.e., discretionary), as long as the level of protection meets or exceeds the clear and objective standards. The City's Title 19.402.1.C.2 provides a list of ecological functions and values to be assessed, but it does not include clear direction on the exact methods for assessment. This subtitle is referenced in 19.402.12.A.1 as part of the discretionary review process. While Title 19.402.11.A-C provide for clear and objective standard, Title 19.402.11.D discusses the nondiscretionary standards, which appears to be in accordance with OAR 660-023-0050(3). Overall, the majority of current standards under 19.402 appears to meet the requirements of OAR 660-023, but land use attorneys could always argue otherwise, and have been successful in requiring updates to the code of other area jurisdictions. Other than a more robust implementation of an accounting method to address function and processes, the remaining nondiscretionary standards appear to provide clear and objective criteria. If an applicant cannot meet those standards, a discretionary process appears to be in place. However, devising a robust method for assessing functions and processes is a lot easier said than done, as many different jurisdictions have tried and there is no accepted standard yet for the region	Investigate a more robust implementation of an accounting method to address function and processes. Potentially revise the code to remove the assessment of functions and processes in favor of other metrics (e.g., tree canopy, vegetation cover extent, soil permeability, etc.) that are more quantitative and can be assessed by the general public.
			In 19.402.2.G, there is a reference to the Milwaukie Native Plant List. There is a native tree list, but it could be updated to included other vegetation types (shrubs, forbs, etc) and nuisance/prohibited plants. This same list should be identified in Chapter 16.	Revise Chapter 19.402 and update City native plant list. Revise Chapter 19.402 to include arborist certification and for trees to be on the native plant list. Update City native plant list to include native, non-native, and nuisance plants.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			19.402.6 Activities Requiring Type I Review discusses limited tree removal or major pruning in WQRs or HCAs. An arborist is required to certify if major pruning is required, but not for removal. In 19.402.6.3.d, replacement trees do not have to be native but can't be a nuisance tree as defined in the native tree list. This native tree list does not appear to have nuisance trees identified.	
19.403 Historic Preservation Overlay			I assume the city complied with the latest FEMA-required amendments in 2018, and they are not eligible for amendment. Otherwise, nothing more to add to Todd's analysis.	Should evaluate if the HP requirements have a meaningful impact on the middle housing discussion.
19.500 Supplementary Development Regulations				
19.501.1			Requires a minimum 3,000 sf for a detached single family home. The general exceptions note that a legal lot of record must be a minimum of 3,000 sf for a detached SFR. HB 2001 requires that a duplex be permitted on any lot that allows a detached SFR.	Consider including duplexes under the provisions of 19.501.1.B.
19.501.4			Density Exceptions allows for increased density in exchange to dedicating parkland.	additional actions could be made eligible for density increases, including preserving trees on-site
19.502.2			Specific Provisions for Accessory Structures appears not to apply to ADUs.	Confirm that 19.502.2 doesn't apply to ADUs
19.504.4				
19.504.8		Flag Lot Design and Development Standards	25' wide pole required, 30 foot front and rear setbacks required.	Evaluate 19.504.8 to ensure that infill development isn't unnecessarily impeded by the standards. According to staff's presentation at CPIC meeting they do preclude flag lot development.
19.505		Building Design Standards	Cottage cluster maximum floor are of 1,000 feet is too prescriptive.	Evaluate 19.505 for potential amendments to support this project, such as additional standards for 3&4-unit residential units. Cottage cluster standards should be re-evaluated for consistency with HB 2001 (19.505.4).
		19.505.4 Parking Spaces Location	4 parking spaces may be located within a garage. Garages in a cottage cluster therefore may not contain more than 4 parking spaces, must be at least 10 feet from any cottage dwelling, and must match materials, trim, and roof pitch of cottages. The interior height of a garage shall not exceed 8 feet high.	What if stalls were provided in a garage with stacker technology? Height of 8 feet might not allow.
19.506.4			A minimum structure size for manufactured homes of 1,000 square feet that doesn't apply to traditional detached houses.	Evaluate the provisions in 19.506.4.A for equity as noted in the staff audit. Not sure if this is a building code or manufactured home code issue but manufactured homes should be treated the same as other SFR's.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.600 Off-Street Parking and Loading				
		Purpose	The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; avoid parking-related congestion on the 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 (page 1 of 26).	Looks like a typical statement of purpose. Any need to add language related to trees? The sentence "Avoid parking-related congestion on the streets" may need discussion, since it assumes that on-street parking causes congestion, and also assumes auto congestion is the issue. Is auto congestion on low-speed local streets a concern? On-street parking can reduce auto speeds and make streets safer. Also, this language may preclude some of the non-car-centric ideas about reprioritizing and rethinking local streets that have been brought up by the community.
19.602	19.602.3	Applicability for Development and Change in Use Activity	Vacant sites required to comply with Chapter 19.600 but so are sites developed with an increase of 100% or more of existing floor area and/or structure footprint on a site. Any existing off-street parking areas required to be brought closer into conformance with development in an increase of less than 100%. of existing floor area and/or structure footprint and/or change in use. Required to submit parking plan. Disincentive to conversions and development of smaller projects.	
19.604.2	19.607	Parking Area Location	Does not permit on-street parking to count toward meeting requirement.	These sections will have to be changed if on-street parking can be used to meet "accessory" parking requirements.
19.604.3		Use of Parking Area	Precludes unbundling parking from housing - can't be rented or sold.	
19.605		Table 19.605.1 Residential Units -Single Family Dwelling		Lower mininimums to be in compliance with HB 2001. Rework table to include middle housing types.
		Table 19.605.1 Residential Unit - Multi-Family Dwelling	1.25 space minimum for multi-family units over 800 sf while single family units have a minimum of 1 space.	Lower mininimums to be in compliance with HB 2001 (1/unit). Lower the maximum. Evaluate the rationale for a higher minimum for multi-family and potentially reduce to be the same as other residential units.
		19.605.C (2) Approval Criteria	A request for "reducing" a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed.	The approval criteria for either lowering a minimum requirement or locating parking off-site will likely need a lot more thought and a possible re-write.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		19.605.3 Exemptions and By-Right Reductions to Quantity Rqmts	Let's talk more about how this section fits into the desire for more flexibility in reducing minimum requirements. How can some of these exemptions be built into existing neighborhoods and made requirements rather than exemptions. For instance, which neighborhoods by right are already 500ft from a transit stop (automatic 20% reduction).	The code already allows a reduction of 1 vehicle parking space for every 6 additional bicycle parking spaces installed (see 19.605.3 B 5) up to 10% reduction. Make this a requirement and adjust the current minimum down from there (page 10 of 26). Changes here would also affect 19.609.2 (page 24 of 26). Basically, suggesting we eliminate process and use requirements of the TDM side to lower minimums. If the code already makes provisions for these as an option for developers, why not just build them in and lower the minimums. Should create less public push back as, technically, we are not changing anything in the code that is not already allowed.
		19.605.3.B.5	Allows up to a 10% reduction in vehicle parking in exchange for "covered and secured bicycle parking in addition to what is required."	Evaluate the potential for allowing a larger bike parking credit in areas that are proximate to transit (Subsection B.2.). This perhaps could apply in conjunction categories in this section.
		19.605.4 Shared Parking	Is this where on-street use might go?	
19.606		19.606.2	Landscaping provides the requirements for parking lot landscaping	Tree Board consider potential amendments to the landscaping standards for opportunities to require more trees or tree species that would provide greater canopy cover at maturity.For landscaping also consider how to maintain trees in retail parking lots. Businesses often see trees as a hindrance to their visibility and bottom line. Identify and codify ways trees can be planted to improve chances for long term survival including appropriate soil volume and adequate buffer.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.607		19.607.1.B.	Requires that off-street spaces are located outside of the front setback. Do we want to continue to require that off-street parking spaces be located entirely outside of the front yard setback? Or just make sure there is a 18' x 9' driveway or other parking area on private property, since people use their driveways anyways? Reduces area on lot for middle housing types. Does not apply to cottage cluster housing type.	Consider more flexible on-site parking requirements. Allow parking areas within setback as long as they don't extend into ROW.
19.611		Parking Structures	Need more understanding of underground parking for row houses and/or multi-family dwellings. Not sure how this section applies to our goal of maximizing site area.	
19.700 Public Facility Improvements				
19.702			Title 700 is triggered by the development of a new dwelling unit - increases the cost of development	Requires frontage improvements for ADUs and conversions of SFR into duplex. Consider exempting conversions and ADUS?
				Consider more flexible options including more rural-character street designs, like in Island Station
			Raises a housing-related issue related to frontage improvements for ADUs and single family conversions to a duplex.	Consider exempting ADUs and conversions from frontage improvement requirements. Perhaps needed right-of-way could be required, but not improvement.
19.800 Non-Conforming Uses and Development				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.900 Land Use Applications				
19.906		Development Review	The city uses a common Type I through V review system. Type I is administrative and Type II is a Planning Director decision with notice.	The project should re-evaluate the review process required for different types of residential units in the residential zones (especially 19.301 and 19.302) to reduce or eliminate any procedural "discrimination" for certain housing types. For example, should duplexes and ADUs be subject to Type II review in the R-10 and R-7 zones when single family detached homes are a Type I review (Table 19.301.2)?
19.910		Residential Dwellings Review and Approval	19.910.1 ADU approval standards in Subsection E.b. may be more subjective than state requirements will allow.	Review 19.910.1 E for consistency with state ADU rules.
			19.910.2 Duplex review process and approval criteria (Subsections C and D). Tri and quadplexes are not included	Review 19.910.2 for compliance with HB 2001, including subjective criteria for duplexes in zones that permit single detached dwellings. Consider adding procedural and approval provisions for 3&4-unit residences to comply with HB 2001. All new housing types added only subject to clear and objective standards, conditions, and procedures.
			Code uses structure footprint to establish review type, both for new construction and for conversion of an existing structure (even if only part of the existing structure will be used for the living space). This has resulted in Type III variances because of the size of an existing accessory structure.	Acknowledge the size of an existing structure - still limit ADU SQ if needed, and include standards for how the extra space needs to be separated from the living space. It's more efficient to convert a building than build a new one.
			Take another look at the review type, especially for conversion of existing structures. 640 sq ft existing structure = Type II review?	There is a difference between new construction and conversion of an existing structure. Type I review for conversion of an existing structure? We should encourage conversions over new construction. The impact of the structure is not new.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			States that yurts may be used as an ADU, but a yurt will not meet building code.	Consider removing yurts from the code given the conflict with building code.
			19.910.4 which uses structure footprint to determine review type.	Evaluate ways to assign review process so as to not penalize provision of new or converted housing as noted in the staff audit.
19.1000 Review Procedures				
19.1002		Pre-Application Conference		Review the need for preapplication conferences for housing along with the recommendation for 19.906 above.
19.1003		Application Submittal Requirements		Review the submittal requirements in 19.1003 against what's normally required for other construction allowed outright (e.g., single family detached home) to ensure equal accommodation
19.1100 Annexations and Boundary Changes				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.1200 Solar Access Protection				
			The solar access provisions apply to land divisions in single dwelling residential zones so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and "non-exempt" trees. "Exempt trees" are "solar-friendly" trees identified as part of a plat or solar access permit as exempt. "Solar-friendly trees" are defined by the City as trees that do not cause significant winter shade due to foliar period and branch structure. A "solar access permit" is a document issued by the City that describes the maximum height that nonexempt vegetation is allowed to grow. Adjustments and exemptions from solar access standards are permitted if there is shade from offsite trees or if there is shade from a high percentage of onsite trees and at least half of the trees that cause the shade will be retained.	A policy discussion is recommended on this items with City staff, residents, and the development community to identify potential conflicts with the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. Native tree species are generally prioritized in these policies, yet several would not likely be considered solar friendly trees. Also, it will be important to better understand how solar access provisions are enforced over time, especially regarding tree planting, growth, and future shading.
			Trees and other vegetation might hamper solar electricity generation.	Provide/publish solar-friendly trees on City website. Lake Oswego's list appears to be rather old (ca. 1987). It contains numerous native trees that are on the City native tree list. Compare trees on both lists to update for preferred vegetation and solar generation.
				it may be beneficial to evaluate how effective the solar access regulations are in actually creating more solar-efficient homes. The regulations are based upon model solar access regulations created in the late 1980s when subdivisions generally consisted of 5,000+ sf lots. Today, lot sizes are considerably smaller and developments are more compact, which often makes the current solar access requirements unworkable. Staff should be asked about the ratio between solar implementation and granted exemptions.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Draft Tree Amendments				
			There are two sets of draft Tree Board amendments. The first is for street/City trees and private trees in non-development situations. The second is an outline for trees in development situations.	These draft amendments generally appear consistent with and supportive of the policies of the Comprehensive Plan and Urban Forest Management Plan. Additional consideration should be given to native trees and other priority species, as well as measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies. Also, flexible standards for preservation, especially as it relates to middle housing development, should be further explored.
			The non-development regulations create permit requirements for tree pruning and removals for street/City trees and private trees. Criteria for removals are based on tree size, species, condition, risk, location, number of trees, Heritage tree status, percentage of root or crown pruning, replacement of removed trees, and payment of tree removal fees into the tree fund. Trees that are part of a development project are exempt.	In addition, the interplay between non-development and development regulations should be carefully considered including:
			Can non-development tree removal be used to avoid development tree regulations?	
			The outline of development regulations applies to land divisions and development on lots of records and right of way improvements. The regulations appear to be based on City of Portland code requirements.	Define "development" clearly so something like a small addition be used to clear two-thirds of the trees on a site
			Do non-development mitigation fees burden property owners that meet tree removal criteria?	
			For land divisions, there are minimum percent preservation standards for individual trees (smaller sites) or tree canopy (larger sites). There are additional standards for percent preservation of larger trees such as those over 20-inch DBH. Approval criteria for preservation factor in the health, suitability for preservation, balance of preservation and intensity of development, and proposed mitigation when percent preservation standards are not met. Flexible standards to increase tree preservation include allowing cottage development and reduction in minimum density.	Gear mitigation fees more towards development projects
			What is the policy basis or rationale for creating separate preservation standards for land divisions versus development on lots of record?	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			For other development on lots of record and in the right of way, the proposed preservation requirement is 33 percent of trees over 12-inch DBH. Native species over 6-inch DBH may be used to satisfy preservation requirements. Mitigation fees would be required if percent preservation requirements could not be met. Mitigation fees would also be required for the removal of trees over 30-inch DBH regardless of whether minimum percent preservation requirements are met. Lots less than 5000 square feet, dead, dying, diseased, and invasive trees, and affordable housing projects may be exempt from preservation and/or mitigation fees. In addition, tree density requirements for new development and higher value exterior remodels are required to achieve a certain level of tree canopy after development based on zoning. Lower density zoning would require more tree canopy. Exemptions would apply to land uses such as agricultural, and certain projects such as septic and plumbing would be exempt. How will enforcement of tree planting and preservation requirements occur after development is completed? Will there be special protections for trees that were required with development to ensure they become established and are not removed by new owners?	
			How will tree regulations apply within Willamette River Greenway and Natural Resources overlay zones?	
			Street tree planting would be required for all new development based on linear feet of public right of way and spacing requirements of trees. Existing street trees can be used to meet street tree requirements. Street tree planting would be exempt for development projects that are below a certain cost threshold, demolitions, and situations where there are utility conflicts.	
			Submittal requirements would include a site plan showing existing trees and proposed impacts, tree protection measures, tree health assessments from a certified arborist, and proposed tree planting.	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Other considerations include:			-Should there be a discretionary track for tree preservation if meeting the clear and objective standards are not practicable?	
			-Larger trees are typically less tolerant of construction impacts and need more space for preservation. This should be carefully considered in concert with the intensity of permitted development.	
			-Tree species, including native species, vary on construction tolerance. This should also be factored into standards and incentives for tree preservation.	
			-Should there be certain exemptions for mitigation fees for large tree removal? Examples could include: 1) lower value or shorter lived species such as red alder or black cottonwood, 2) trees where preservation alternatives were considered and there is no practicable alternative to preservation, and 3) discretionary mitigation is proposed that is beyond the minimum requirements such as habitat enhancement, creation of conservation easements, increased tree preservation, trail connections, green streets, green roofs, and other stormwater enhancements, etc.	
			-Consider how City staff and applicants can take a collaborative approach to tree preservation with development. Are there staff resources that would allow for the City arborist to meet with the applicant or applicant's arborist to identify high priority trees that may be reasonably incorporated into the development?	
			-Consider the context of the proposed development such predominant right of way character and improvements, existing tree cover and species mix, and neighborhood vision for the future. Tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into the larger patterns of the area.	
			-When planting new site and street trees, it will be critical to ensure there are adequate soil volumes and space above ground for trunks, branches, and crown growth. Well placed trees with adequate growing space will be more likely to be preserved and become amenities over the long term.	
			-Will arborists be required to create tree assessments and develop preservation and planting plans? The code outline specifies arborist for tree health exemption assessments only.	
			-What are funding and staffing resources required for enforcement of regulations?	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
5.0030 Street Design Standards				
			The standards provided on 5.0030 (page 90 of 168) seem fine. My curiosity is how the new tree ordinance will be applied to new developments in existing rights-of-way where parking is in place, creating a conflict between wanting trees and a possible approach that would allow street parking to be used against a minimum parking requirement.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0070 Bikeways				
			Same concern as above, lacking a priority for use of the right of way, particularly in existing rights of way, how do elements like parking, bikeways, etc., match up to tree goal.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0080 Accessways				
			Approach that allows on-street for meeting minimum requirements will support minimizing accessways in new development.	
5.0093 Street Planting				
			These standards establish the authority of Public Works to regulate tree removal, replacement, and planting in the public right-of-way. It establishes street tree size, species, placement, and spacing standards.	These standards should be reviewed and updated as needed to ensure they support the policies of the Comprehensive Plan and Urban Forest Management Plan. Specific items for consideration include: -Do street tree species support the priority species identified in policy documents? -Do spacing standards support the long term growth of priority species? -Are placement and setback standards appropriate and how do they impact planting opportunities? -Are the standards consistent with Public Works standards found within the Municipal Code? -Are soil volume needs for trees accounted for in the standards? -How do street design standards (Section 5.0030), including but not limited to planter strip width, influence street tree planting and preservation options?
5.0100 Dead-end Streets and Cul-de-sacs				
5.0110 Private Streets/Alleys				
			Where alleys are in place, they can be beneficial.	

urbsworks

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT B: MILWAUKIE RESIDENTIAL ZONES – SUMMARY TABLES

Title 17 – Land Division

Boundary Change Actions (Table 17.12.020)

Boundary Change Action	Type I	Type II	Type III
1. Lot Consolidation Other Than Replat			
Legal lots created by deed	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with ORS and this title	X		
b. Any adjustment that modifies a plat restriction		X	
3. Partition Replat			
a. Any modification to a plat that was decided by Planning Commission			X
b. Parcel consolidation	X		
c. Actions not described in 3 (a) or (b)		X	
4. Subdivision Replat			
a. Any modification to a plat affecting 4 or more lots[1]			X

[1] An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds three.

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Title 19 - Zoning

Use Comparison Summary Table (19.301.2 / 19.302.2)

permitted (P) | Not permitted (N) | conditional (C) | permitted with Community Service Use approval (CSU) | II (Type II review) | III (Type III review)

Comprehensive Plan Existing Land Use Designations	**Low Density**		**Moderate Density**	**Medium Density**			**High Density**	
	Low Density Zones			**Medium and High Density Zones**				
Zone	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	P/II	P/II	P	P	P	P	P	P
Residential Home	P	P	P	P	P	P	P	P
ADU	P/II	P/II	P/II	P/II	P/II	P/II	P/II	P/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse	N	N	N	P	P	P	P	P
Cottage Cluster Housing	N	N	N	P	P	P	P	P
Multi-Unit	N	N	N	C	C	P	P	P
Congregate Housing Facility	N	N	N	C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House	N	N	N	C	C	C	C	C
Commercial Uses								

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
Office[2]	N	N	N	C	C	C	C	P
Drinking Establishment	N	N	N	N	N	N	N	N
Eating Establishments	N	N	N	N	N	N	N	N
Indoor Recreation	N	N	N	N	N	N	N	N
Retail Oriented Sales	N	N	N	N	N	N	N	N
Marijuana Retail	N	N	N	N	N	N	N	N
Vehicle Sales and Rentals	N	N	N	N	N	N	N	N
Personal/Business Services	N	N	N	N	N	N	N	N
Repair Oriented	N	N	N	N	N	N	N	N
Day Care	N	N	N	N	N	N	N	N
Hotel or Motel	N	N	N	N	N	N	N	C
BnB/Vacation Rental	C	C	C	C	C	C	C	C
Parking Facility	N	N	N	N	N	N	N	N
Manufacturing and Production								
Manufacturing and Production	N	N	N	N	N	N	N	N
Institutional								

[2] Office uses permitted in medium- and high-density zones include offices, studios, clinics, and other similar professional offices.

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Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
Community Service Use	CSU	CSU	CSU	CSU	CSU	CSU	CSU	CSU
Accessory and Other Uses								
Accessory Use	P	P	P	P	P	P	P	P
Agricultural or Horticultural Use[3]	P	P	P	P	P	P	P	P
Home Occupation	P	P	P	P	P	P	P	P
Short- Term Rental	P	P	P	P	P	P	P	P

[3] Additional use limitations on agricultural and horticultural uses including on retail and wholesale sales, livestock.

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Development Standards Summary Table (19.301.4 / 19.302.4)

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
A. Lot Standards								
1. Minimum lot size (sq ft)								
a. Single-family detached	10,000	7,000	5,000					
b. Duplex	14,000	14,000	10,000	6,000	5,000	7,000	6,400	
c. Rowhouse				3,000	2,500	2,500	1,400	
d. All other lots				5,000	5,000	5,000	5,000	
2. Minimum lot width (ft)								
a. Rowhouse				30	25		20	
b. All other lots	70	60	50	50	50		50	
3. Minimum lot depth (ft)								
a. Rowhouse				80	75	80	70	
b. All other lots	100	80		80	75	80	80	
4. Minimum street frontage requirements (ft)								
a. Standard lot	35			35	35		35	
b. Flag lot	25			25	25		25	
c. Double flag lot	35			35	35		35	
d. Rowhouse				30	25		20	

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Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
B. Development Standards								
1. Minimum yard requirements for primary structures (ft)								
a. Front yard	20	20	20	15				
b. Side yard	10	5/10[4]	5	See Subsection 19.302.5.A				
c. Street side yard	20	20	15	15				
d. Rear yard	20	20	20	15				
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less			2.5 stories or 35 feet, whichever is less		3 stories or 45 feet, whichever is less		
3. Side yard height plane limit								
a. Height above ground at min. required side yard depth (ft)	20			20[5]		25[5]		
b. Slope of plane (degrees)	45			45		45		
4. Maximum lot coverage (% of total lot area)[6]	30%		35%	40%		45%		50%

[4] In R-7, one side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on a corner lot the street side yard shall be 20 feet.

[5] One additional story may be permitted in excess of required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to retain vegetation.

[6] Lot coverage standards are modified for specific uses and lot sizes. 1. Decreased lot coverage for large lots – reduced by 10 percentage points for a single-family detached dwelling, duplex or residential home on a lot that is more than 2.5 times larger than minimum lot size; 2. Increase lot coverage for single-family detached dwellings – increased by 10 percentage points for development of a single-family detached dwelling or addition to existing single-family detached dwelling, provided that portions of structure are in excess of 20 feet high, in excess or one story, or are limited to lot coverage standard; 3. Increased lot coverage for duplexes – by 20 percentage points; 4. Increased lot coverage for detached accessory dwelling units – increased by 5 percentage points for development of new detached accessory dwelling unit (applies only to detached accessory structure). 5. Increased lot coverage for duplexes and rowhouses – in medium and high density zones increased by 20 percentage points.

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
5. Minimum vegetation (% of total lot area)[7]	35%	30%	25%	35%		15%		
C. Other Standards								
1. Density Requirements (dwelling units/acre)[8]								
a. Minimum	3.5	5.0	7.0	11.6	11.6		25.0	
b. Maximum	4.4	6.2	8.7	14.5	17.4		32.0	
Residential Densities (square feet per unit)								
a. First dwelling unit						5,000	5,000	
b. Additional dwelling units						2,500	1,400	
Building Limitations								
Buildings on the Same Lot[9]	1	1	1	1[10]	Multi-family buildings shall not an overall horizontal distance exceeding 150 linear feet as measured from end wall to end wall			

[7] At least 40% of front yard shall be vegetated, counts toward minimum required vegetation for the lot. Property may provide less than 40% of front yard vegetation requirement if necessary, to provide turnaround area so vehicles can enter collector or arterial street in forward motion. In medium and high-density zones at least half of the minimum vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

[8] Minimum and maximum densities applicable for land divisions and replats that change number of lots. If a proposal is not able to meet minimum density requirement – due to dimensional requirements for lot width, lot depth, or lot frontage – the minimum density requirement shall instead be equal to the minimum number of lots that can be obtained from site given its dimensional constraints.

[9] In low-density residential zones, one primary building design for dwelling purposes shall be permitted per lot, a detached accessory dwelling unit may be permitted.

[10] Multi-family housing with multiple structures designed for dwelling purposes may be permitted as a conditional use.

Other Applicable Development Standards

19.502 Accessory Structure Standards			
	Type A	**Type B**	**Type C**
Maximum Building Height (feet)	10	15	Lesser of 25 OR not taller than highest point of primary structure[11]
Maximum Building Footprint (square feet)	200	600	Less of 75% of primary structure OR 1,500[12] On lots < 1 acre, max. 800 if any portion of structure is in front yard
Required Rear Yard (feet)	3	5	Base zone required
Required Side Yard (feet)	3	5	Base zone required
Required Front Yard (feet)	Not allowed in front yard unless structure is at least 40 from front lot line		
Other Development Standards			
	Maximum accessory structure footprint subject to lot coverage and minimum vegetation standards of base zone. Minimum of 5 feet required between exterior wall of accessory structure and exterior wall of any other structure on site, excluding fence		
	Exceptions for lots larger than 1 acre to height limitation and footprint size. Allowed base zone height limit or 25 feet (whichever is greater). Allowed maximum footprint of 1,500 square feet.		

19.504 Site Design Standards	
Clear Vision Areas	A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and railroad according to provisions of Section 12.24.
Maintenance of Minimum Ordinance Requirements	No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use
Dual Use of Required Open Space	No lot area, yard, or other open space or off-street parking or loading area which is required for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided for by shared parking.
Distance from the Property Line	Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

[11] Allowed at least 15 feet height regardless of primary structure height.

[12] Allowed at least 850 square feet if lot area is > 10,000 square feet

19.505.4 Cottage Cluster Housing Development and Design Standards[13]	
a. Size (square feet)	The total footprint of a cottage unit shall not exceed 700 The total floor area of each cottage unit shall not exceed 1,000
b. Max. Height (feet)	For all structures – 18[14]
c. Orientation	(1) The front of a cottage is the façade with the main entry door and front porch, shall be oriented toward either a common open space or public street. If not contiguous to either of these, shall be oriented toward internal pedestrian circulation path. (2) At least ½ of cottages in cluster shall be oriented toward a common open space
d. Required Yards	
1) Yard Depth (feet)[15]	At least 10.5, front porch may encroach into yard
2) Rear Yard Depth (feet)	At least 7.5
3) All Other Yards Depth (feet)	5
4) Min. Spacing Between Cottages (ft)	10[16]
5) Perimeter Setbacks	All structures in cottage cluster required to comply with perimeter setback areas in Subsection 19.505.4.D.2.f[17]
e. Design Standards	
1) Cottages fronting a street shall avoid blank walls, include at least one of the following:	a) changes in exterior siding materials b) bay windows with min. depth of 2 feet, min. width of 5 feet c) wall offsets of at least 1 feet deep
2) Trim dimensions (windows/doors)	Min. 3 inches wide, 5/8 inches deep
3) Minimum roof pitch	4/12
4) Transparency of façade	Windows and doors account for at least 15% of façade area[18]
5) Horizonal siding material	At least 60% on each wall shall be either horizontal lap siding (between 3-7 inches wide) or shake siding
f. Front Porches[19]	
1) Min. porch depth (feet)	6.5
2) Width of porch	At least 60% of width of overall length of front façade
3) Front door	Must open onto the porch
4) Weather protection	Entire area of front porch must be covered
5) Height from ground (inches)	Surface may not exceed 24 above grade, as measured from average ground level at front of porch
Site Design Standards	
a. No. of Cottages	Not to exceed dwelling unit max. of base zone, min. of 4, max. of 12
b. Common Open Space (square feet)	1) At least 100 of area for each cottage in development 2) Min. dimension is 20 on one side
c. Private Open Space (square feet)	Each cottage shall have on same lot as cottage, at least 100 with no dimension less than 10 feet on one side

[13] These standards apply to cottage cluster wherever allowed by base zones. They apply to both new development and modifications to existing cottage clusters. The base zone development standards for height, yards, lot coverage, and minimum vegetation and design standards in 19.505.1 are not applicable. Cottage cluster development in R-2, R-1, or R-1-B zones also subject to the site size standards in 19.302.5.

[14] Cottages or amenity buildings having pitched roofs with a min. slope of 6/12 may extend up to 25 feet at the ridge of the roof.

[15] Between cottage dwelling structure and either public street, common open space, or internal pedestrian circulation path.

[16] Architectural features/minor building projections (eaves, overhangs, or chimneys) may project into required separation by 18 ins.

[17] This requirement may increase the required yard depths listed.

[18] Applies to facades oriented toward a public street or common open space.

[19] Each cottage shall have a porch on the front, intended to function as an outdoor room that extends living space of cottage into semipublic area between cottage and open space.

d. Max. Lot Coverage / Impervious Area	Total footprint of all structures not to exceed 40% of site area. Impervious surfaces (including all structures), not to exceed 60% of site area
e. Internal Pedestrian Circulation (feet)	Include pedestrian paths on-site, min. width 6[20]
f. Perimeter Setback Areas (feet)	All structures located at least 15 front rear lot lines, at least 5 from side lot lines
g. Off-Street Parking	
1) Min.	1/dwelling unit[21]
2) Setback from street (feet)	If axis of longest dimension of parking area has angle of 45 degrees or more to lot line, narrowest dimension may be within 5 of street. If angle is less than 45 degrees, parking area may be at least 20 from street.
3) No. of parking areas	If there are more than 8 units in a cluster, there shall be at least 2 separate parking areas with a min. of 4 spaces in each area.[22]
4) Garages	Spaces may be located within garage, may not contain more than 4 spaces, at least 10 feet from any cottage dwelling, and match materials, trim, and roof pitch of cottages. Interior height max. 8 feet.
5) Screening	Parking spaces not in garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen such as fence
h. Fences (feet)	Max. height 3, 6 along perimeter

[20] Paths must provide continuous connection between front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within development.

[21] Shall be located together with parking spaces for other cottage in common area and not on same lot as individual cottage unit.

[22] A drive aisle is permitted connecting the 2 areas if a separate driveway access for each area is not permitted by 12.16 Access Management.

19.505.5 Rowhouse Design Standards	
B. Applicability	Apply to single-detached dwellings on their own lot where dwelling shares common wall across side lot line with > 1 other dwelling.[23]
C. Design Standards[24]	
2) Transition Area (feet)	Shall include area of transition between public realm of right-of-way and entry to private dwelling. May be either horizontal or vertical. a) Vertical transition: uncovered flight of stairs, must rise at least 3, not more than 8 from grade[25] b) Horizontal transition: covered porch with depth of at least 6[26]
D. Number Allowed	No more than 4 consecutive rowhouses that share a common wall. A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.
E. Rowhouse Lot Standards	
1) Max. lot width (feet)	Rowhouse development not allowed on lots > 35
2) Lot number/standards	Allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.
3) Min. lot size (a)	Rowhouses in R-3 and R-2.5 Zones must meet min. lot size standards in Subsection 19.302.4.A.1.
4) Min. lot size (b)	Rowhouses in R-2, R-1 and R-1-B Zones must meet min. lot size standards in Subsection 19.302.4.A.1. Must also meet requirements of Table 19.505.5.E.4[27]
F. Driveway Access and Parking	
1) Garages, off-street parking in front yard, and driveway accesses standards	Prohibited unless the following standards are met: a) Each rowhouse has at least 30 feet of frontage on a neighborhood route or local street b) 2 or 3 rowhouses have at least one shared access between lots; 4 rowhouses have 2 shared accesses c) Parking and maneuvering areas do not exceed 10 feet wide d) Garage width does not exceed 10 feet
2) Alternative standards	The following rules apply to driveways and parking areas when developments do not meet all the standards listed above: a) Off-street parking shall be accessed on the back façade or located in rear yard b) Corner lots shall take access from single driveway on side of corner lot c) When not corner lot, access shall be consolidated for all lots into single driveway, not permitted between front façade and front lot line d) Consolidated access/shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access
G. Accessory Structure Setbacks (feet)	On rowhouse lots with a lot width of 25 ft or <, there is no required side yard between an accessory structure and side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

[23] Lots must meet the standards for rowhouse lot in both Section 19.302 and 19.505.5.E. May take place on existing lots that meet the lot standards for rowhouse lots on land that has been divided to create new rowhouse lots. Dwelling units that share common side wall and are not on separate lots, subject to standards for duplexes or multi-unit housing.

[24] Subject to design standards for single-family housing 19.505.1 - 2.

[25] Flight of stairs must lead to front door or front porch, may encroach into required front yard, bottom step must be at least 5 feet from front lot line.

[26] Front porch may encroach into required front yard but shall be at least 7 feet from the front lot line.

[27] 2 rowhouses: R2 = 7,500 sf, R-1 and R-1-B=6,400 sf; 3 rowhouses: R2 = 10,000 sf, R-1 and R-1-B=7,800 sf; 4 rowhouses: R2 = 12,500 sf, R-1 and R-1-B=9,200 sf.

19.600 Off-Street Parking Standards		
Residential Use[28]	**Minimum**	**Maximum**
Single Family Dwellings (including rowhouses and manufactured homes)	1/primary dwelling unit	-
Multifamily Dwellings[29]		
a. Units < 800 SF located in Downtown Mixed Use zone (DMU)	1/unit	2/unit
b. Units > 800 SF	1.25/unit	2/unit
Residential homes and similar facilities allowed outright in residential zones	1/unit + 1/employee on largest shift	Min. + 1 space/bedroom
ADUs	None, unless vacation rental 1/unit	-
19.607 Additional Design Standards		
Minimum Dimensions of Off-Street Space (feet)	9 wide x 18 deep	
Location	1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved 2. No portion of the required parking space is allowed within the following areas. [30] a. Within the required front yard or within 15 ft of the front lot line, whichever is greater. b. Within a required street side yard.	
Parking Surface Material	1. Required parking spaces, vehicle parking spaces and maneuvering areas located with required front or side yard required to have durable and dust-free hard surface. 2. Maneuvering areas and unrequired parking areas outside of a required front or side yard allowed to have gravel surface.	

[28] Development of a vacant site or that results in an increase of 100% or more of existing floor area and/or structure footprint on a site must conform to parking standards of 19.600. When development results in an increase of less than 100% of existing floor area and/or structure footprint or represents a change of use, existing off-street parking and loading areas shall be brought closer into conformance with standards of 19.600. There are limitations to improvements not to exceed 10% of development permit value and/or tenant improvements associated with change in use. Required to submit parking plan to Planning Director who evaluates with prioritized list.

[29] Dwellings containing 3 or more dwelling units (includes senior and retirement housing)

[30] These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

19.700 Public Facility Improvements			
Single Family Residential Expansion	Applies	Does not apply	Must demonstrate compliance with: A. Procedures, requirements, and standards of Public Works Standards B. Provide transportation improvements and mitigation in rough proportion to potential impacts of developments per 19.705 C. Demonstrate adequate street drainage, safe access and clear vision at intersections, access onto public street with min. paved widths, adequate frontage improvements, and compliance with LOS D for all intersections impacted by development.[31]
A. Expansions/conversions that increase combined gross floor area of all structures by 1,500 SF or more[32]	X		
B. Expansions/conversions that increase combined gross floor area of all structures between 200 SF – 1,499 SF**Error! Bookmark not defined.**	X Only ROW dedication		
C. Expansions/conversions that increase combined gross floor area < 200 SF**Error! Bookmark not defined.**		X	
D. Single-family residential expansions shall provide adequate public utilities		X	
E. Construction/expansion of garage/carport[33]		X	

[31] For local streets a minimum paved width of 16 feet along the site's frontage. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage. For all streets, a minimum horizontal ROW clearance of 20 feet along the site's frontage.

[32] Calculations exclude noninhabitable accessory structures and garages.

[33] Must comply with Chapter 12.16 Access Management and existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.910.1 Accessory Dwelling Units Approval Standards and Criteria	
B. Applicability	Apply to establishment of any ADU
C. Procedures	Application subject to Type I review, properties adjoining received mailed notice, including site plan, building elevations
D. Approval Standards and Criteria	
1) ADU Type I review subject to following standards	a) Is an allowed use in base zone, overlay zones, or special areas b) Primary use of property is single-family detached dwelling c) One ADU per single family home or lot allowed d) Development standards of 19.9810.1 E met e) Proposal complies with all other applicable standards of this title
2) ADU Type II subject to following review criteria	a) Standards above in Section 1 are met b) ADU not incompatible with existing development on the site, and on adjacent lot (architectural style, materials, colors) c) Massing of ADU and its placement on site maximizes privacy for, and minimizes impacts to, adjacent properties d) Appropriate level of screening for nearby yards and dwellings provided by design of ADU and existing/proposed vegetation and other screening
E. Standards	
1) Creation	ADU may be created by conversion of existing structure, addition to existing structure, or new construction, or both addition/conversion
2) Coordination of Standards	More restrictive provisions applicable in event of conflict between standards in this section and other portions of this title
3) Attached ADU Development and Design Standards[34]	a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less
	b) Design Standards: (1) Façade of structure that faces front lot line shall have only one entrance, secondary entrance for ADU allowed on any other façade. (2) Stairs, decks, landings, or other unenclosed portions of structure leading to entrance of ADU not allowed on façade that faces front lot line (3) Proposals for ADUs that would increase floor area through new construction subject to additional design standards[35]
4) Detached ADU Development and Design Standards	a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less b) Max. structure footprint, height, and yard regulations listed in Table 19.910.1.E.b.[36] Structures that exceed any of maximums associated with Type I review require Type II review. Structures not allowed to exceed any of maximums associated with Type II review without variance.
	c) Design Standards: (1) Shall include at least 2 of design details listed. An architectural feature may be used to comply with more than one standard. · Covered porch at least 5 feet deep and 5 feet wide · Recessed entry area at least 2 feet deep and 5 feet wide · Roof eaves with min. project of 12 inches from intersection of roof and exterior walls · Horizontal lap siding between 3 – 7 inches wide

[34] Reviewed through Type I review.

[35] Exterior finish on addition shall match exterior finish material of primary dwelling unit in type, size and placement. Trim must be same in type, size, and location as trim used on primary dwelling unit. Windows on street facing facades must match those in primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical). Eaves must project from building walls at same proportion as eaves on primary dwelling unit.

[36] Type I review – Max. footprint 600 square feet; Max. height 15' limited to 1 story; base zone requirements for side, rear, and street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line. Type II review – Max. footprint 800 square feet; Max. height 25 feet limited to 2 stories; Required 5 foot side and rear yard; Base zone requirements for street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line.

	· Window trim around all windows at least 3" wide, 5/8" deep (2) May request a variance to design standards through Type II review (3) ADU with floor-to-ceiling height of 9 feet or >, required to have roof pitch of at least 4/12 (4) Yurt may be used as detached ADU and is exempt from design standards
	d) Privacy Standards[37] (1) Required on or along wall(s) of detached ADU, or portions thereof, that meet following criteria: (a) Wall is within 20 feet of side or rear lot line (b) Wall is at an angle of 45 degree or less to lot line (c) The wall faces an adjacent residential property (2) Meets privacy standards if either of following standards met: (a) Wall windows on a wall shall be placed in upper third of distance between floor and ceiling (b) Visual screening is in place along portion of property line next to wall of ADU, plus an additional 10 lineal feet beyond corner of wall. Screening shall be opaque, at least 6 feet high; may consist of fence, wall, or evergreen shrub.[38]
	e) Conversion of Existing Structures Creation of detached ADU through conversion of accessory structure established on or after Dec. 1, 2012 is required to meet all applicable standards for new detached ADU. Creation of detached ADU through conversion of an existing accessory structure that was legally established prior to Dec. 1, 2012 is allowed. Conversion must meet all standards that apply to creation of new detached ADU, except for design standards in 19.910.1.E.4.c.
	f) Additional Provisions (1) ADUs not counted in calculation of min. or max. density requirements (2) Additional home occupations allowed for property with ADU.

[37] Privacy standards required for detached accessory dwelling units processed through Type I review. Detached ADUs permitted through Type II review may be required to include privacy elements to meet approval criteria.

[38] Newly planted shrubs shall be no less than 5 feet above grade at time of planting. They shall reach 6 feet high within one year. Existing features on site can be used to comply with this standard.

19.910.2 Duplex Approval Standards and Criteria	
B. Applicability	Regulations apply to new construction, conversion/add on to existing structure to create duplex, also apply to additions and modifications to existing duplexes
C. Review Process The following review process required for duplexes (either through new structure or conversion/addition to existing structure)	a) In R-5, R-3, R-2, R-1, R-1-B, R-O-C zones, duplex allowed outright, subject to lot size requirements for base zone, review of applicable development and design standards occurs during review of development permit b) In R-10 and R-7 duplex allowed outright[39], subject to lot size requirements for zone, , review of applicable development and design standards occurs during review of development permit c) In R-10 or R-7 zone, if not eligible outright, allowed through Type II review.
D. Approval Criteria	If duplex is not an outright allowed use, must meet following criteria: a) The location of duplex at proposed site will not have substantial impact on existing pattern of single-family detached dwellings within the general vicinity of the site. b) Design of proposed duplex is generally consistent with surrounding development c) Proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling

[39] Property must have frontage on collector or arterial street (as identified in TSP) or be on a corner lot.

Approval Types

Review Type	Review Authority	Appeal Authority	Public Hearing	Notes
19.1000 Review Types/Procedures				
Type I	Planning Director	Planning Commission		Applies to permitted uses or development governed by clear and objective approval criteria and/or development standards that may require the exercise of professional judgement about technical issues
Type II	Planning Director	Planning Commission		Applies to uses or development governed by subjective approval criteria and/or development standards that require the exercise of limited discretion.
Type III	Planning Commission	City Council	X	Quasi-judicial and subject to approval criteria that require exercise of discretion and judgment and about which there may be broad public interest. Impacts may be significant and development issues complex. Conditions of approval may be extensive.
Type IV	City Council, initial hearing/recommendation from Planning Commission	None	X	Involve amendments to zoning or land use maps. Require great deal of professional analysis, reviewed against subjective approval criteria.
Type V	City Council, initial hearing/recommendation from Planning Commission	None	X	Legislative in nature, involve creation, revision, or large-scale implementation of public policy. Requires broad public notification/hearings.

permitted out right – Type I procedure (P) | permitted out right, require Type II procedure (II) | conditional (C) | Type III review (III)

	Low Density Zones			Medium and High Density Zones				
Zone	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	II	II	P	P	P	P	P	P

	Low Density Zones			Medium and High Density Zones				
Zone	**R-10**	**R-7**	**R-5**	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**
Residential Home	P	P	P	P	P	P	P	P
ADU	I/II	I/II	I/II	I/II	I/II	I/II	I/II	I/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse				P	P	P	P	P
Cottage Cluster Housing				P	P	P	P	P
Multi-Unit				C	C	P	P	P
Congregate Housing Facility				C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House				C	C	C	C	C

urbsworks

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT C: SUMMARY OF HB 2001 COMPLIANCE PATHS

This memo summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46. The OAR provides the regulations that enact the mandate of House Bill 2001. The proposed rules can be found at this link:
http://records.sos.state.or.us/ORSOSWebDrawer/Recordpdf/7606963

House Bill 2001 overview

The intent of HB 2001 is to increase the amount and types of housing available statewide to alleviate housing shortages and provide more choice. Recognizing the different scale of cities in Oregon, the legislation defines two types of cities (medium and large). Large cities have until June 30, 2022 to comply. For large cities, like Milwaukie:

- Duplexes must be allowed on all lots or parcels that allow single detached dwellings
- Middle Housing (Triplexes, Quadplexes, Townhouses, and Cottage Clusters) must be allowed in areas that permit single detached dwellings

Cities may regulate or limit areas where Middle Housing is permitted to comply with statewide planning goals such as:

- Goal-protected lands (Goals 5, 6, 7, and 9)
- Infrastructure constrained lands
- Master planned communities

Different pathways to compliance

There are four different ways to comply with HB2001. Draft rules detailing how to comply are under consideration by DLCD and expected to be adopted by December 2020. Any revisions are expected to be minor and not change the pathways to compliance. The four pathways include:

1. Meet the **minimum compliance standards** per the proposed Oregon Administrative Rule (OAR) 660-046
2. Adopt the **model code**
3. Adopt standards (about lot size and density) that meet specific **performance metric standards**
4. Adopt **alternative standards** (about siting and design) and demonstrate more housing is created using production standards

A city can use multiple pathways to compliance for different housing types, per the proposed rules. For example:

- "[A] sample city could choose to regulate the minimum lot size of cottage clusters in conjunction with the allowable minimum compliance standards but could choose to regulate the minimum lot size for quadplexes differently subject to the Performance Metric Approach. In this case, the sample city would be choosing to utilize the Performance Metric Approach only for quadplexes and not for cottage clusters."

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Below is a summary of the minimum compliance, performance metric, and production standards pathways to compliance.

Overview of Minimum Compliance Approach

The minimum compliance rules outline reasonable siting and design standards and important process and enforcement rules that ensure Large Cities do not cause "unreasonable cost or delay" to the development of middle housing. Siting standards relate to the position, bulk, scale or form of a structure, e.g. "where is it on the land." Design standards relate to the arrangement, orientation, appearance, or articulation of features. Following is a more detailed overview of this pathway.

Siting Standards

The draft rules set separate siting standards for each housing type. Siting standards include minimum lot size, density, setbacks, height, parking, and lot coverage.

- Minimum lot sizes by housing type:
    - Triplex: 5,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
    - Quadplex: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
    - Townhouse: Average may not be greater than 1,500 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
    - Cottage Cluster: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
- Setbacks: Generally, can't be greater than for single detached dwellings in the same zone
- Maximum height: Generally, can't be lower than the maximum height allowed for single detached dwellings in the same zone
- Parking (off street minimum required):
    - Duplexes: Not more than 2 off-street spaces, may allow on-street parking to meet requirements
    - Triplexes: 1-3 spaces depending on lot size
    - Quadplexes: 1-4 spaces depending on lot size
    - Townhouses: 1 space per Townhouse, may allow on-street parking to meet requirements
    - Cottage Cluster: 1 space per unit, may allow on-street parking to meet requirements
- Density: Density maximums may not be applied to Duplexes, Triplexes, Quadplexes, and Cottage Clusters. Townhouses may be permitted 4x the maximum density of single dwellings in the same zone or 25 dwelling units per acre, whichever is less.

Design Standards

Design standards are not required. If, however, design standards are applied, only the following may be used:

- Design standards defined in the Model Code
- Design standards that are less restrictive than those defined in the Model Code
- Same design standards as applied to single dwellings

No design standards may be required for middle housing created through conversion of an existing building.

Overview of Performance Metric Approach

If cities want the flexibility to determine where Middle Housing will go and chose to adopt standards for minimum lot size or maximum density, they will be required to conduct a performance analysis. This analysis must demonstrate there is an equitable distribution of Middle Housing on lots throughout the city.

At a minimum, a local government must allow Middle Housing types other than duplexes on the following proportion of lots or parcels:

- Triplexes must be allowed on 80% of lots or parcels in a Large City
- Quadplexes must be allowed on 70% of lots or parcels in a Large City
- Townhouses must be allowed on 60% of lots or parcels in a Large City
- Cottage Cluster must be allowed on 70% (TBD) of lots or parcels in a Large City

Overview of Alternative Design Standards Approach

In recognition that some cities have already been actively encouraging the development of Middle Housing, this pathway seeks to allow cities to continue to use existing development standards as long as they can prove they are producing a substantial amount of Middle Housing. They may not apply these standards citywide but only in areas where they previously existed; new areas must meet the minimum compliance.

Cities seeking to use alternative design standards for siting and design must demonstrate:

- They do not cause unreasonable cost or delay
- Alternative standards will produce *more* Middle Housing (must demonstrate an annualized fraction of 3% production of Middle Housing based on the length of time the particular standard has been effective)
- Routinely check-in to make sure substantial production is being met (through Housing Needs Assessment update 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

Edward Simmons	1/18/2021	ed-simmons@comcast.net	*Hello,* *I would like to see language in the proposed tree code that allows for property owners with experience growing fruit and ornamental trees to make the determination if a tree needs to be removed. The tree codes in Portland and Lake Oswego are unduly restrictive and require a certificated arborist to make that determination. It appears that Milwaukie may be headed down that path. People who have grown trees as opposed to those who specialize in cutting them down should have at least as much right to determine if a tree on their property needs to be removed.* *Thank you,* *Edward Simmons* *3500 SE Guilford Ct* *Milwaukie, OR 97222* *Hello,* *I would like to see language in the proposed tree code that allows for property owners with experience growing fruit and ornamental trees to make the determination if a tree needs to be removed. The tree codes in Portland and Lake Oswego are unduly restrictive and require a certificated arborist to make that determination. It appears that Milwaukie may be headed down that path. People who have grown trees as opposed to those who specialize in cutting them down should have at least as much right to determine if a tree on their property needs to be removed.* *Thank you,* *Edward Simmons* *3500 SE Guilford Ct* *Milwaukie, OR 97222*	Hi Edward, We received your comment below – thank you for reaching out with this feedback. The proposed tree code has an exemption for trees used for agricultural purposes (like an apple orchard). There are a few different permit paths to apply for a removal of a tree – if it's dead/dying/hazardous etc. an ISA certified arborist is required to make the official designation. However, the proposed code does allow for one healthy tree removal <12" DBH is a property owner so chooses. This doesn't require an arborist, and is up to the property owner to make the decision on if they want to remove the tree. We're also working on low income assistance for qualifying property owners to reduce barriers for tree removal if necessary. I included the proposed approval standards for a type 1 permit below, which is the streamlined, more 'common' tree removal reasons. There is also a type 2 permit, which is for larger trees or if a property owner wants to remove more than one healthy tree. An arborist is not required for a Type 2 permit, but there may be a removal fee associated with the tree while type 1 permits do not require a removal fee. Please let me know if you have any questions! I'll try to address this tonight at Council. Thanks, Natalie
Paul Anderson	2/1/2022	Paul A. <versengr@gmail.com>	*Testimony around private tree code, 40% canopy goal feasibility.*	
Micah Meskel (Portland Audubon)	2/1/2022		*Testimony - Suggestions for increasing mitigation fees for lower canopy cover tiers. Suggestion for adding additional significant tree credits for exra large trees due to importance in community and for habitat.*	Staff have added additional significant tree credits for trees >36" DBH, and additional fee tier for removals of trees >36" DBH
Arlene Miller	2/4/2022		*Hector Cambell - Lived in Milwaukie 40 years. Called in support of tree code, and urban forest work that the city was doing. 'This is an urban forest, and these are just houses that exist in a forest'. Phone: 9712636200*	Called and talked to Arlene.

Anthony Allen	2/4/2022		*Hi Natalie,* *Thank you for clarifying. I will be honest, I think a lot of people are confused because the City on one hand says the code does not apply to them, yet on another it does, as your two paragraphs demonstrate. That being said, I do have more questions and concerns but will ask on that has personal significance for me before asking general ones. It concerns ownership. Over the past several years I have invested many thousands of dollars in nursery stock for my yard, which was nearly empty when I moved here. Some of these trees will soon exceed 6" DBH. Is the City of Milwaukie saying I don't have the right to do whatever I want with these plants that I, not the City, paid for? If I were to relocate from Milwaukie, am I allowed to remove those plants and relocate them out of the city with me? These are practical points that do not seem to be addressed in the code revisions.* *Anthony*	Hi Anthony, So it sounds like you are interested in moving >6" DBH trees from your property when you move outside of the city? Is that correct? I think that is a very unique situation that the code doesn't address explicitly. Situations may arise where a large tree may possible to relocate on the site, and in those instances we'd likely waive any removal fees and try to work with the property owner to keep the tree on the property, albeit in a different location. The code doesn't apply to vegetation outside of >6" DBH trees, so those relocations would be up to the past property owner and the property purchaser to negotiate in the transition of home ownership. I understand the concern, as I have many treasured plants in my yard that I would want to scoop up and take with me ☺ Thanks, Natalie
			Hi again, *I would like to clarify that the scenario I proposed about moving trees regarded those greater than 6" DBH.* *Anthony* *On Fri, Feb 4, 2022 at 11:42 AM Anthony Allen <allena392@gmail.com> wrote:* *Hi Natalie,* *My question is more fundamental than that. Yes, I would like to know that I have every right to relocate a tree free of ANY fee that I purchased regardless of the DBH being greater than 6", but I am also wanting an answer to the question of a person being able to remove by any means a tree that they, not the City purchased.* *Anthony*	Hi Anthony, Thanks for your thoughts on this. The residential tree code as drafted regulates all trees over 6" in DBH regardless of original purchaser. This is similar to the public tree code that regulates all public trees regardless of the purchaser. As I mentioned below, the code doesn't address relocation explicitly as it's a very unique situation. I will include your questions/thoughts below on our testimony tracker for council to consider during deliberation, and I'll mark it down as an item to discuss internally. Thanks again, Natalie

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

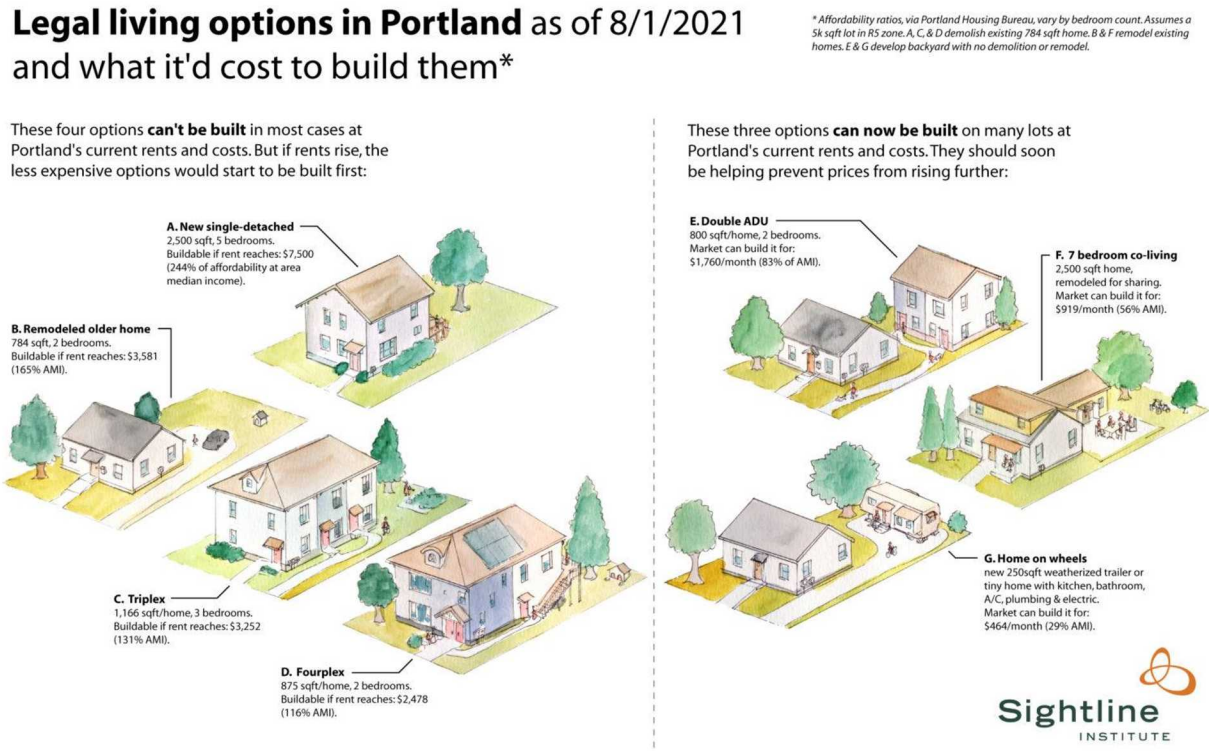
Every quantitative analysis of middle housing we're aware of suggests that, for better or worse, re-legalizing middle housing options will change a city quite slowly.

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.

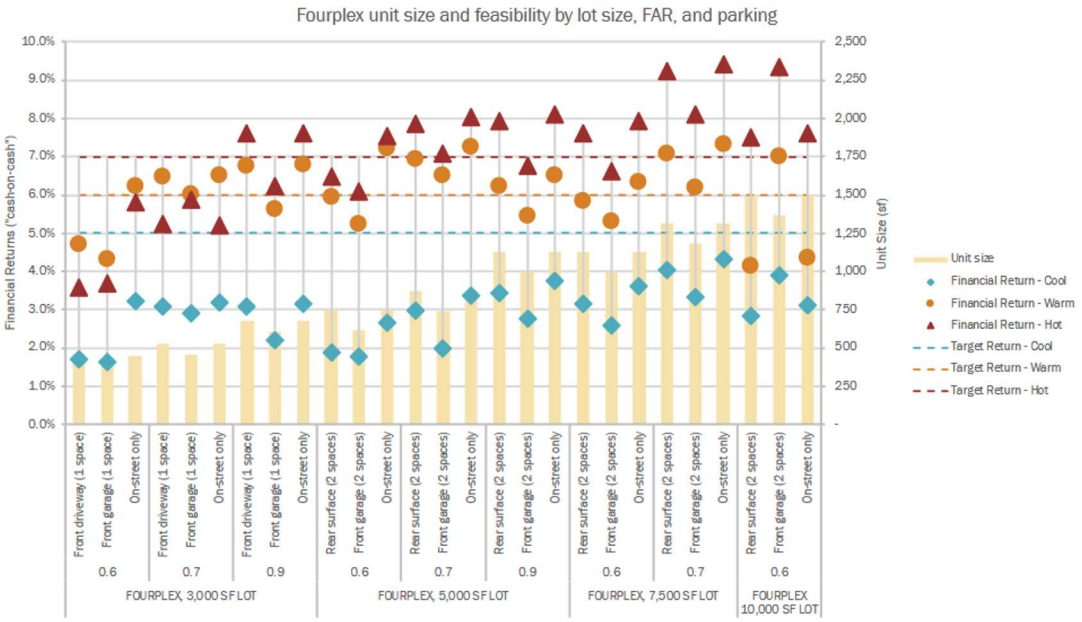
Parking and middle housing

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.

Lot Size: 5,000 SF **Units:** 4

Lot Width: 50 Lot Depth: 100

Buildable Dimensions: 40' x 65'

FAR: 0.7 GFA: 3,500

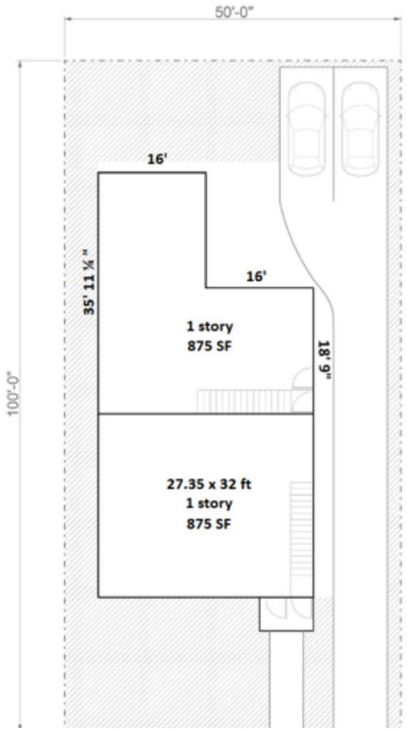
Unit SF: 875 Floors: 2

Building Footprint: 1,750 SF

Layout:

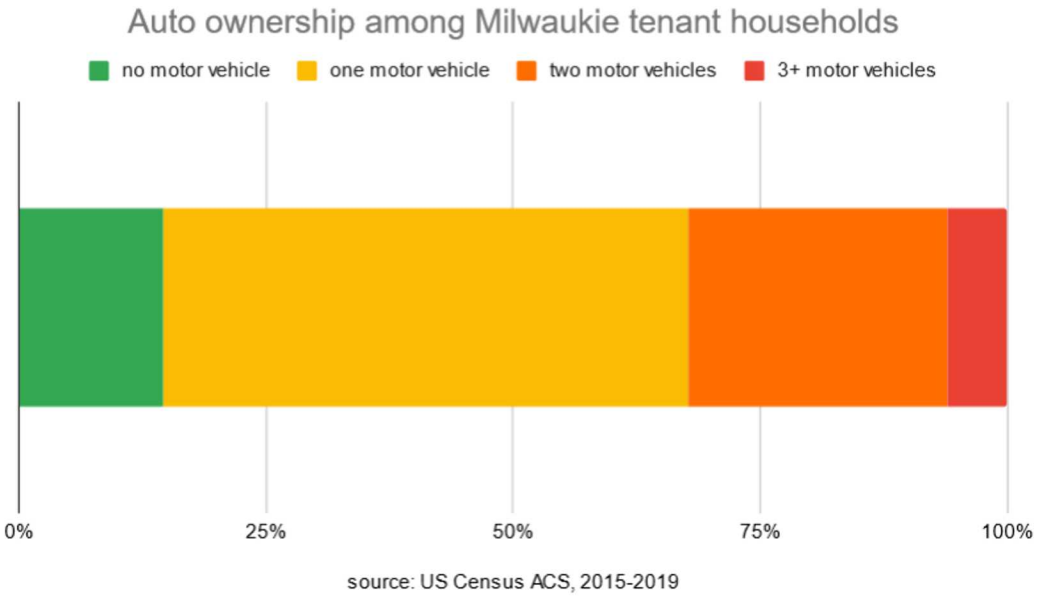
Stacked units.

Two rear parking spaces.



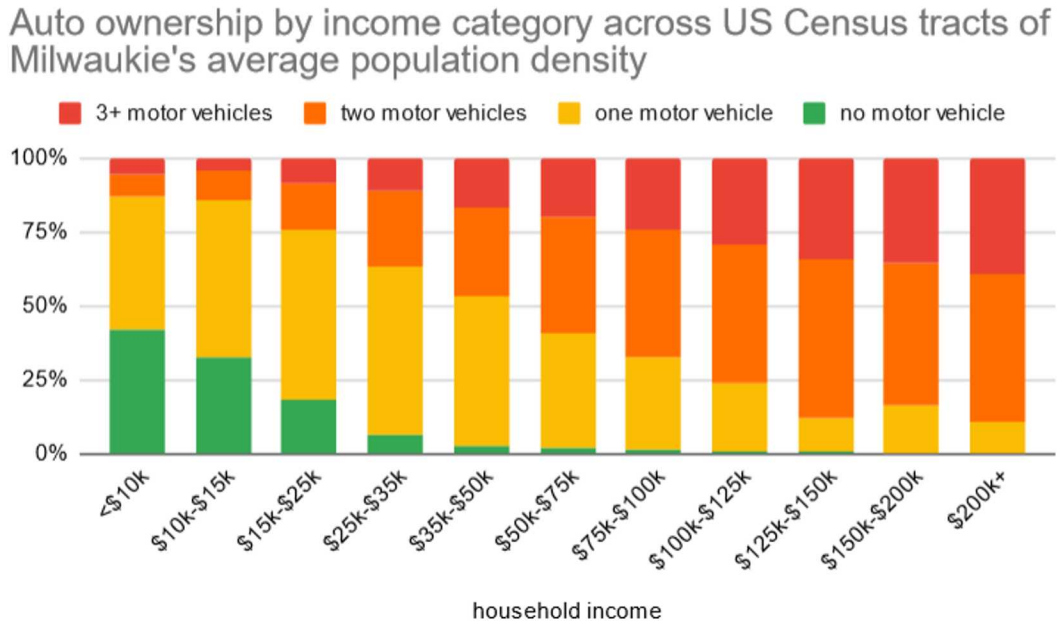
Parking mandates are a particular burden on tenants, especially lower-income tenants.

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.



source: US Census ACS, 2015-2019

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

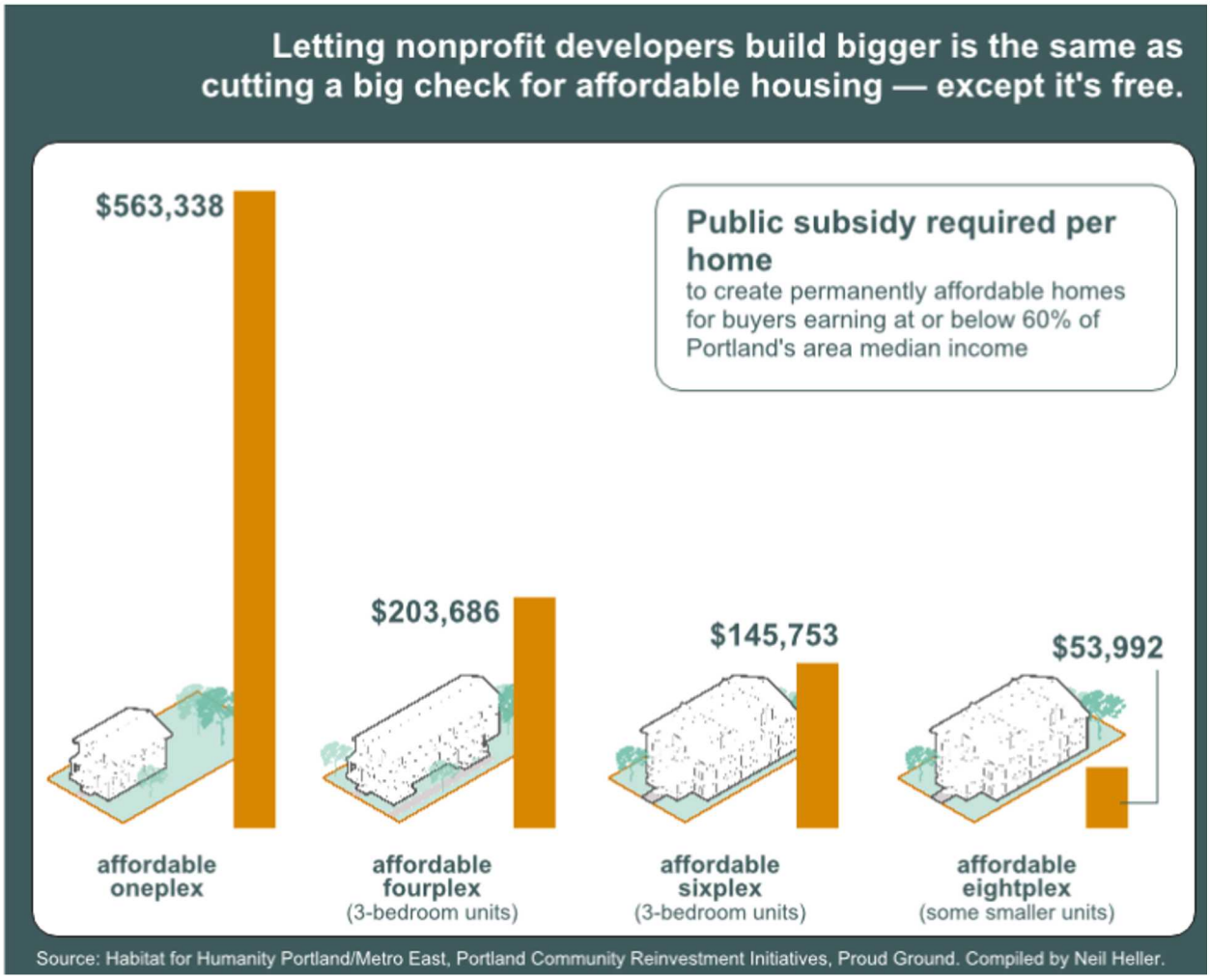
And an older fourplex with none:



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**
	Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
	Surface Lot Stalls/Unit	-	-	0.25	0.14	**0.09**
	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**
	Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	**1.44**
	Surface Lot Vehicles/Unit	-	-	0.18	0.11	**0.07**
	[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:

<u>OVERARCHING SECTION GOAL</u>
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.

<u>GOAL 1.1 - FOSTER BROAD, EFFECTIVE, AND COLLABORATIVE COMMUNITY PARTICIPATION</u>

> 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.



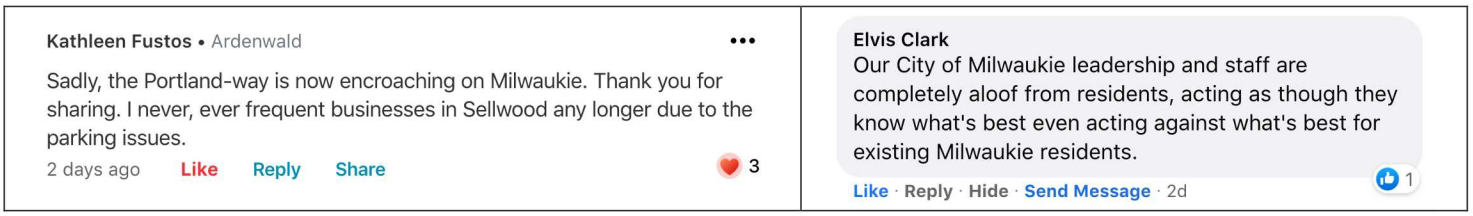
Like · Reply · 2d 5

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



Kathleen Fustos • Ardenwald

Sadly, the Portland-way is now encroaching on Milwaukie. Thank you for sharing. I never, ever frequent businesses in Sellwood any longer due to the parking issues.

2 days ago Like Reply Share 3

Elvis Clark

Our City of Milwaukie leadership and staff are completely aloof from residents, acting as though they know what's best even acting against what's best for existing Milwaukie residents.

Like · Reply · Hide · Send Message · 2d 1

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; corinn@chapeltheatremilwaukie.com; Sarah Smith; cdortolano@gmail.com
Subject: Land use #ZA-2021-002 TREES
Date: Sunday, October 31, 2021 8:46:41
Attachments: image003.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

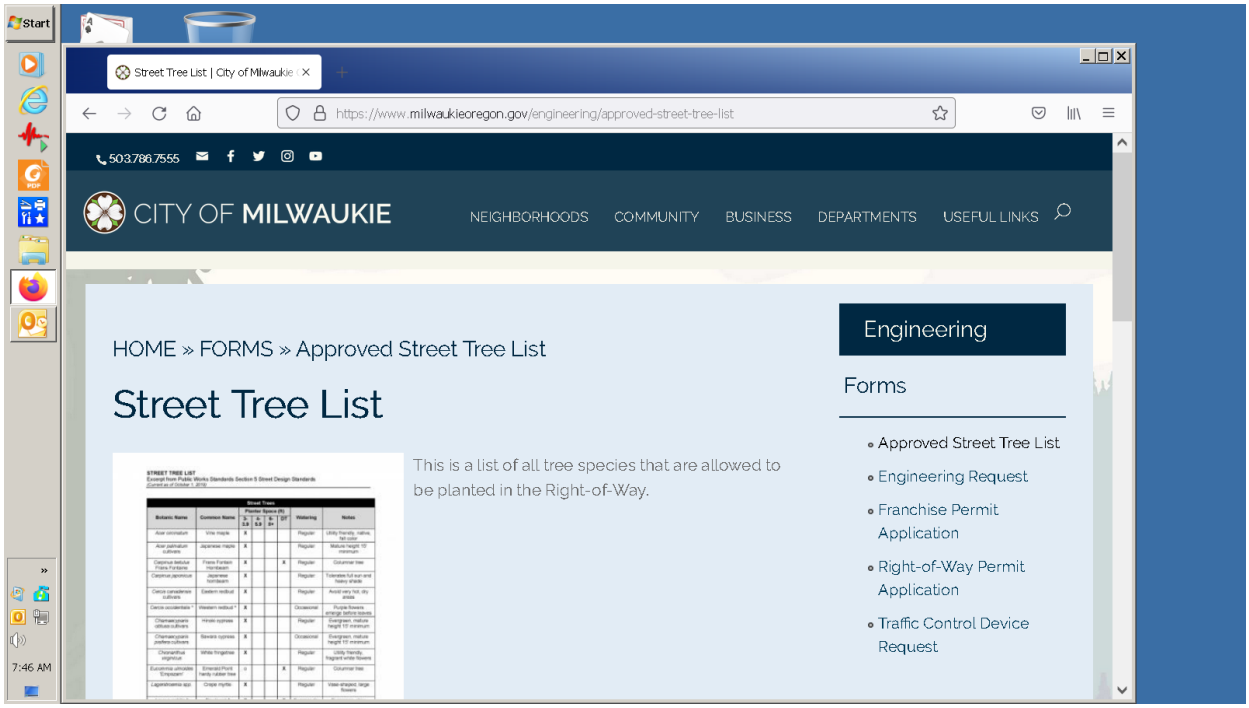
Am writing in regards to: Land use #ZA-2021-002

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.

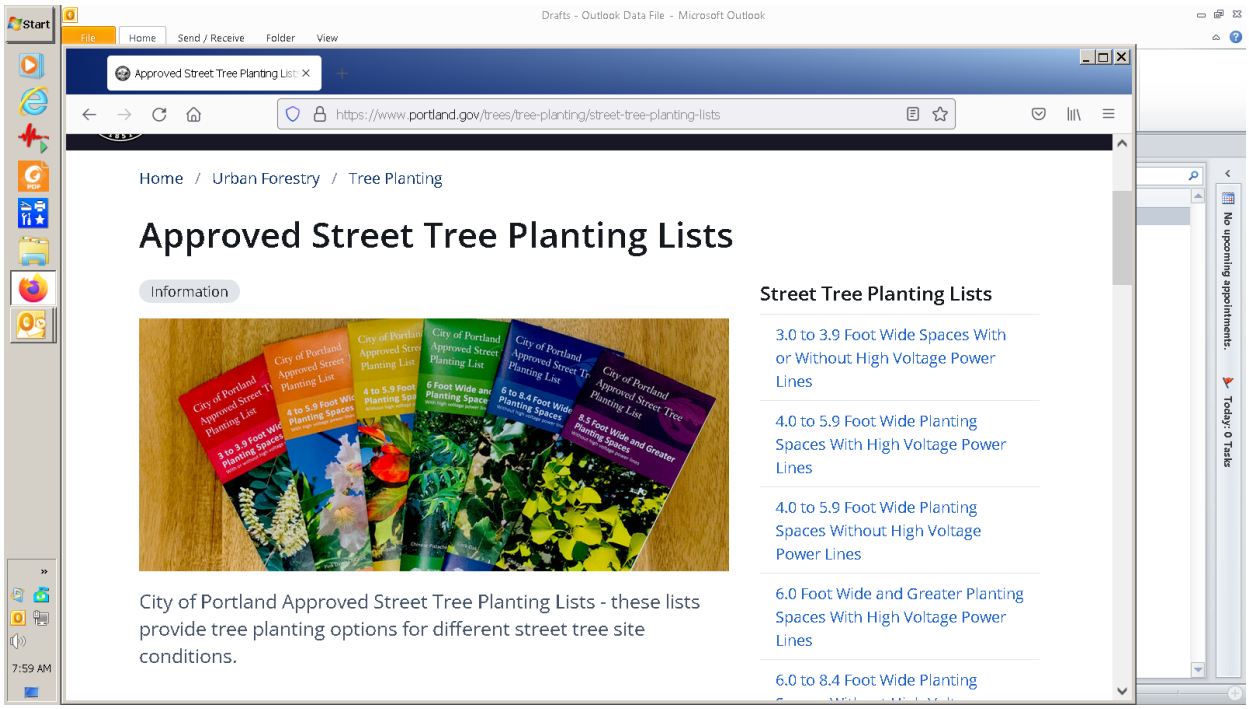
4. PORTLANDS HAS DEVELOPED MORE DETAILED FLYERS ABOUT VARIETIES.

   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

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

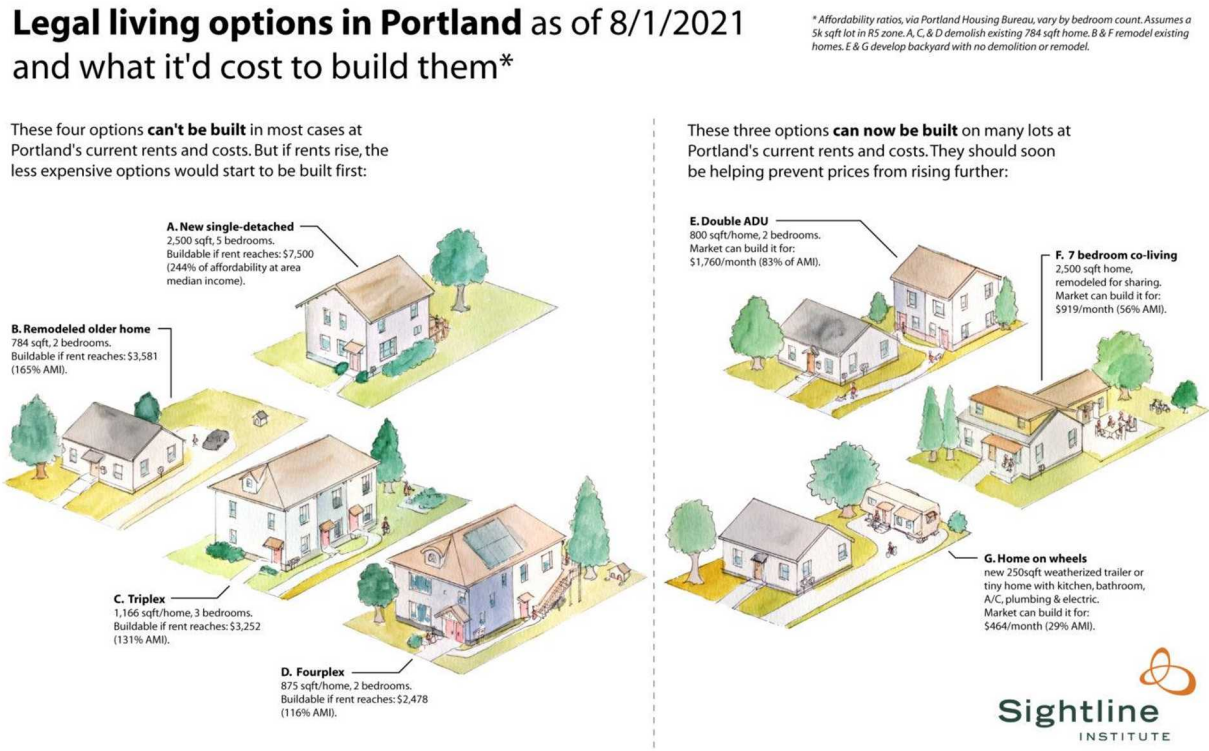
Every quantitative analysis of middle housing we're aware of suggests that, for better or worse, re-legalizing middle housing options will change a city quite slowly.

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.

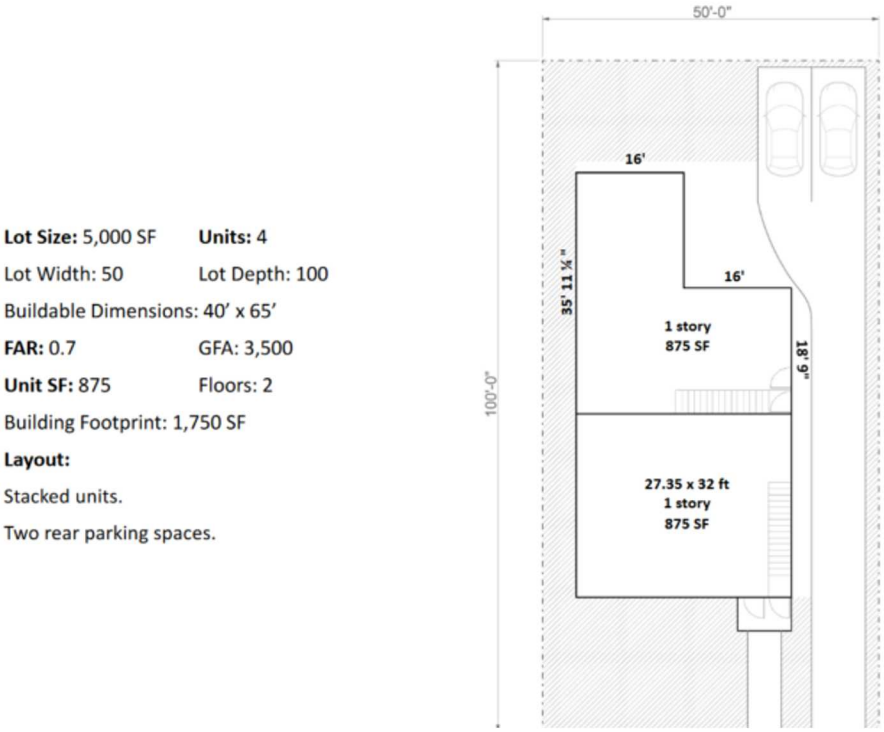
This tradeoff is very real. When calculating the relationship between parking and project viability to inform Oregon's rulemaking process for House Bill 2001, local firm ECONorthwest concluded that "on small lots, even requiring more than one parking space per development creates feasibility issues."

Exhibit 1: Fourplex Results Summary by Lot Size, FAR, and Parking



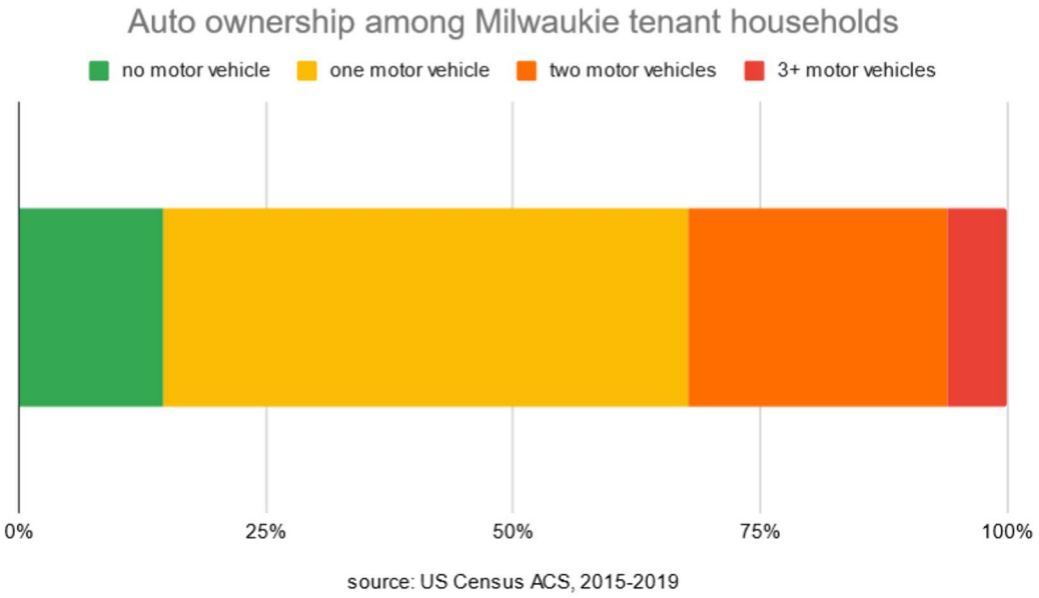
Source: ECONorthwest

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.



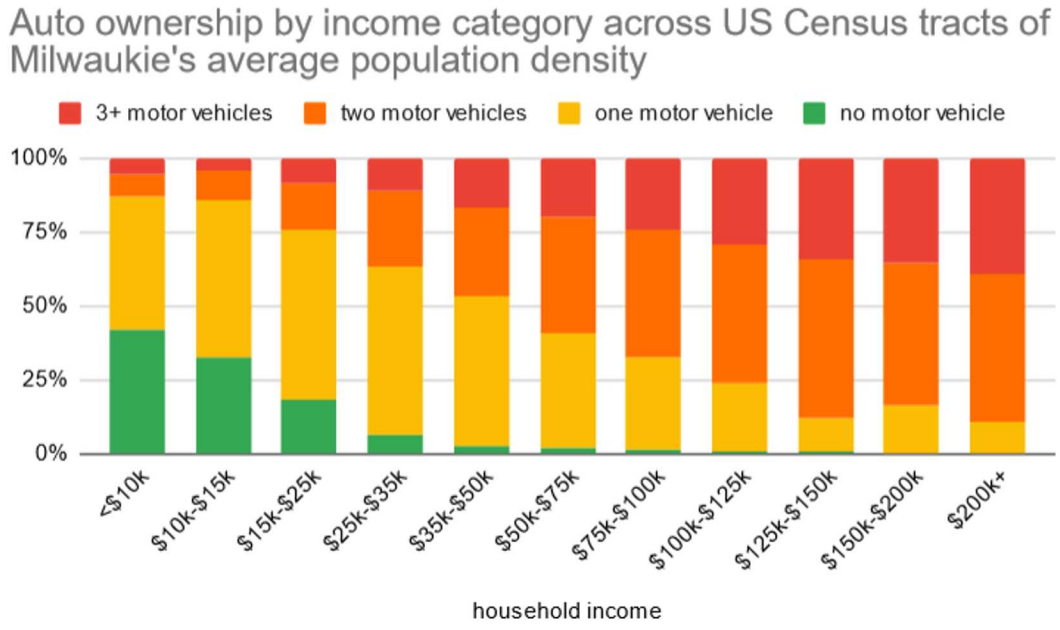
Parking mandates are a particular burden on tenants, especially lower-income tenants.

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.



source: US Census ACS, 2015-2019

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

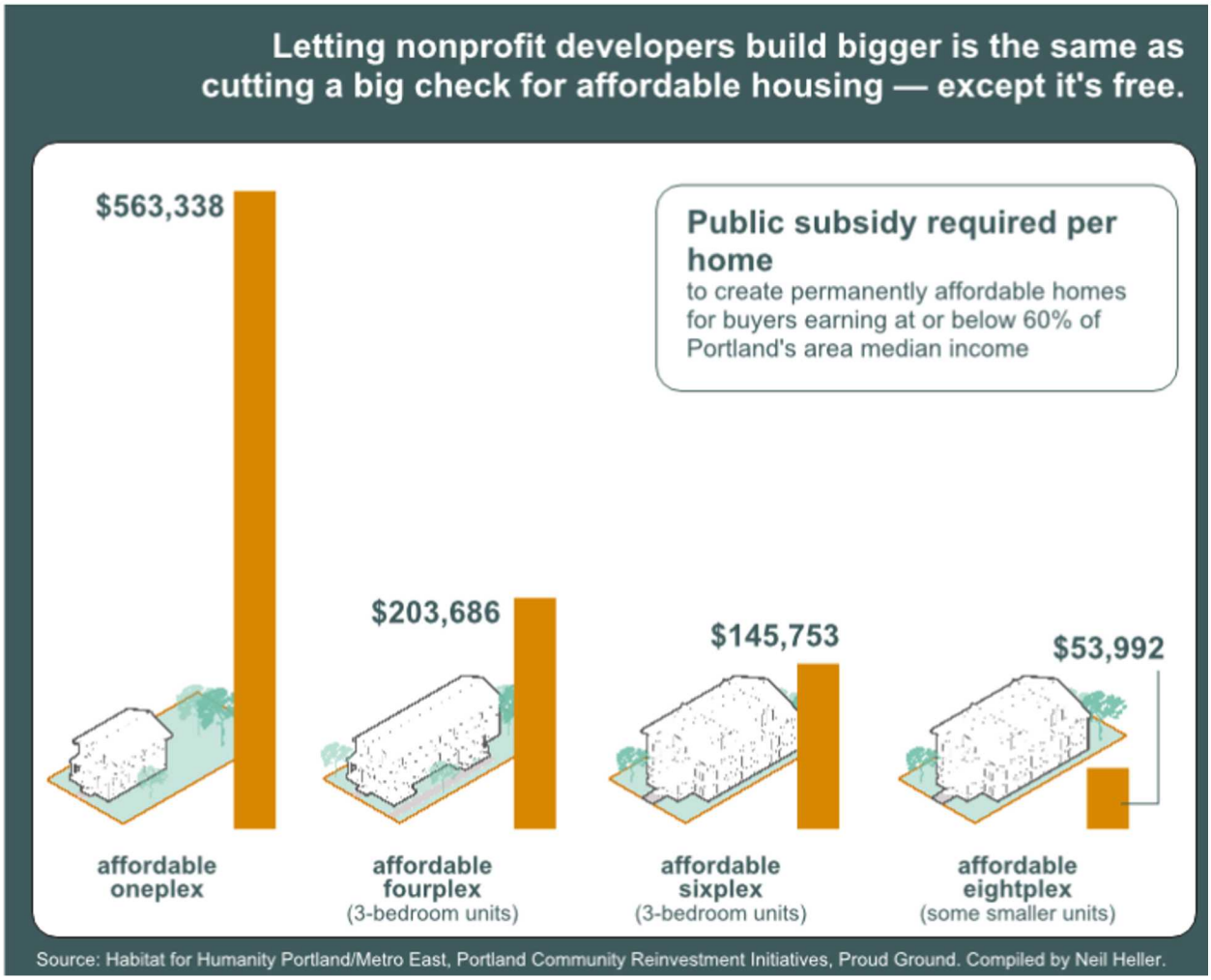
And an older fourplex with none:



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: 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

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

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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.

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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

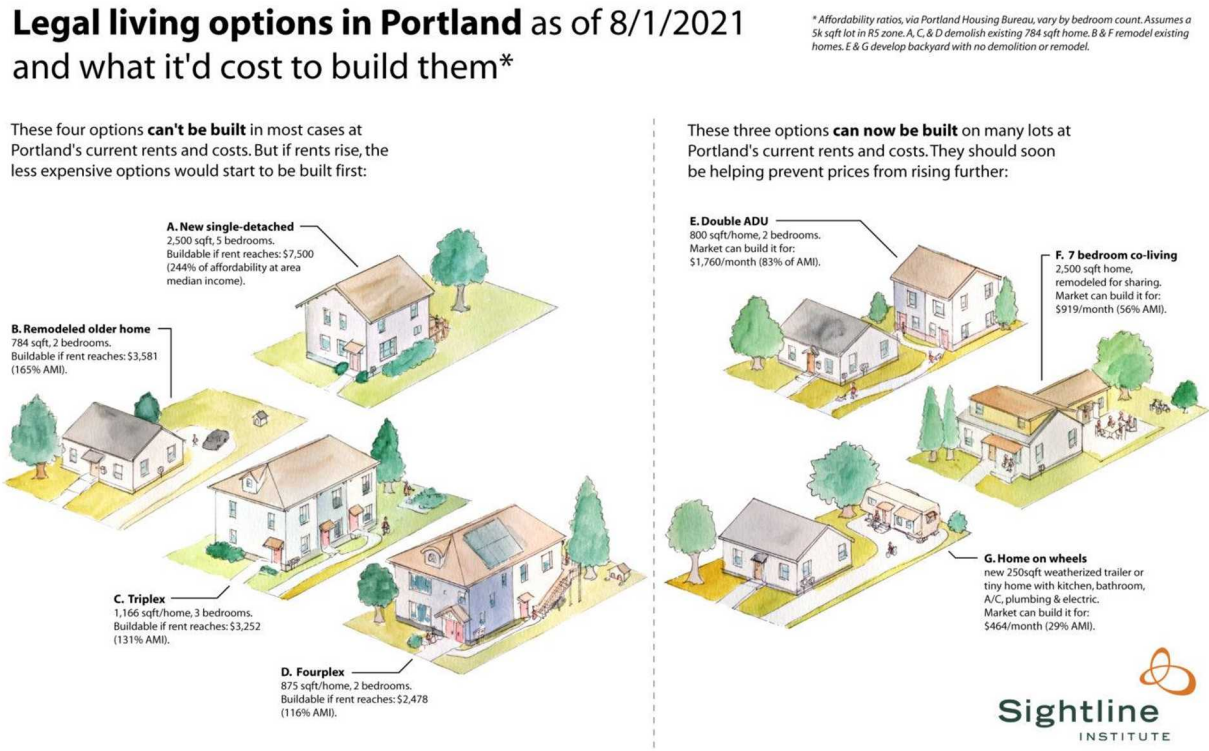
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However, these numbers also suggested that when a structure reaches the true end of its useful life, it will now be more likely to be replaced by a triplex or fourplex than by a oneplex.

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.

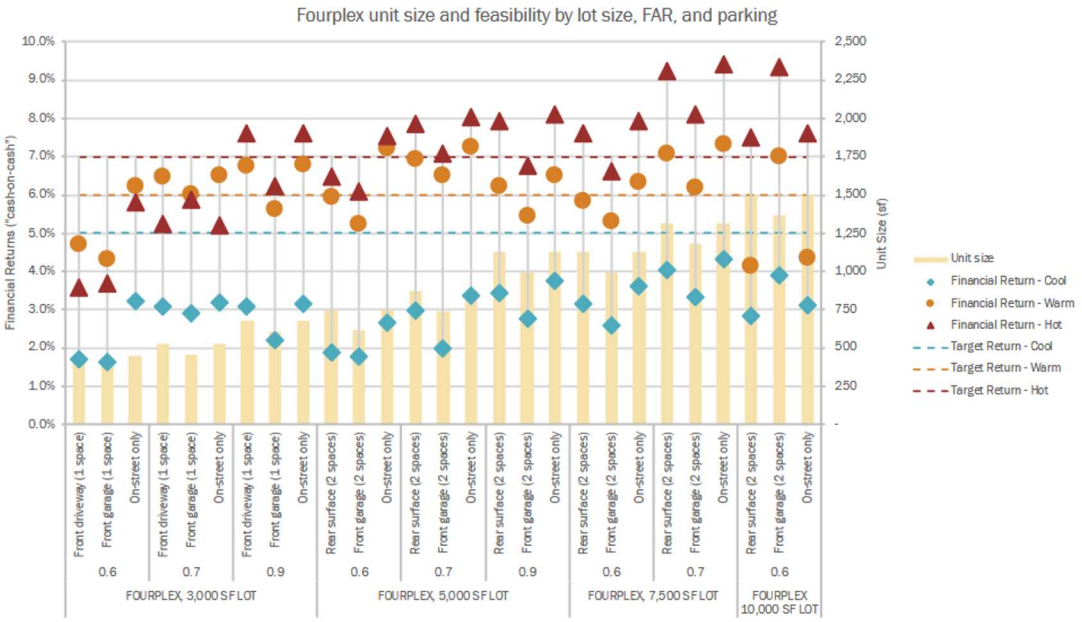
Parking and middle housing

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.

Lot Size: 5,000 SF **Units:** 4

Lot Width: 50 Lot Depth: 100

Buildable Dimensions: 40' x 65'

FAR: 0.7 GFA: 3,500

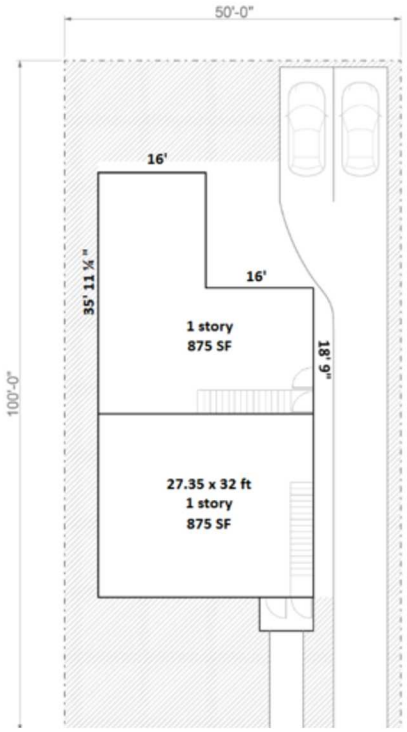
Unit SF: 875 Floors: 2

Building Footprint: 1,750 SF

Layout:

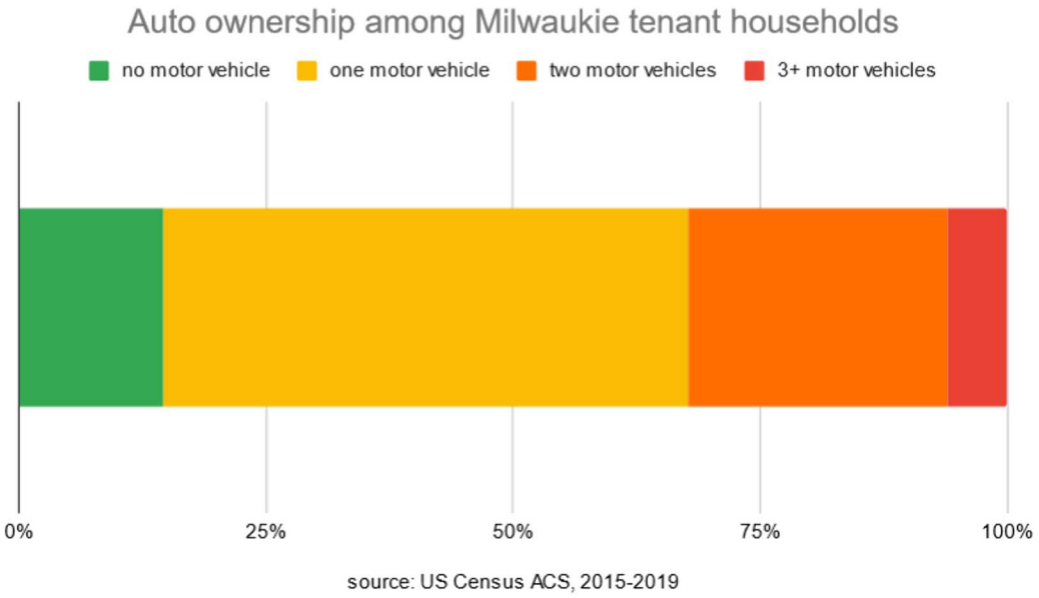
Stacked units.

Two rear parking spaces.



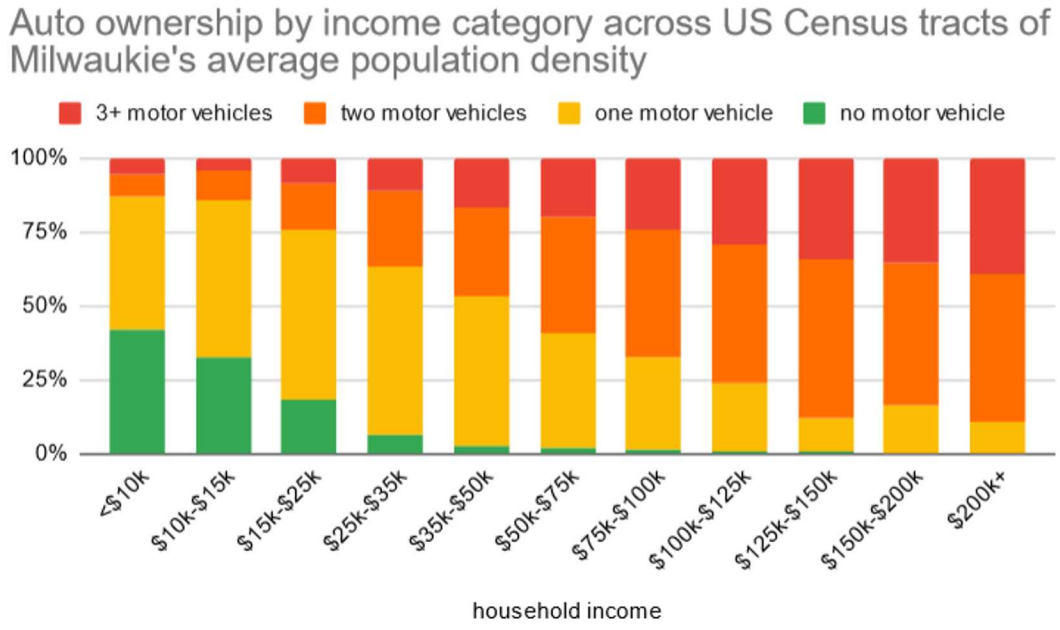
Parking mandates are a particular burden on tenants, especially lower-income tenants.

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.



source: US Census ACS, 2015-2019

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

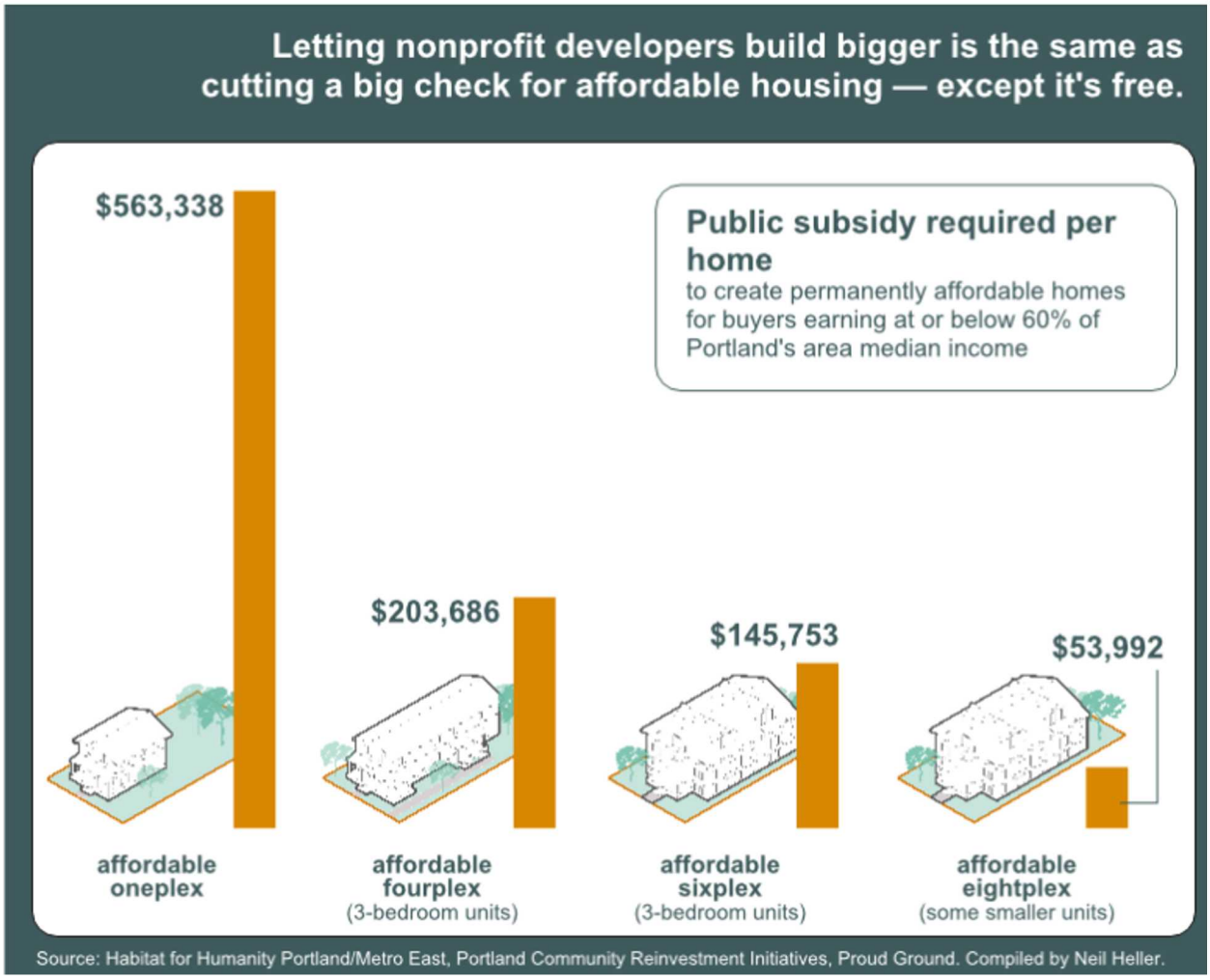
And an older fourplex with none:



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**
	Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
	Surface Lot Stalls/Unit	-	-	0.25	0.14	**0.09**
	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**
	Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	**1.44**
	Surface Lot Vehicles/Unit	-	-	0.18	0.11	**0.07**
	[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:

<u>OVERARCHING SECTION GOAL</u>
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.

<u>GOAL 1.1 - FOSTER BROAD, EFFECTIVE, AND COLLABORATIVE COMMUNITY PARTICIPATION</u>

> 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.



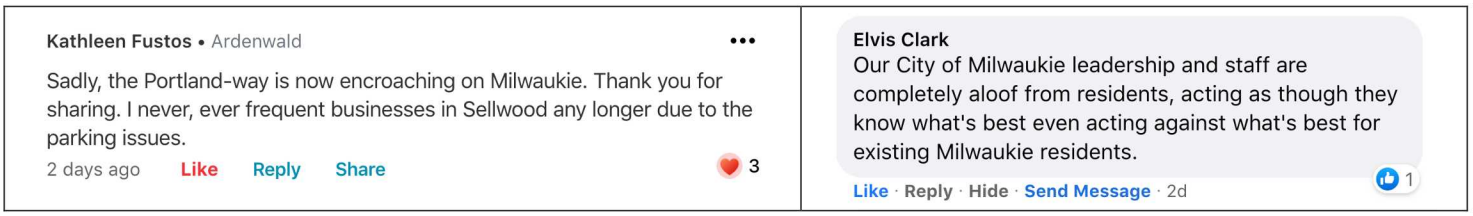
Like · Reply · 2d 5

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: 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

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

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Thank you,
David W Kohl

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**
	Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
	Surface Lot Stalls/Unit	-	-	0.25	0.14	**0.09**
	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**
	Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	**1.44**
	Surface Lot Vehicles/Unit	-	-	0.18	0.11	**0.07**
	[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

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: 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: 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
--

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:	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

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.



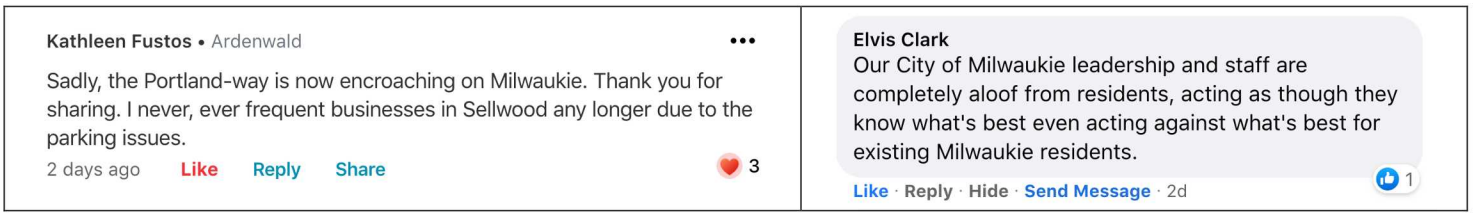
Like · Reply · 2d 5

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

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: 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

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: Bernie Stout
To: Vera Kolias; Natalie Rogers
Cc: OCR; corinn@chapeltheatremilwaukie.com; Sarah Smith; cdortolano@gmail.com
Subject: Land use #ZA-2021-002 TREES
Date: Sunday, October 31, 2021 8:46:41
Attachments: image003.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

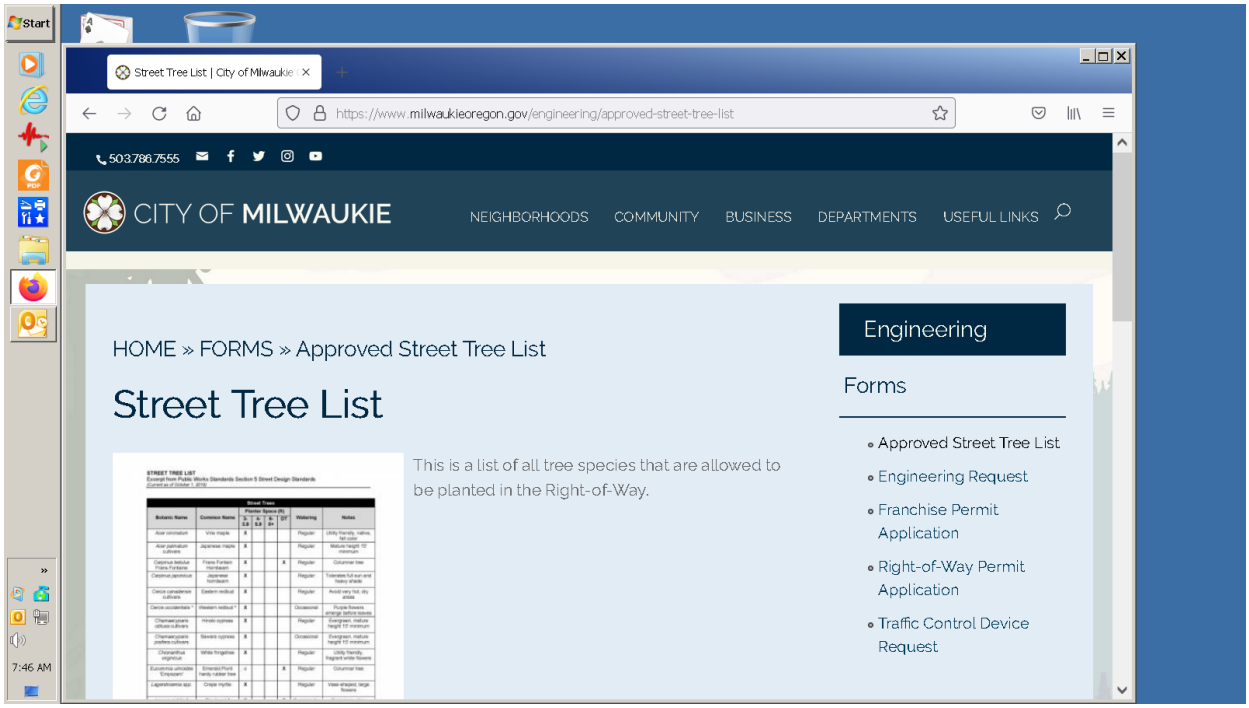
Am writing in regards to: Land use #ZA-2021-002

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.

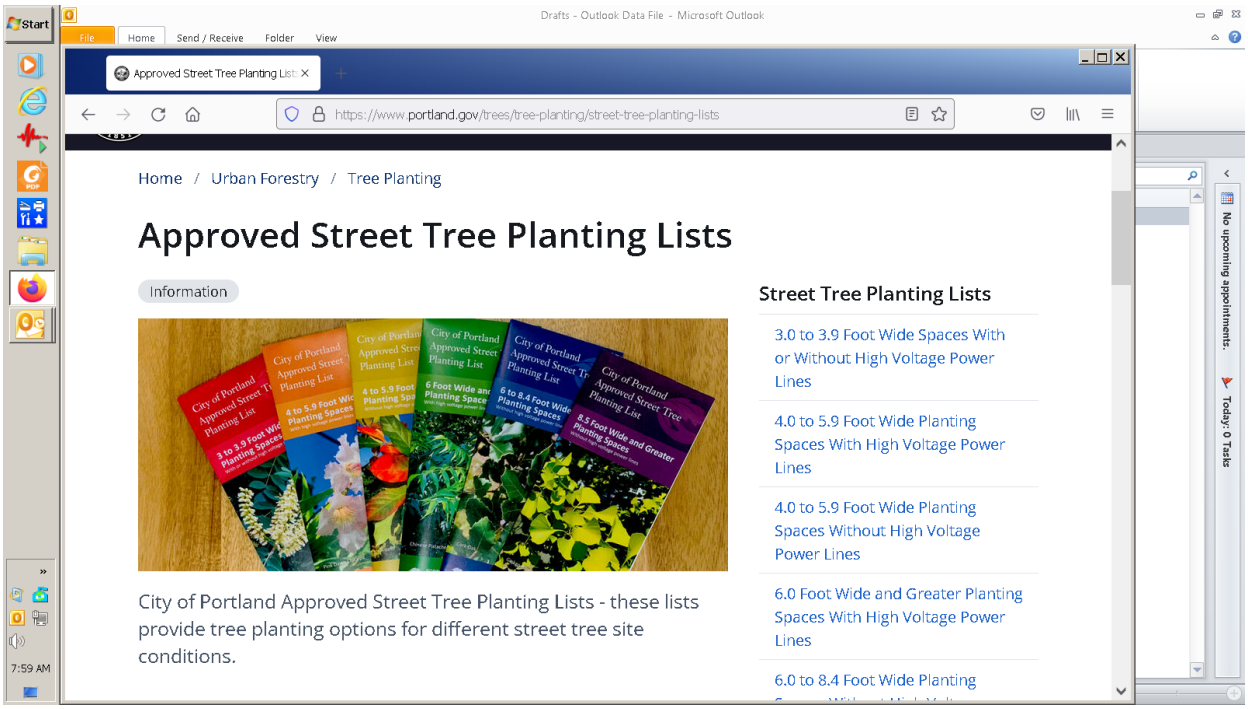
4. PORTLANDS HAS DEVELOPED MORE DETAILED FLYERS ABOUT VARIETIES.

   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

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

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

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

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

RICK WILLIAMS CONSULTING
Parking & Transportation

RESIDENTIAL PARKING OCCUPANCY STUDY – EXECUTIVE SUMMARY

Consultant Charge

- Examine how parking typically functions in residential neighborhoods in Milwaukie.
- Analyze residential parking demand to inform decision making regarding parking in the context of the Comprehensive Plan, the zoning code, and current State level requirements.
- Estimate minimum residential parking demand through occupancy counts (on-site and within the public right-of-way).
- Calculate residential parking demand per residential unit.

Study Areas

Sample areas within the following neighborhoods were selected in consultation with the City of Milwaukie and Urbsworks.

- Lake Road
- Lewelling
- Ardenwald
- Island Station

The four study areas were selected as a representative set of combinations of conditions, including different lot sizes, pre-war and post-war platted neighborhoods, on-street conditions, such as streets with sidewalks and driveway curb cuts, and unimproved streets (streets with planted or gravel edges instead of sidewalks and curbs).

Methodology

- 2:00 AM parking counts represent highest level of residential parking demand.
- 10:00 AM parking counts to assess change against traditional peak demand (2AM).
- Measure across multiple metrics (by type of supply, peak occupancy, # of vehicles parked per unit and actual vehicle demand per residential unit).

Implications of COVID-19

- COVID causing more vehicles to stay home but should not impact 2AM peak (most likely makes demand numbers conservative).
- Nonresidential demand (i.e. parking for shops, cafes, parks within neighborhoods) is likely lower than normal as evidenced in 10AM counts.

Findings (see also Summary Table below)

- 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.
- On-site demand is approximately 1.52 vehicles per unit (1.44 in driveways, an additional 0.7 in surface lots).
  - The on-street parking system has low demand currently (about 0.48 vehicles per unit). As such, there is an abundance of on-street parking availability (likely due to COVID). Occupancies in the on-street supply

could be higher (post-COVID) but the user would be non-residential, and demand would occur during the mid-day, not at the 2AM peak demand for residential parking.

- Much of on-street parking supply is unimproved, which could reduce on-street supply if improvements were made (e.g., curbs, paving).
- There is a high percentage of residential units with multiple vehicles (3 or more) parking on-site in two neighborhoods, which was counted as part of the demand (23.5% in Ardenwald and 18.4% in Island Station). It is not assumed that this high rate of vehicle ownership would continue with new middle housing demand. That said, even with this documented vehicle per unit demand number, the current parking supplies in the study areas exceed demand. On-site parking stalls reach an average of 77% occupancy at their peak hour; the on-street system reaches a peak average of 23%.
- 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.

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**
	Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
	Surface Lot Stalls/Unit	-	-	0.25	0.14	**0.09**
	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**
	Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	**1.44**
	Surface Lot Vehicles/Unit	-	-	0.18	0.11	**0.07**
	[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.

[1] Residential parking only. "Other" and garage parking excluded from this summary.

City of Milwaukie: Residential Parking Occupancies
Summary of Findings

February 2021 (v1)

1.1 INTRODUCTION

In 2017, the City of Milwaukie adopted a 20-year vision effort, and in 2018, the City began a two-year process to update the Comprehensive Plan. 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 significant 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 in single dwelling residential areas. These areas of the zoning code will need to be amended to achieve several Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

In support of these efforts the City of Milwaukie is interested in how parking typically functions in residential neighborhoods. A better understanding of this dynamic will help facilitate decision making regarding parking in the context of the Comprehensive Plan, the zoning code, and state level requirements.

In January 2021, a complete inventory of parking supply was compiled in four Milwaukie neighborhoods. In February, actual vehicle counts (occupancy counts) were conducted within these same neighborhoods. The purpose of this report is to summarize the findings of the occupancy study. Key findings summarize occupancies within the public right-of-way and on-site within parcels (by unit). Calculations of parking demand by unit are also provided.

The sample study zones are within the following neighborhoods, selected in consultation with the City of Milwaukie and Urbsworks (the prime consultant for the larger Comprehensive Plan Implementation Project):

- Lake Road
- Lewelling
- Ardenwald
- Island Station

1.2 GLOSSARY OF TERMS

Building: Any built structure within a parcel intended for residential use (e.g., single family households, duplexes, and apartments) or, in some cases, non-residential use (e.g., retail, restaurant, etc.). Garages are excluded from this definition.

Capacity: The estimated number of physical parking stalls associated with a parcel or fully inventoried supply.

Carport: A roofed structure within a parcel intended for the parking of vehicles; unlike a garage, a carport does not contain walls or doors.

Driveway: Any area within a parcel that is legally intended for the parking of vehicles. Driveways are identified as having an associated curb cut from a street into a parcel. A driveway will have a clearly visible apron of pavement or gravel (usually in front of a garage). A driveway must be large enough in size to accommodate a vehicle without infringing on a sidewalk or street.

Garage: Any built structure within a parcel intended for the parking of vehicles. In the context of this study, garage capacity was estimated based on the width of the garage door (or number of doors, if multiple doors were observed).

"Illegal" Parking: During the *inventory* study, numerous vehicles were parked in areas deemed unsafe or illegal. Examples were vehicles parked in front yards (not on driveways), vehicles parked in no parking areas in ways that impeded traffic flow, or across driveways. As these vehicles were not in a clear parking stall, these parking areas were not recorded as part of the legal "parking supply." However, during the *occupancy* study, these vehicles do contribute to "parking demand". As such, they were quantified and added to the demand within the inventoried supply. Thus, if 2 vehicles were parked in a front yard, 2 vehicles of demand were added to *driveway* parking demand. If 3 vehicles were parked unsafely on-street, their demand was added to the functional *on-street* parking demand total. In short, if vehicles were parked, they were accounted for as parking demand.

Inventory: **Land Use -** A land use inventory is a catalogue of all residential dwelling units and non-residential units (e.g., retail, restaurant, industrial) in a designated study area.

Parking - A parking inventory is a catalogue of spaces that can be legally and safely used for parking. The catalogue of parking is separated by type of parking identified (i.e., on-street, in driveways, and garages).

Occupancy: The number of vehicles parked within a supply, expressed as a percentage of occupied parking supply. For instance, if 50 cars are parked within an inventoried supply, then the occupancy at the time of that count would be 50%.

Parcel: A piece of real property as identified by the county assessor's parcel number (APN) that is one contiguous parcel of real property. Individual parcels are demarcated on study area maps developed for each study area. All land uses and parking within parcels are associated with that specific parcel. See **Figure A** as an example.

Parcel Block: Parcel blocks are designated on data maps by number. Such blocks are generally defined as an area bounded by streets and containing unique parcels within such a block. See **Figure C** as an example.

Parking stall: An area located on-street, in driveways and carports, in surface lots, or in garages that is available to park vehicles by authorized users (hourly, daily, and/or overnight). Parking stalls need to be reasonably sized to ensure appropriate access and maneuverability.

Peak Occupancy: Within the parking industry, peak occupancy for residential uses is assumed to occur at midnight or later (e.g., 2:00 AM). In a residential neighborhood, this period of occupancy best captures uses only related to residential parking demand, unassociated with other non-residential demand generators (e.g., commercial visitors, employee demand/overspill, etc.). At this hour, vehicles parked can be directly correlated to residential demand, whether a vehicle is parked on-street or on-site.

Ratio of stalls to units: Calculations of the relationship of the number of parking stalls to residential units are made at different levels, including in aggregate or by type of supply (e.g., on-street, in driveways, and/or garages). This ratio is useful in examining physical parking built within a supply and what a code might require.

Ratio of demand to units: Calculations of the relationship of the demand for parking to residential units. For this study, calculations were made for demand per unit that aggregated on-street and on-site occupancies to establish a combined ratio of demand for each neighborhood. The combined demand per unit is also broken out to show demand generated from on-street vehicle demand and as demand generated by vehicles parked on-site. Vehicle occupancies (demand) in garages was not quantified as the overwhelming majority of observed garages had doors closed. As such, the ratios of demand to units provides *an estimate of the*

minimum demand generated per unit, assuming some increment above this minimum would be associated with vehicles parked in garages.

Unit: **Residential** - A residential unit is identified as a unique address within a parcel. This could be a single-family dwelling, or multiple units within multifamily dwellings (e.g., duplex, apartment).

Non-residential – A non-residential unit is identified as real property within a parcel that provides services or business within a study area. This could be individual free-standing businesses or services or multiple activity spaces within a shared building. Examples include workspaces, restaurants, retail spaces and event venues (if housed in a building).

1.3 METHODOLOGY

Study Zone Boundaries

Study area boundaries in the four neighborhoods were developed in coordination with the City of Milwaukie and the Comprehensive Plan Implementation team. The intent for establishing study zones was to develop sample areas to collect usage data from selected neighborhoods. Outputs from collected data can serve as "typical" representations of how parking is currently provided (supply)[1] and used (demand) in these neighborhoods.

Vehicle Occupancy Counts

Occupancy counts were conducted at 2:00 AM and 10:00 AM on February 3 and 4, 2021 to capture overall parking demand. Most parking in each neighborhood was associated with residential parking demand. Parking (on or off-street) associated with non-residential uses (e.g., retail, commercial) was not included in counts for residential demand and was instead tracked separately.

Within the parking industry, the 2:00 AM count in residential areas is best representative of a residential "peak hour." At this hour, it is likely that most, if not all, vehicles parked in a supply are directly associated with residential uses; assuming that non-residents (retail, employment, event, etc.) would not be in the area at this hour. Also, residents themselves, to a high degree, would be home from work and not out on trips or errands.

The 10:00 AM count was conducted to document mid-morning demand associated with residential and non-residential parking demand. The 10:00 AM count serves as a snapshot to show how each neighborhood transitions from the traditional residential peak hour (2:00 AM) to a daytime period that may include some non-residential users. For instance, if occupancies at 10:00 AM decrease compared to the 2:00 AM peak period, this is usually a reflection of residents leaving the area for work, shopping, or other daytime trips. However, if parking demand increases during the day above the 2:00 AM peak, that is a sign that non-residential users parking in the area outnumber the number of residents leaving during the day.

Vehicle counts were taken in separate supply categories, cataloguing vehicles parked in the on-street supply and on-site (within a parcel). Surveyors also made note of and accounted for vehicles parked illegally or unsafely in the different supply types. These vehicles *are included* in the overall parking demand numbers.

[1] A detailed summary of the entire parking inventory (supply) in each neighborhood is contained in Rick Williams Consulting: *City of Milwaukie: Residential Parking Inventory Summary of Findings - February 2021 (v3)*

1.4 Lake Road Neighborhood

Inventory Overview

The sample study area for the Lake Road neighborhood is illustrated in **Figure A**. The survey area for the Lake Road neighborhood is comprised of 190 residential units, served by 783 visible parking stalls (451 on-street stalls and 332 driveway/carport stalls).[2] There were no surface lot stalls in this neighborhood. This is summarized in **Table 1**.

Table 1: Lake Road Neighborhood – Breakout of observed stalls and residential units

	Lake Road
Total Parking Stalls Studied[3]	783
On-Street Stalls	451
Driveway Stalls	332
Surface Lot Stalls	-
Residential Units	190

Summary of Parking Occupancies

On-Street Parking Demand

There are 451 on-street parking stalls within the Lake Road neighborhood study area. At the 2:00 AM data collection hour, 169 vehicles were observed parked in the on-street supply. This represents an occupancy of 37.5%, leaving 283 empty stalls in the usable on-street inventory.

At 10:00 AM, 142 vehicles were observed parking in the on-street supply. This represents an occupancy of 31.5%, with 310 empty stalls available within the useable on-street inventory.

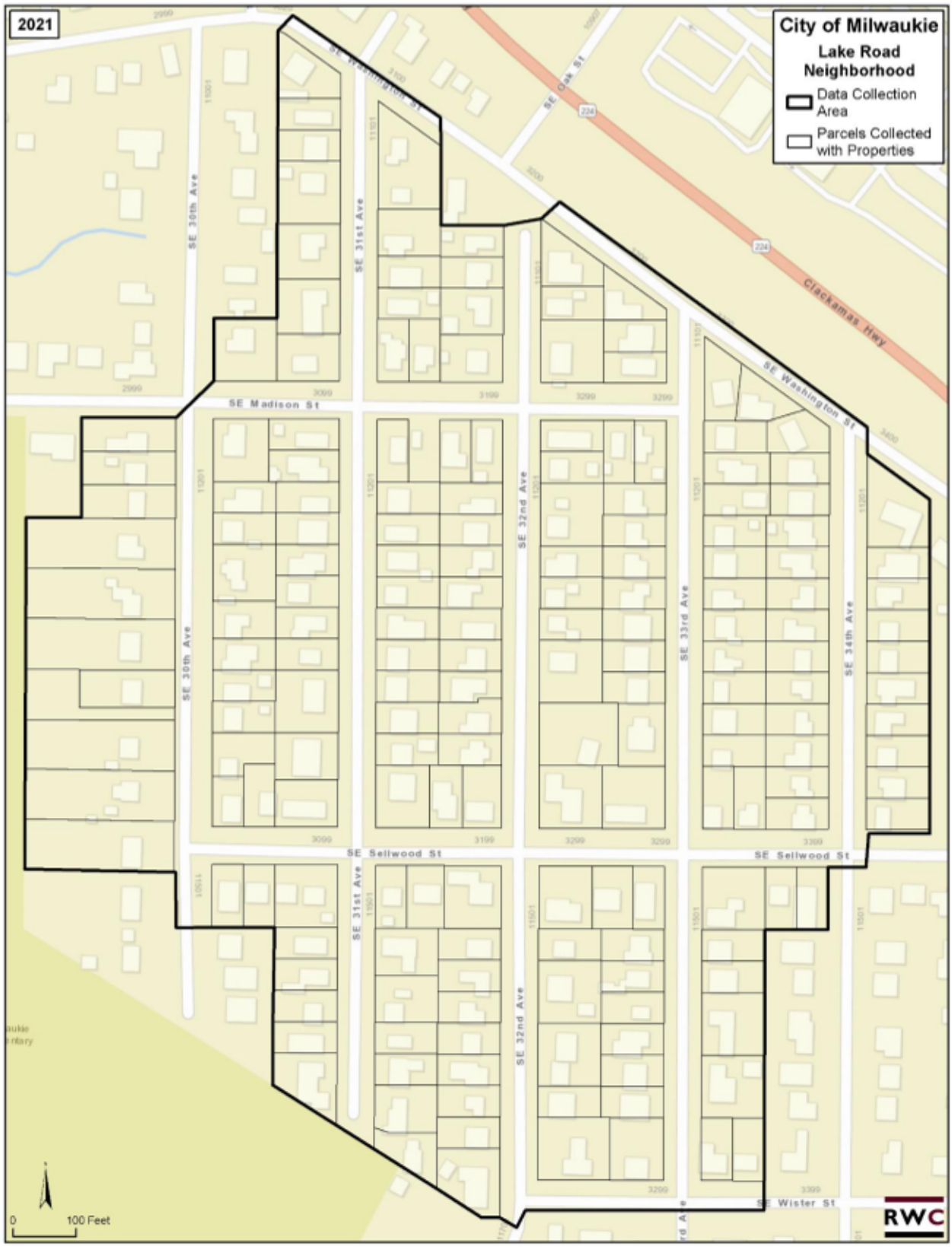
Table 2 summarizes occupancy counts associated with the on-street supply.

Table 2: Observed Occupancies – On-street Supply

Performance Measure	Parking Demand Observations	
	On-Street Parking Supply: **451 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
Occupancy	**37.5%**	31.5%
Parked Vehicles	**168[4]**	141[5]
RV/ Trailers	**1**	1
Construction/ Obstruction	-	-
Empty stalls (unused supply)	**283**	**309**

[2] An additional 160 stalls of "capacity" were estimated during the inventory in doored garages.
[3] Residential parking stalls only. "Other" and Garage uses excluded from this summary.
[4] Of the total vehicles parked at 2:00 AM, nine (9) were parked illegally (including the one RV/Trailer).
[5] Of the total vehicles parked at 10:00 AM, three (3) were parked illegally (including the one RV/Trailer).

Figure A: Lake Road Neighborhood Study Area Boundary and Parcel Map



On-Site Parking Demand (within parcels)

Use of on-site parking in the neighborhood is summarized in **Table 3.** In the Lake Road neighborhood, there are 332 on-site parking stalls. This is all driveway capacity as there are no surface lots serving residential uses in this neighborhood.

At the 2:00 AM hour, 219 vehicles were observed parked within residential parcels, an occupancy of 66.3%. At 2:00 AM, there were 113 empty parking stalls within the on-site supply. At 10:00 AM, occupancies dropped to 52.1% with 173 vehicles parked and 159 empty stalls.

Table 3: Observed Occupancies – On-site supply

Performance Measure	Parking Demand Observations	
	On-Site Parking Supply: **332 stalls**	
	2:00 AM	**10:00 AM**
Occupancy	**66.3%**[6]	52.1%[7]
Parked Vehicles	**219**	173
Empty stalls (unused supply)	**113**	**159**

Residential Parking Demand per Unit

Table 4 summarizes observed occupancy data per unit for the entire 783 stall supply using observed vehicle occupancy numbers provided in **Tables 2** and **3** above. The table also allocates the demand for each unit between on-street and on-site occupancies to illustrate demand by stall type.

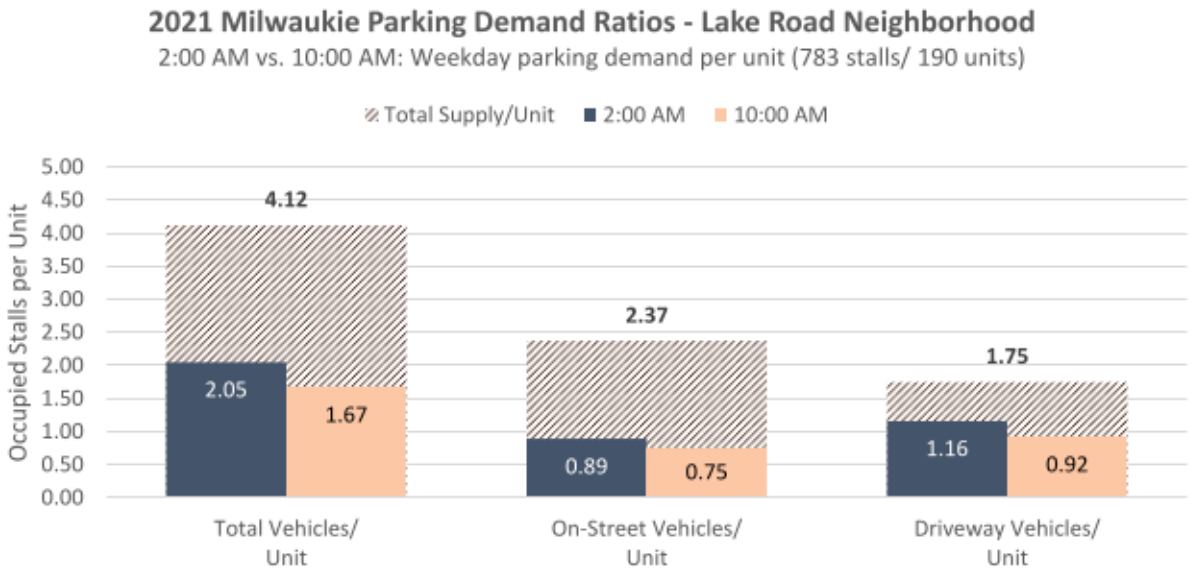
Table 4: Residential Parking Demand per Unit

Performance Measure	Parking Demand per Unit	
	Residential Units: **190 Units**	
	2:00 AM	**10:00 AM**
On-Street Vehicles/Unit (Supply: 2.37 stalls/unit)	0.89	0.75
Driveway Vehicles/Unit (Supply: 1.75 stalls/unit)	1.16	0.92
Surface Lot Vehicles/Unit (Supply: N/A)	N/A	N/A
Total Vehicles/Unit (Supply: 4.12 stalls/unit[8])	**2.05**	**1.67**

As the table indicates, peak hour (2:00 AM) residential demand is 2.05 vehicles per unit. Of that total, 0.89 per unit is generated from vehicles parking on-street. Observed on-site demand is 1.16 vehicles per unit. At 10:00 AM, combined demand for parking is 1.67 vehicles per unit; with 0.75 and 0.92 of demand derived on-street and on-site, respectively. These demand ratios can be contrasted to the built supply of parking (excluding garage capacity), which combined, totals 4.12 stalls of capacity serving a demand of 2.05 and 1.67 vehicles/unit, for the 2:00 AM and 10:00 AM occupancy periods. This is illustrated in **Figure B.**

[6] Of the vehicles parked at 2:00 AM, seven (7) are parked somewhere on-site other than the driveway.
[7] Of the vehicles parked at 10:00 AM, six (6) are parked somewhere on-site other than the driveway.
[8] This does not include potential garage capacity, which totaled 160 stalls, which would raise the built ratio to 4.96.

Figure B: Summary of Parking Demand and Built Supply



Heat Map Summary

Figures C and **D** provide a graphic illustration of occupancies at 2:00 AM and 10:00 AM, respectively. Data is provided for both the on-street system and the on-site systems. Map colors define occupancy in five color bands, ranging from purple (indicating greater than 100% occupancy[9]), red (100% - 85%), orange (84% - 70%), yellow (69% - 55%), and green (less than 55%).

On-street

At the 2:00 AM hour, 34 of 36 on-street block faces fall within the yellow and green color bands. This demand range is consistent across the study area. That said, one block face on the east side of 34th Avenue paralleling the parcels on block 412 has occupancies more than 85%, though the block face on the west of the same street is green (less than 55%). One block face, the west side of SE 32nd Avenue, paralleling the parcels on block 404 is orange (85% - 70%). At this hour, the heat maps would indicate there is an abundance of on-street parking available, and access to it is convenient.

At the 10:00 AM hour, 34 of 36 on-street block faces fall within the yellow and green color bands. This demand range is consistent across the study area. There are two block faces that fall within the orange color band: the east side of 34th Avenue paralleling the parcels on block 412 and the north side of SE Sellwood Street paralleling the parcels on block 409. At this hour, the heat maps would indicate there is an abundance of on-street parking available and convenient access to it.

On-site

The Lake Road study area totals 13 parcel blocks serving 190 unique residential units. For purposes of this discussion, occupancy data is aggregated to the *parcel block* level. Use at the *individual parcel level* is not displayed to ensure that individual residential sites remain anonymous.

At the 2:00 AM hour, 2 of 13 parcel blocks have occupancies greater than 85%. Parking occupancy in the parcels in block 407 exceed the functional supply (greater than 100%). Also, the parcels in block 412 fall within the red band. Four parcel blocks (402, 403, 404, and 411) have occupancies between 84% and 70%

[9] An occupancy of greater than 100% would indicate that when illegally parked vehicles are added to a supply total (on-street or within a parcel), the demand (parked vehicles) exceeds the functional supply (safe stalls).

(orange), with the remaining seven blocks in the yellow and green bands. At this hour, the heat maps would indicate that parcels within blocks can meet their parking demand on-site. Two parcel blocks have demand that approaches or exceeds observed supply, but adequate parking is adjacent to them on-street.

At the 10:00 AM hour, one parcel block (407), falls within the red band (100% - 85%). Two parcel blocks (403 and 412) have occupancies in the orange range. The remaining ten parcel blocks are within the yellow and green bands. At this hour, the heat maps would indicate that parcels within blocks can meet their parking demand on-site. One parcel block has demand greater than 85%, but adequate parking on-street.

Figure C: Parking Occupancy Heat Map – 2:00 AM

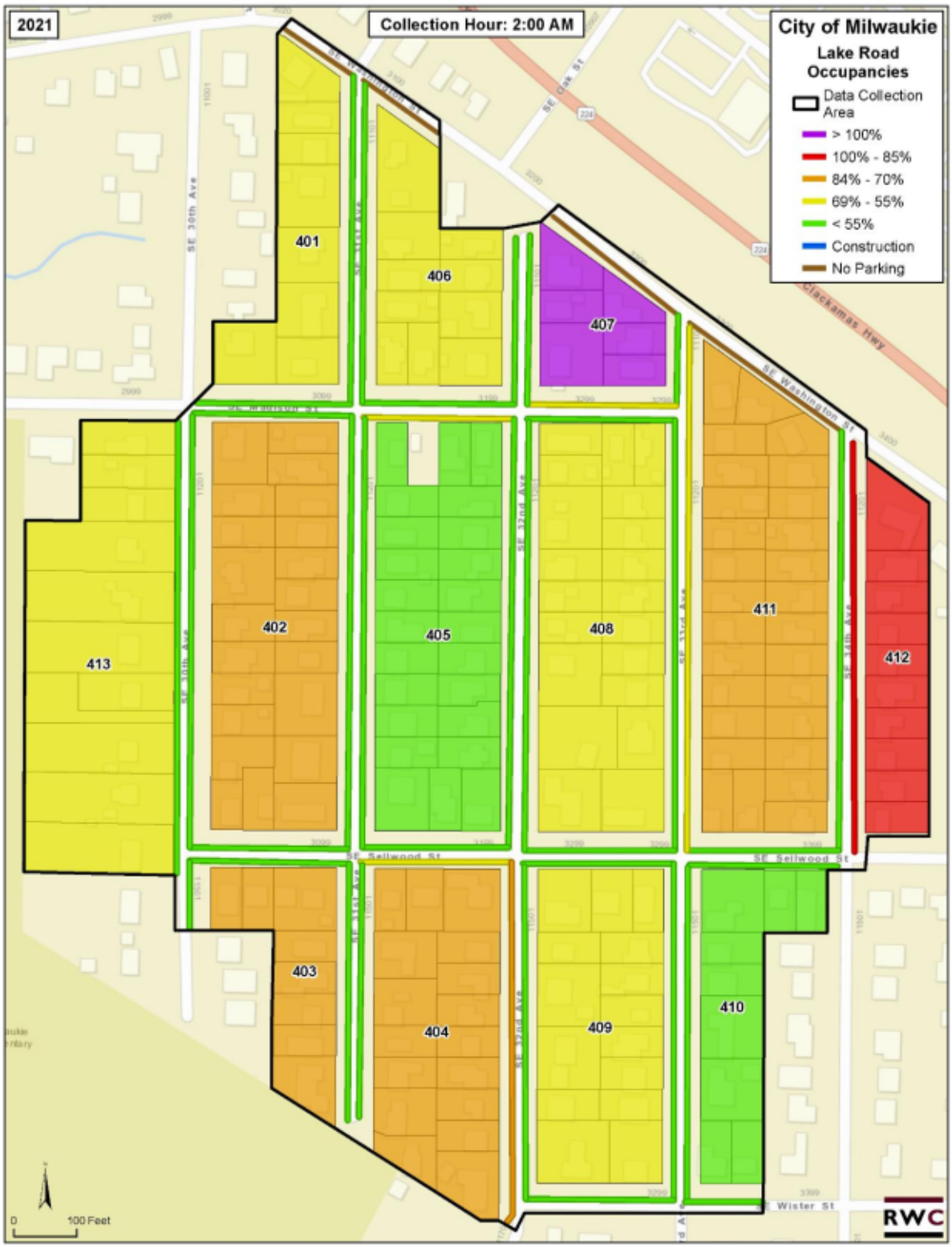
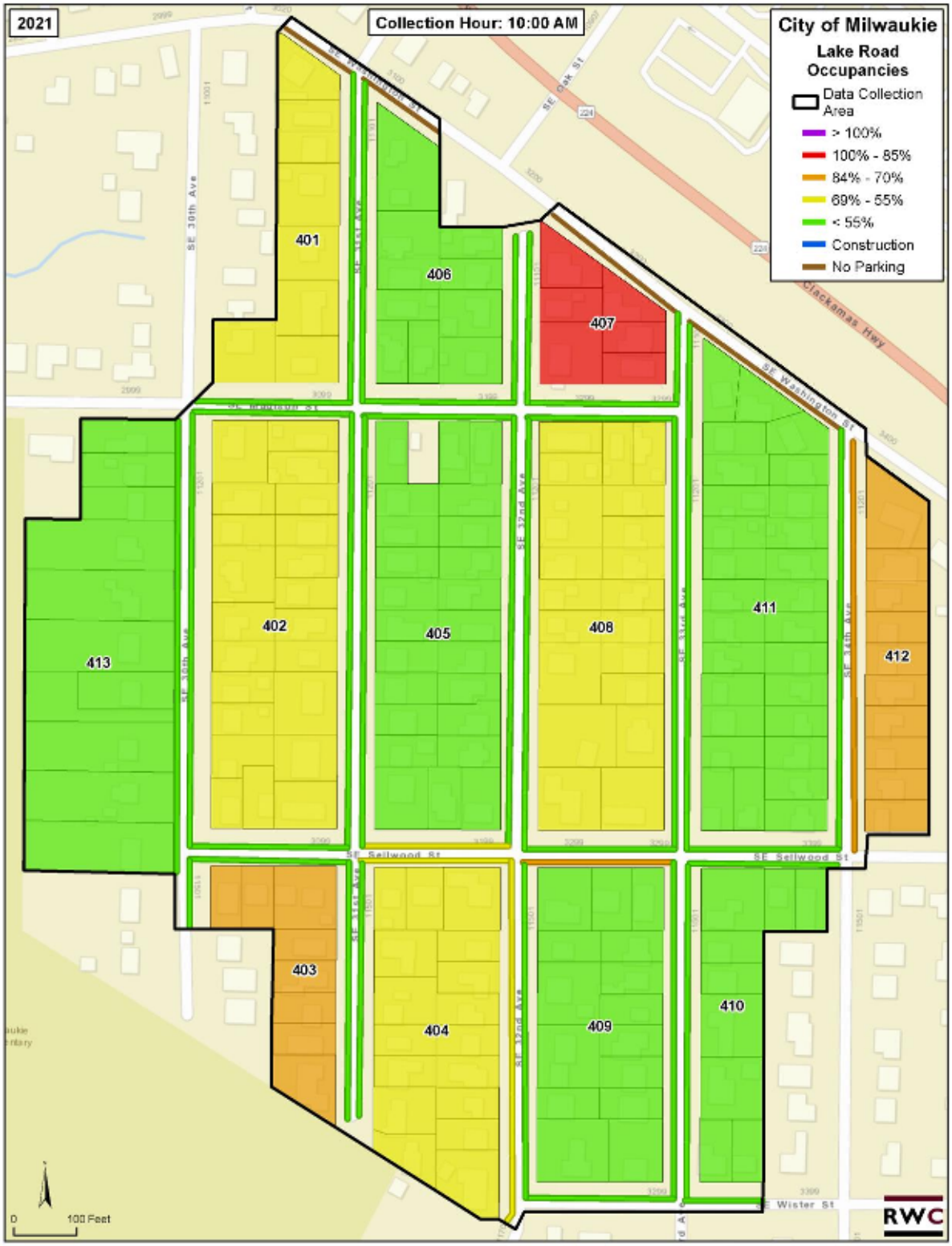


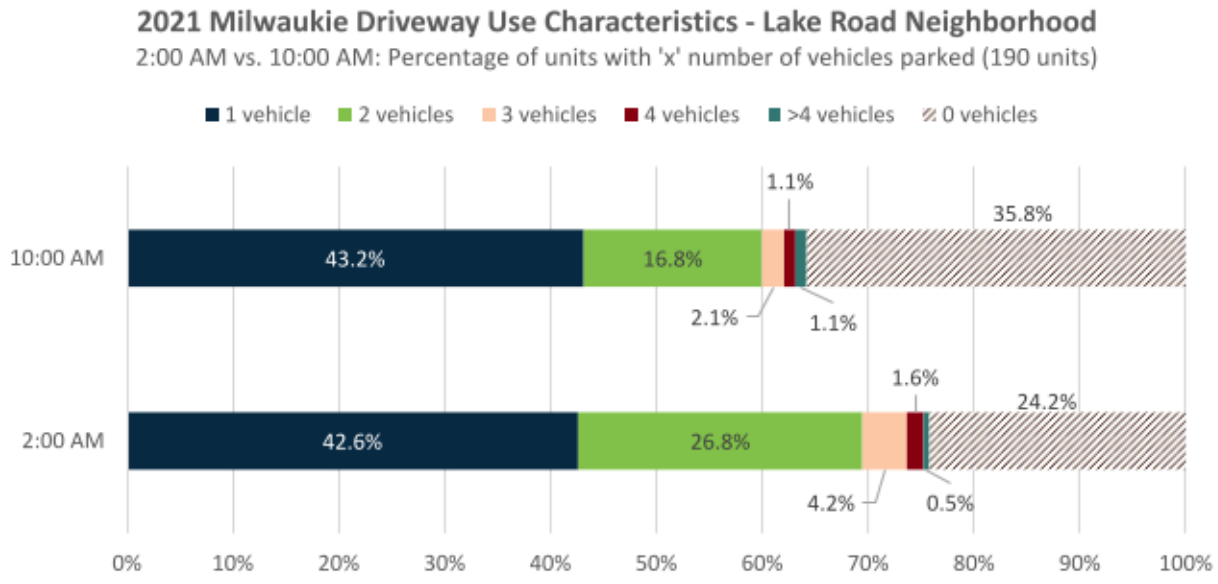
Figure D: Parking Occupancy Heat Map – 10:00 AM



Number of Vehicles Parked On-Site – By Individual Parcels

Use of observed on-site capacity on individual parcels within a parcel block can influence the color band for use at an aggregated parcel block. Given this, **Figure E** provides a summary of the percentage of vehicles parked on-site at unique residential parcels within the Lake Road study area.

Figure E: Summary of Use of Observed On-site Supply



As the figure indicates, the majority of vehicles parked at individual residential units ranges from zero (35.8%) to one (43.2%) at 10:00 AM. Units with 2 observed vehicles represented 16.8% of vehicles parked. Only 4.3% of units were observed to park 3 or more vehicles on-site during this data collection hour.

At 2:00 AM, the majority of vehicles parked at individual residential units ranges from zero (24.2%) to one (42.6%). Units with 2 observed vehicles represented 16.8% of vehicles parked. The drop from zero at this hour as compared to 10:00 AM likely reflects vehicles returning from daytime trips (e.g., work, shopping, etc.). This is also reflected in the increase in 2 observed vehicles (26.8%) and units with 3 or more observed vehicles (raising to 6.3%).

Summary – Lake Road

Data collected indicates that occupancies within the study zone are higher at the 2:00 AM hour, reflecting the minimum true demand for parking per residential unit: 2.05 vehicles/unit. There is higher overnight use of the on-site supply: 1.16/unit at 2:00 AM versus 0.89/unit at 10:00 AM. In both the on-street and on-site parking supplies there is a sizable supply of empty and available capacity, both overnight and during the day.

While there are a few specific block faces (on-street) and parcel blocks (on-site) that have occupancies that exceed 85%, the number is very small, and convenient, available parking is usually immediately adjacent to these areas on-street.

1.5 LEWELLING NEIGHBORHOOD

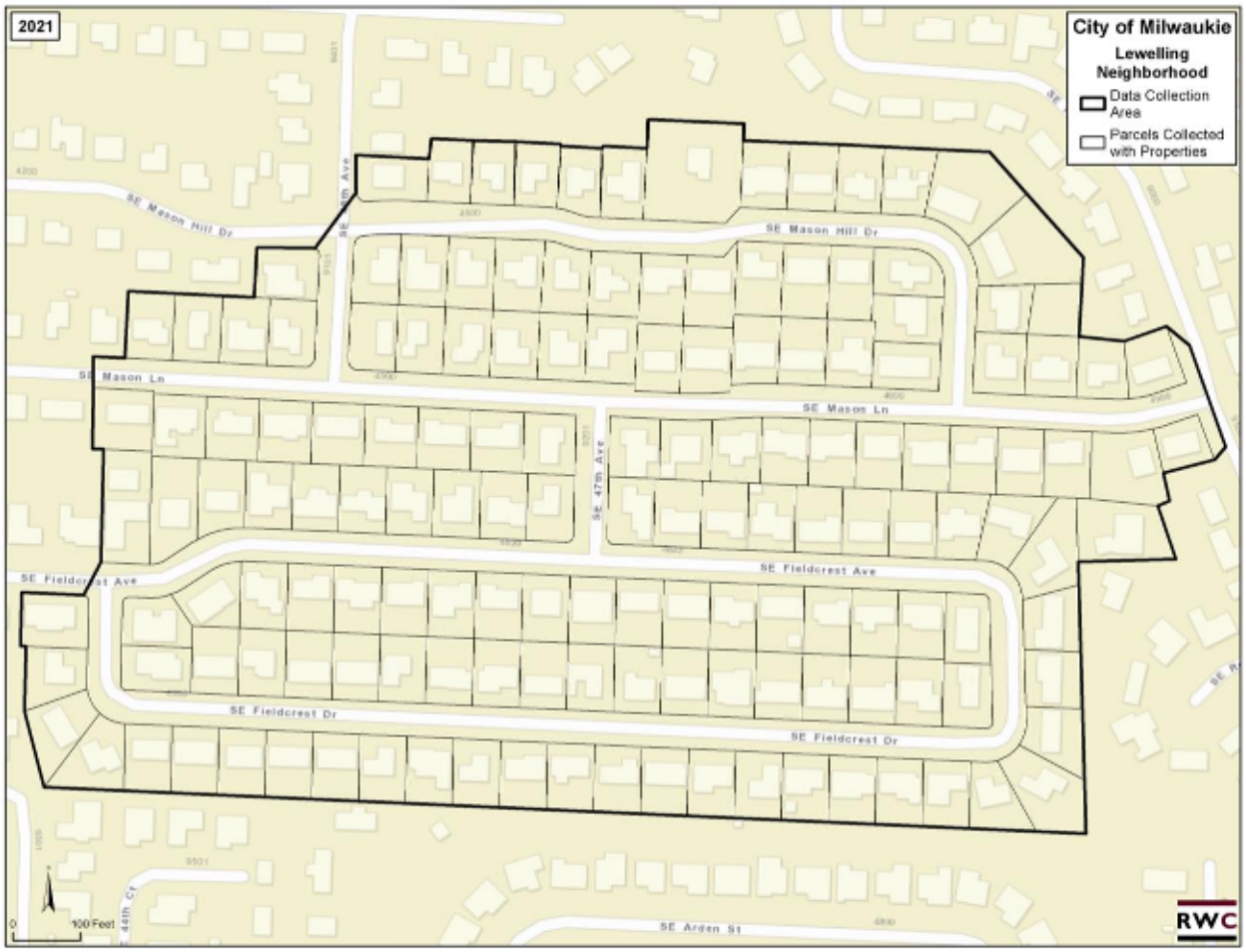
Study Area and Occupancy Count Inventory

The sample study area for the Lewelling neighborhood is illustrated in **Figure F**. The survey area for this neighborhood is comprised of 154 residential units, served by 759 parking stalls. Of the total stalls observed during data collection, 406 were on-street and 353 were in driveways/carport stalls.[10] There were no surface lot stalls in this neighborhood. This is summarized in **Table 5.**

Table 5: Lewelling Neighborhood – Breakout of observed stalls and residential units

	Lewelling Neighborhood
Total Parking Stalls Studied[11]	759
On-Street Stalls	406
Driveway Stalls	353
Surface Lot Stalls	-
Residential Units	154

Figure F: Lewelling Neighborhood Study Area Boundary and Parcel Map



[10] An additional 242 stalls of "capacity" were estimated during the inventory in doored garages.
[11] Residential parking stalls only. "Other" and Garage uses excluded from this summary.

Summary of Parking Occupancies

On-Street Parking Demand

There are 406 on-street parking stalls within the Lewelling neighborhood study area. At the 2:00 AM data collection hour, 45 vehicles were observed parked in the on-street supply. This represents occupancy of 11.1%, leaving 361 empty stalls in the usable on-street inventory.

At 10:00 AM, 32 vehicles were observed parked in the on-street supply. This represents an occupancy of 8.0%, with 374 empty stalls available within the useable on-street inventory.

Table 6 summarizes occupancy counts associated with the on-street supply.

Table 6: Observed Occupancies – On-street Supply

Performance Measure	Parking Demand Observations	
	On-Street Parking Supply: **406 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
Occupancy	**11.1%**	8.0%
Parked Vehicles	**45**[12]	31[13]
RV/ Trailers	**0**	1
Construction/ Obstruction	-	8[14]
Empty stalls (unused supply)	**361**	**374**

On-Site Parking Demand (within parcels)

Use of on-site parking in the neighborhood is summarized in **Table 7.** In the Lewelling neighborhood, there are 353 on-site parking stalls. This is all driveway/carport capacity as there are no surface lots serving residential uses in this neighborhood.

At the 2:00 AM hour, 247 vehicles were observed parked within residential parcels, an occupancy of 70.0%. At this hour, there were 106 empty parking stalls within the on-site supply. At 10:00 AM, occupancies dropped to 57.2%, with 202 vehicles parked and 151 stalls empty.

Table 7: Observed Occupancies – On-site supply

Performance Measure	Parking Demand Observations	
	On-Site Parking Supply: **353 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
Occupancy	**70.0%**[15]	57.2%[16]
Parked Vehicles	**247**	202
Empty stalls (unused supply)	**106**	**151**

[12] Of the total vehicles parked at 2:00 AM, zero are parked illegally.
[13] Of the total vehicles parked at 10:00 AM, two (2) are parked illegally (includes the one RV/Trailer).
[14] These are what would be useable stalls but have been temporarily removed from the supply since the inventory for construction.
[15] Of the vehicles parked at 2:00 AM, three (3) are parked somewhere on-site other than the driveway.
[16] Of the vehicles parked at 10:00 AM, three (3) are parked somewhere on-site other than the driveway.

Residential Parking Demand per Unit

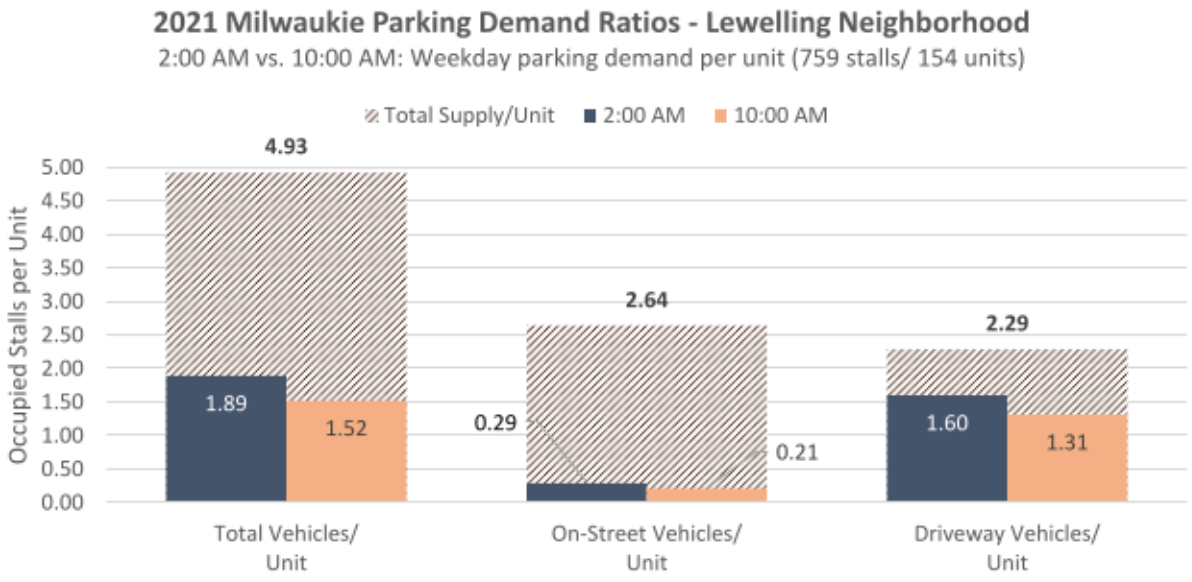
Table 8 summarizes occupancy data into per unit demand ratios using the entire 759 stall supply using observed vehicle occupancy numbers provided in **Tables 6** and **7** above. The table also allocates the demand for each unit between on-street and on-site occupancies to illustrate demand by stall type.

Table 8: Residential Parking Demand per Unit

Performance Measure	Parking Demand per Unit	
	Residential Units: **154 Units**	
	2:00 AM	**10:00 AM**
On-Street Vehicles/Unit (Supply: 2.64 stalls/unit)	0.29	0.21
Driveway Vehicles/Unit (Supply: 2.29 stalls/unit)	1.60	1.31
Surface Lot Vehicles/Unit (Supply: N/A)	N/A	N/A
Total Vehicles/Unit (Supply: 4.93 stalls/unit[17])	**1.89**	**1.52**

As the table indicates, peak hour (2:00 AM) residential demand is 1.89 vehicles per unit. Of that total, 0.29 per unit is generated from vehicles parking on-street. Observed on-site demand is 1.60 vehicles per unit. At 10:00 AM, combined demand for parking is 1.52 vehicles per unit; with 0.21 and 1.31 of demand derived on-street and on-site, respectively. These demand ratios can be contrasted to the built supply of parking (excluding garage capacity), which combined, totals 4.93 stalls of capacity serving a demand of 1.89 and 1.52 vehicles/unit, for the 2:00 AM and 10:00 AM occupancy periods. This is illustrated in **Figure G.**

Figure G: Summary of Parking Demand and Built Supply



[17] This does not include potential garage capacity, which totaled 242 stalls, which would raise the built ratio to 6.50.

Heat Map Summary

Figures H and **I** provide a graphic illustration of occupancies at 2:00 AM and 10:00 AM, respectively. Data is provided for both the on-street system and the on-site systems using the demand color band formula described in the Lake Road summary (**Page 7**).

On-street

At the 2:00 AM hour, 18 of 20 on-street block faces fall within the green color band (less than 55% occupancy). One block face on the west side of 45th Avenue paralleling the parcels on block 201 has occupancies in the orange range (70% - 84%) though the block face on the east side of the same street is green (less than 55%). One block face, the east side of SE Mason Hill Drive Avenue, paralleling the parcels on block 203 is yellow (69% - 55%). At this hour, the heat maps would indicate there is an abundance of on-street parking available and access to it is convenient.

At the 10:00 AM hour, all on-street block faces fall within the green color band (less than 55%). At this hour, the heat maps would indicate there is an abundance of on-street parking available with convenient access.

On-site

This study area has very large parcel blocks, totaling 10 blocks and 154 unique units. For purposes of this discussion, occupancy data is aggregated to the *parcel block* level. Use at the *individual parcel level* is not displayed to ensure that individual residential sites remain anonymous.

At the 2:00 AM hour, one of the parcel blocks (208) is falls within the red band (100% - 85%). Four of 20 parcel blocks fall within the orange band (84% - 70%); this includes parcel blocks 200, 205, 207, and 209. Three parcel blocks (202, 204, and 206) have occupancies between 69% and 55%. The remaining parcel blocks (201 and 203) are green (less than 55%).

At this hour, the heat maps would indicate that parcels within blocks can meet their parking demand on-site. Only one parcel block has demand that approaches observed supply, and as stated above, there is an abundance of empty on-street parking.

At the 10:00 AM hour, one parcel block (208) falls within the red band (100% - 85%). Three parcel blocks (200, 205, and 207) have occupancies in the yellow range. The remaining six parcel blocks are within the green band. At this hour, the heat maps would indicate that parcels within blocks can meet their parking demand on-site. Only one parcel block has demand that approaches observed supply, and, as stated above, there is an abundance of empty on-street parking.

Figure H: Parking Occupancy Heat Map – 2:00 AM

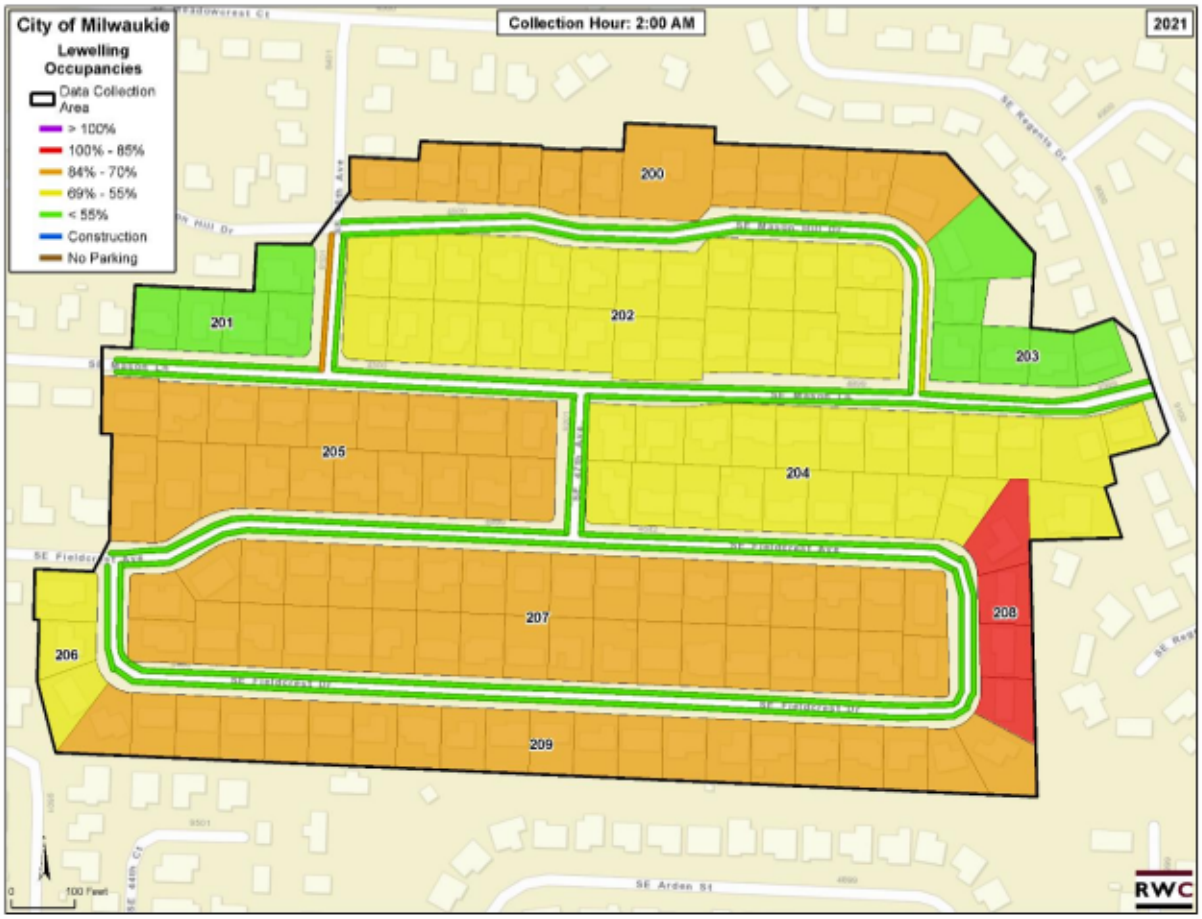
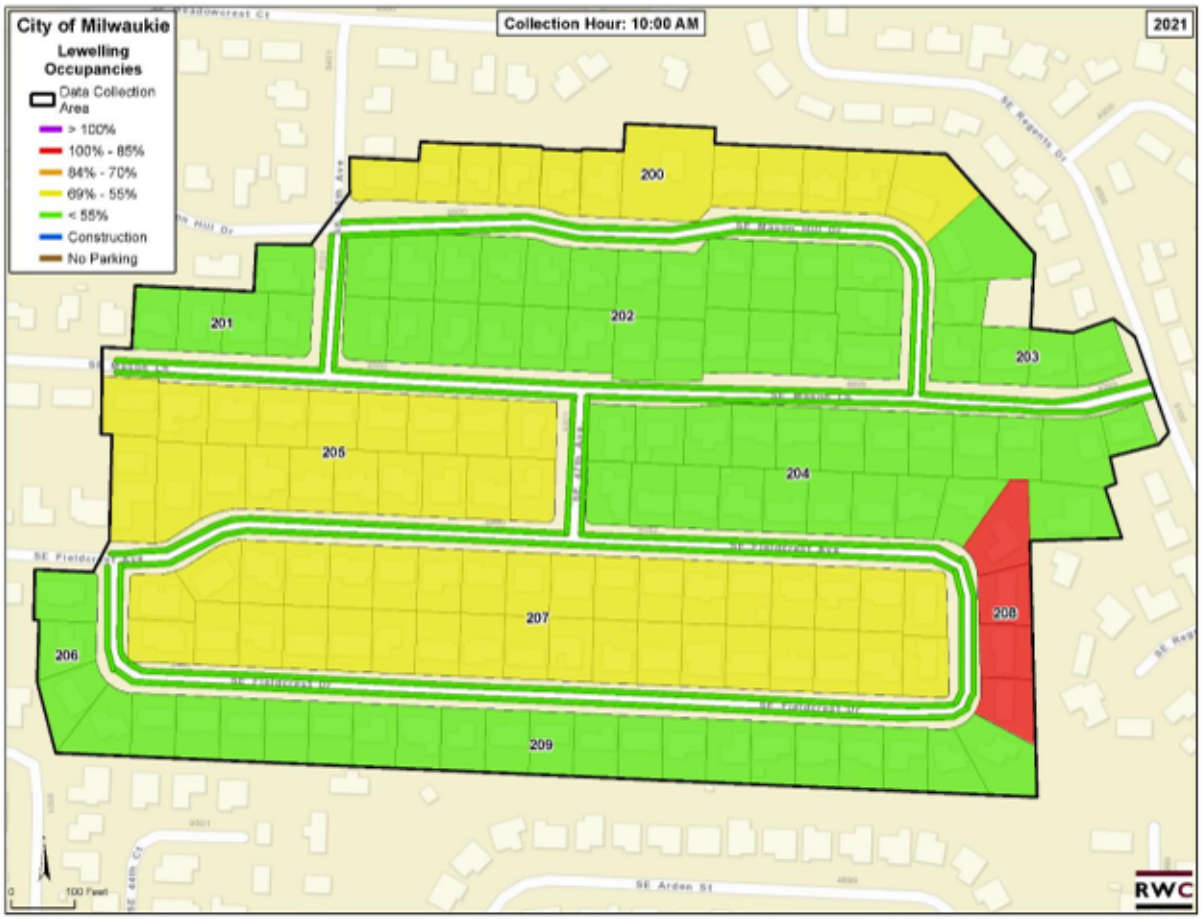


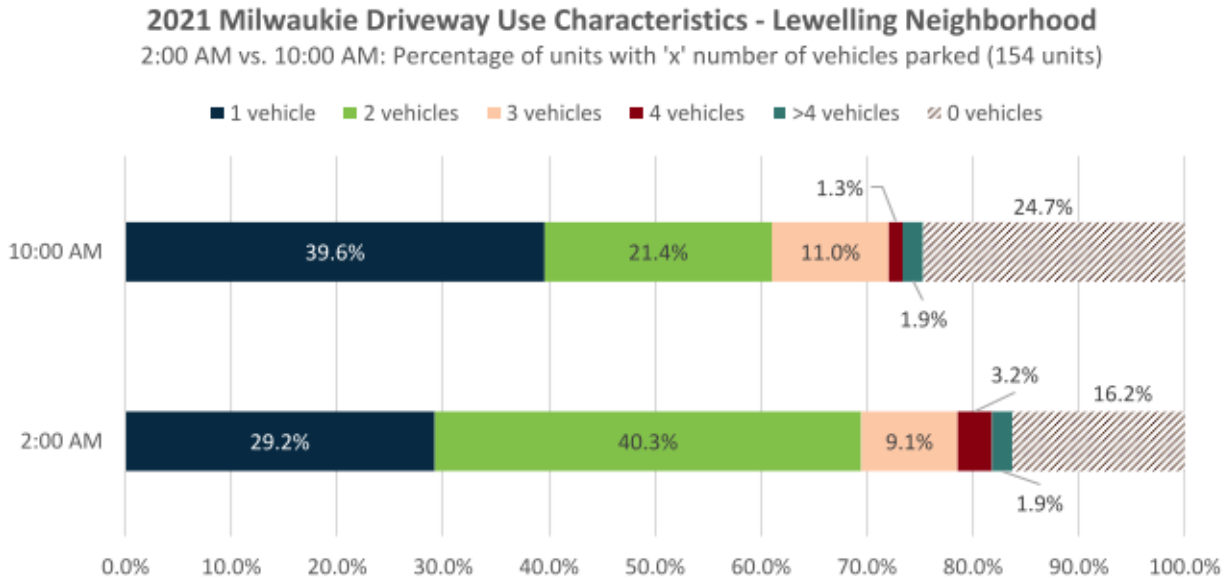
Figure I: Parking Occupancy Heat Map – 10:00 AM



Number of Vehicles Parked On-site – By Individual Parcels

Figure J provides a summary of the percentage of vehicles parked on-site at unique residential parcels within the Lewelling study area.

Figure J: Summary of Use of Observed On-site Supply



As the figure indicates, most vehicles parked at individual residential units ranges from zero (24.7%) to one (39.6%) at 10:00 AM. Units with 2 observed vehicles represented 21.4% of vehicles parked. The percentage of units observed to park 3 or more vehicles on-site during this data collection hour totals 14%, a much higher percentage than the Lake Road study area.

At 2:00 AM, the percentage of vehicles parked between 0 and 1 vehicles was 16.2% and 29.2%, respectively. Units with 2 observed vehicles represented 40.3% of vehicles parked (the largest use category). As with the Lake Road data above, the drop from 0 and 1 at this hour as compared to 10:00 AM likely reflects vehicles returning from daytime trips (e.g., work, shopping, etc.). This is also reflected in the large increase in 2 observed vehicles. Units with 3 or more observed vehicles remained constant at 14.2%

Summary – Lewelling Neighborhood

Data collected indicates that occupancies within the study zone are higher at the 2:00 AM hour, reflecting what is likely the minimum true demand for parking per residential unit – 1.89 vehicles/unit – an hour when few (if any) non-residential vehicles are in the neighborhood. Not surprisingly, there is higher use of the on-site supply at the 2:00 AM peak; 1.60/unit versus 1.31/unit (10:00 AM). In both supplies (and at both occupancy hours), the study showed that there is a sizable supply of empty and available capacity. For the Lewelling neighborhood, it also appears that there is very low use of the on-street system to meet parking demand, with only 45 vehicles (11.1%) using the street at the 2:00 AM peak hour.

1.6 ARDENWALD NEIGHBORHOOD

Study Area

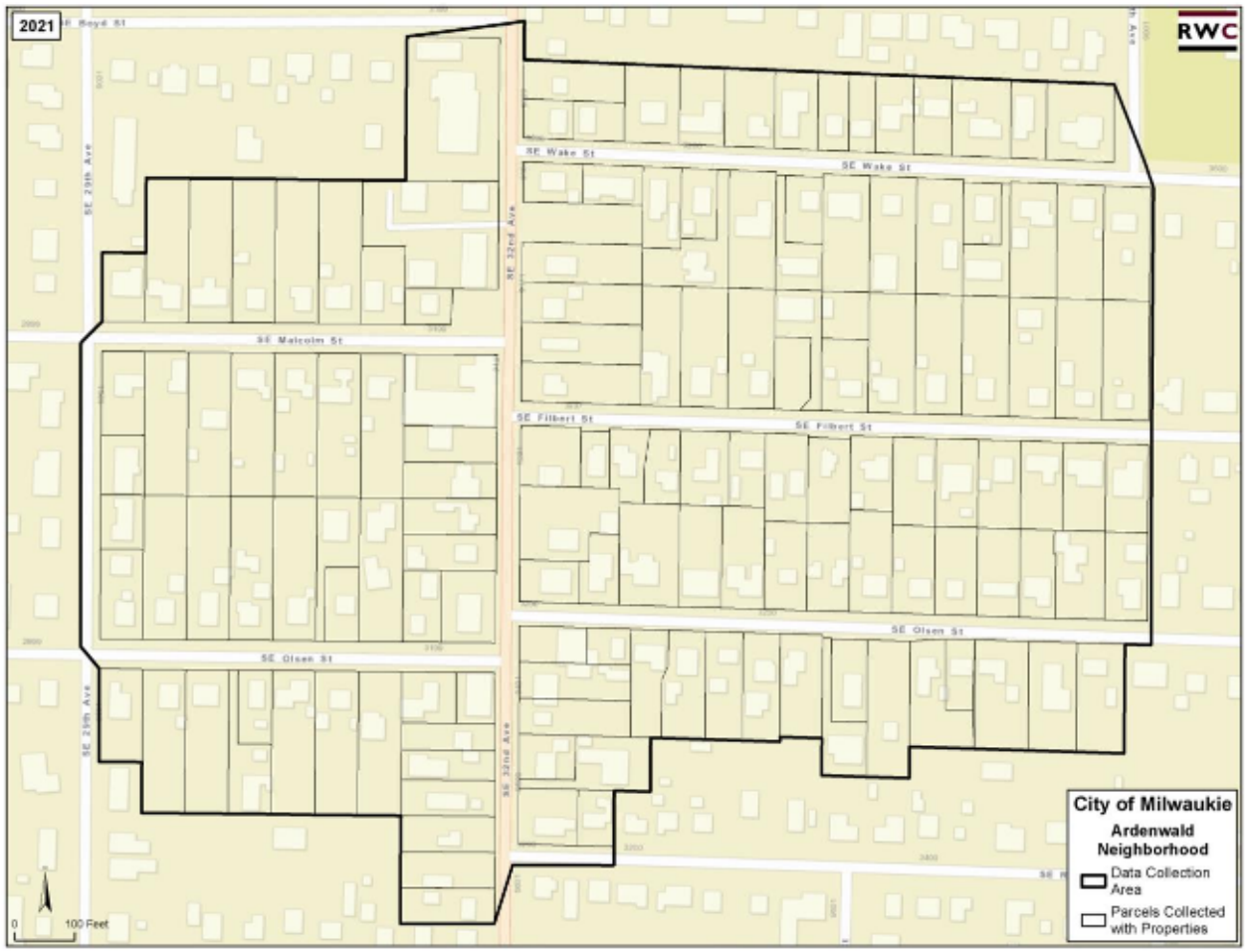
The sample study area for the Ardenwald neighborhood is illustrated in **Figure K.**

The survey area for this neighborhood is comprised of 171 residential units, served by 535 parking stalls. Of the total stalls observed during data collection, 205 were on-street, 287 were in driveways/carport stalls, and 43 were on surface lots.[18] This is summarized in **Table 9.**

Table 9: Ardenwald Neighborhood – Breakout of observed stalls and residential units

	Ardenwald Neighborhood
Total Parking Stalls Studied[19]	535
On-Street Stalls	205
Driveway Stalls	287
Surface Lot Stalls	43
Residential Units	171

Figure K: Ardenwald Neighborhood Study Area Boundary and Parcel Map



[18] An additional 156 stalls of residential "capacity" were estimated during the inventory in doored garages.
[19] Residential parking stalls only. "Other" and Garage uses excluded from this summary.

Summary of Parking Occupancies

On-Street Parking Demand

There are 205 on-street parking stalls within the Ardenwald neighborhood study area that serve residential uses. At the 2:00 AM data collection hour, 50 vehicles were observed parked in the on-street supply. This represents occupancy of 24.2%, leaving 157 empty stalls in the usable on-street inventory.

At 10:00 AM, 43 vehicles were observed parking in the on-street supply. This represents an occupancy of 20.8%, with 164 empty stalls available within the useable on-street inventory.

Table 10 summarizes occupancy counts associated with the on-street supply.

Table 10: Observed Occupancies – On-street Supply

Performance Measure	Parking Demand Observations	
	On-Street Parking Supply: **205 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
Occupancy	**24.2%**	20.8%
Parked Vehicles	**49**[20]	43[21]
RV/ Trailers	**1**	-
Construction/ Obstruction	-	-
Empty stalls (unused supply)	**157**	**164**

On-Site Parking Demand (within parcels)

Use of on-site parking in the neighborhood is summarized in **Table 11**. In the Ardenwald neighborhood, there are 330 on-site parking stalls, 287 in driveway/carports and 43 stalls on surface lots serving residential uses in this neighborhood.

At the 2:00 AM hour, 299 vehicles were observed parked within residential parcels, an occupancy of 90.6%. At this hour, there were 31 empty parking stalls within the on-site supply. At 10:00 AM, occupancies dropped to 74.5%, with 246 vehicles parked and 84 stalls empty.

Table 11: Observed Occupancies – On-site supply

Performance Measure	Parking Demand Observations	
	On-Site Parking Supply: **330 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
On-site Occupancy (combined)	**90.6%**	74.5%
Parked Vehicles (driveway/carport)	**269**[22]	226[23]
Parked Vehicles (surface lot)	**30**	20
Empty stalls (unused supply)	**31**	**84**

Residential Parking Demand per Unit

Table 12 summarizes occupancy data into parking demand per residential unit. Data is based on use within the entire 535 stall supply using observed vehicle occupancy numbers provided in **Tables 10** and **11** above.

[20] Of the total vehicles parked at 2:00 AM, one (1) is parked illegally (includes the RV/Trailer).
[21] Of the total vehicles parked at 10:00 AM, one (1) is parked illegally.
[22] Of the vehicles parked, 24 are parked somewhere on-site other than the driveway.
[23] Of the vehicles parked, ten (10) are parked somewhere on-site other than the driveway.

The table also allocates the demand for each unit between on-street and on-site occupancies to illustrate demand by stall type.

Table 12: Residential Parking Demand per Unit

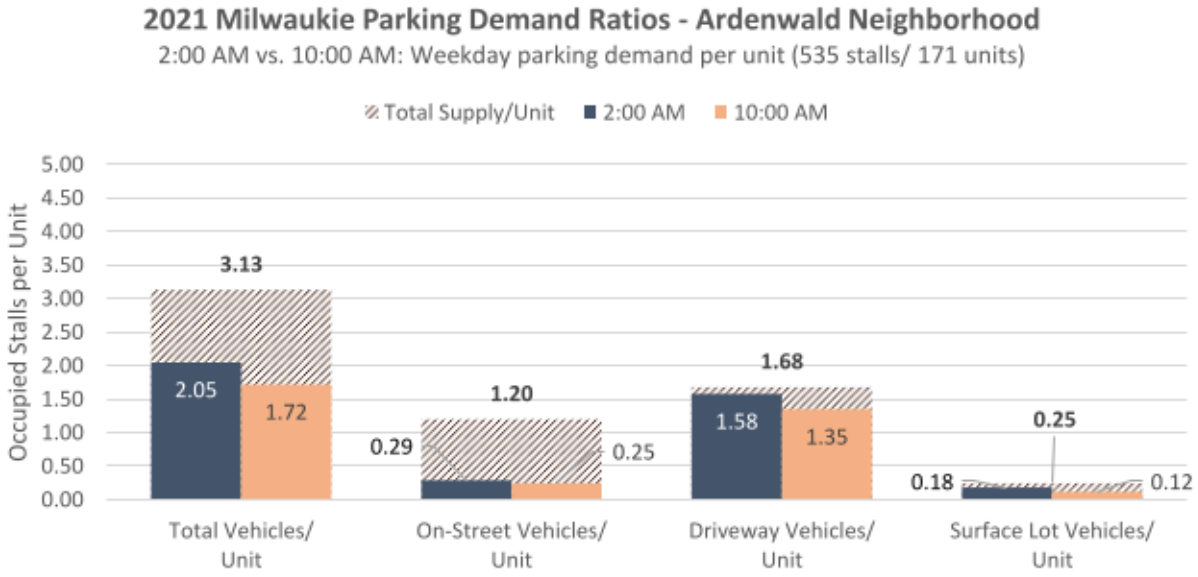
Performance Measure	Parking Demand per Unit	
	Residential Units: **171 Units**	
	2:00 AM	10:00 AM
On-Street Vehicles/Unit (Supply: 1.20 stalls/unit)	0.29	0.25
Driveway Vehicles/Unit (Supply: 1.68 stalls/unit)	1.58	1.35
Surface Lot Vehicles/Unit (Supply: 0.25/unit)	0.18	0.12
Total Vehicles/Unit (Supply: 3.13 stalls/unit[24])	**2.05**	**1.72**

As the table indicates, peak hour (2:00 AM) residential demand is 2.05 vehicles per unit. Of that total, 0.29 per unit is generated from vehicles parking on-street. Observed on-site demand is 1.76 vehicles per unit (1.58 in driveway/carports and 0.18 in surface lots). Unlike Lake Road and Lewelling, demand and supply of driveway/carport stalls are very close, particularly at the 2:00 AM hour. This underscores the occupancy numbers in **Table 11,** which show on-site (2:00 AM) occupancies of 90.6%.

At 10:00 AM, combined demand for parking is 1.72 vehicles per unit; with 0.25, 1.35, and 0.12 of demand derived on-street, in driveways/carports, and on surface lots, respectively.

Figure L illustrates demand ratios when contrasted to the built supply of parking (excluding garage capacity). For Ardenwald, combined supply totals 3.13 stalls of capacity serving a demand of 2.05 and 1.72 vehicles/unit, for the 2:00 AM and 10:00 AM occupancy periods, respectively.

Figure L: Summary of Parking Demand and Built Supply



[24] This does not include potential residential garage capacity, which totaled 156 stalls, which would raise the built ratio to 4.04.

Heat Map Summary

Figures M and **N** provide a graphic illustration of occupancies at 2:00 AM and 10:00 AM, respectively. Data is provided for both the on-street system and the on-site systems using the demand color band formula described in the Lake Road summary (**Page 7**).

On-street

Twelve of 19 block faces in the study area allow parking; seven block faces do not allow parking.[25] At the 2:00 AM hour, all 12 block faces with parking fall within the green color band (less than 55% occupancy). At this hour, the heat maps would indicate there is an abundance of on-street parking available and access to it is convenient, except those seven block faces where no parking is allowed.

At the 10:00 AM hour, 11 of the 12 on-street block faces with parking fall within the green color band (less than 55%). One block face on SE Rockwood Street (paralleling parcel block 315) falls within the orange band (84% - 70%). At this hour, the heat maps would indicate there is an abundance of on-street parking available and access to it is convenient, except those seven block faces where no parking is allowed.

On-site

As with the Lewelling study area, the Ardenwald study area has very large parcel blocks, totaling just 7 blocks and 171 unique residential units. For purposes of this discussion, occupancy data is aggregated to the *parcel block* level. Use at the *individual parcel level* is not displayed to ensure that individual residential sites remain anonymous.

At the 2:00 AM hour, one of the parcel blocks (307) has demand that falls within the purple band, with the number of parked vehicles exceeding the observed supply. Three of 7 parcel blocks fall within the red band (100% - 85%); this includes parcel blocks 308, 313, and 314. One parcel block (315) has occupancies in the orange band (84% - 70%). The remaining parcel blocks (309 and 312) are yellow (69% - 55%).

At 2:00 AM, the heat maps indicate that parcels within certain blocks contain their parking demand on-site at a level that nearly matches supply. This was particularly true on parcel blocks 307, 308, 313, and 314. The remaining parcels appear to be containing their demand on-site given the overall low use of the on-street supply in the study area.

At the 10:00 AM hour, the heat maps provide visual evidence of residential vehicles leaving the area as there are noticeable drops in on-site occupancies in five of the seven parcels blocks. Only blocks 307 and 313 remain within the red or purple bands.

[25] There are 19 total block faces in the study area. Of this total, 7 block faces do not allow parking. This is for a number of reasons, which includes bus access along SE 32nd Avenue and narrow streets in other areas. We state this here as an anecdotal indicator of why on-site occupancies are higher than the other neighborhood study areas as parcel blocks abutting no-parking streets are more likely in the position of containing all their demand on-site.

Figure M: Parking Occupancy Heat Map – 2:00 AM

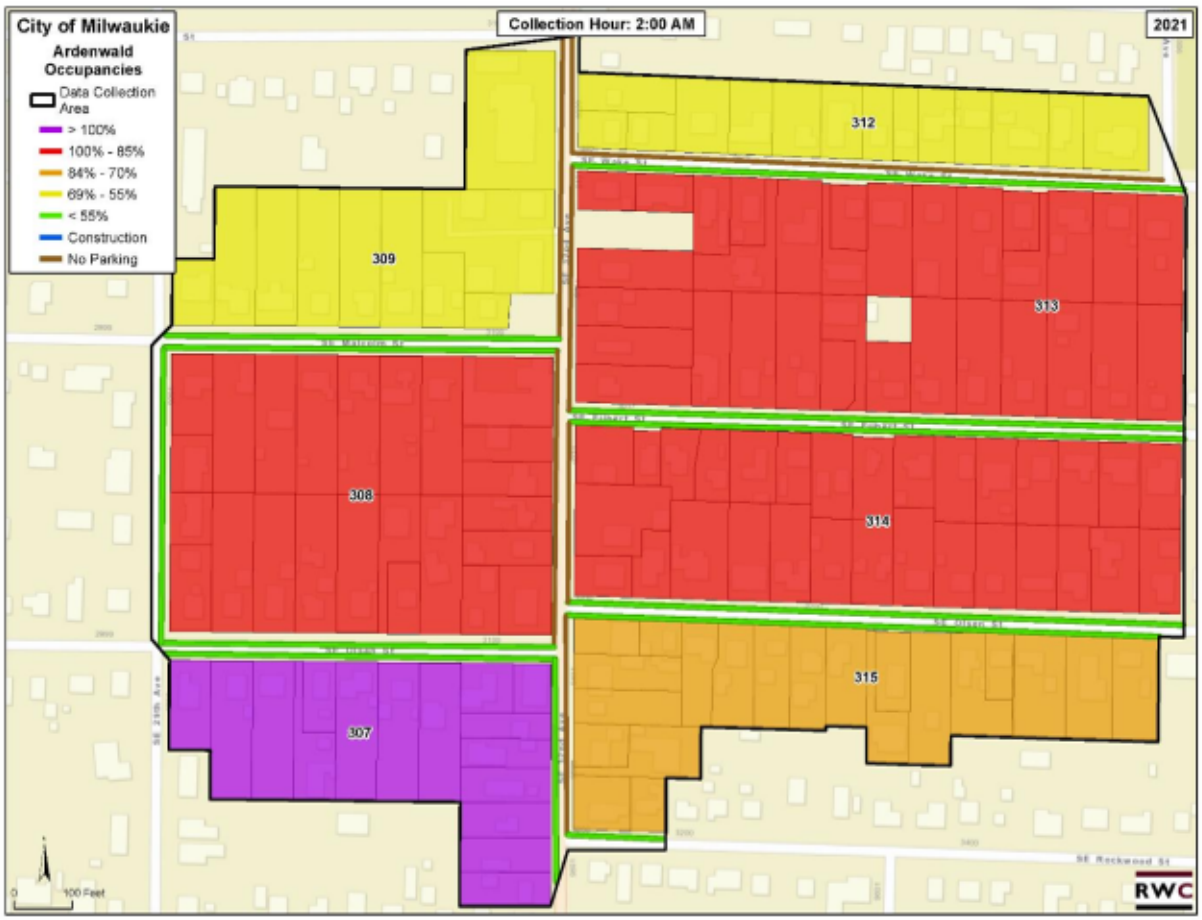
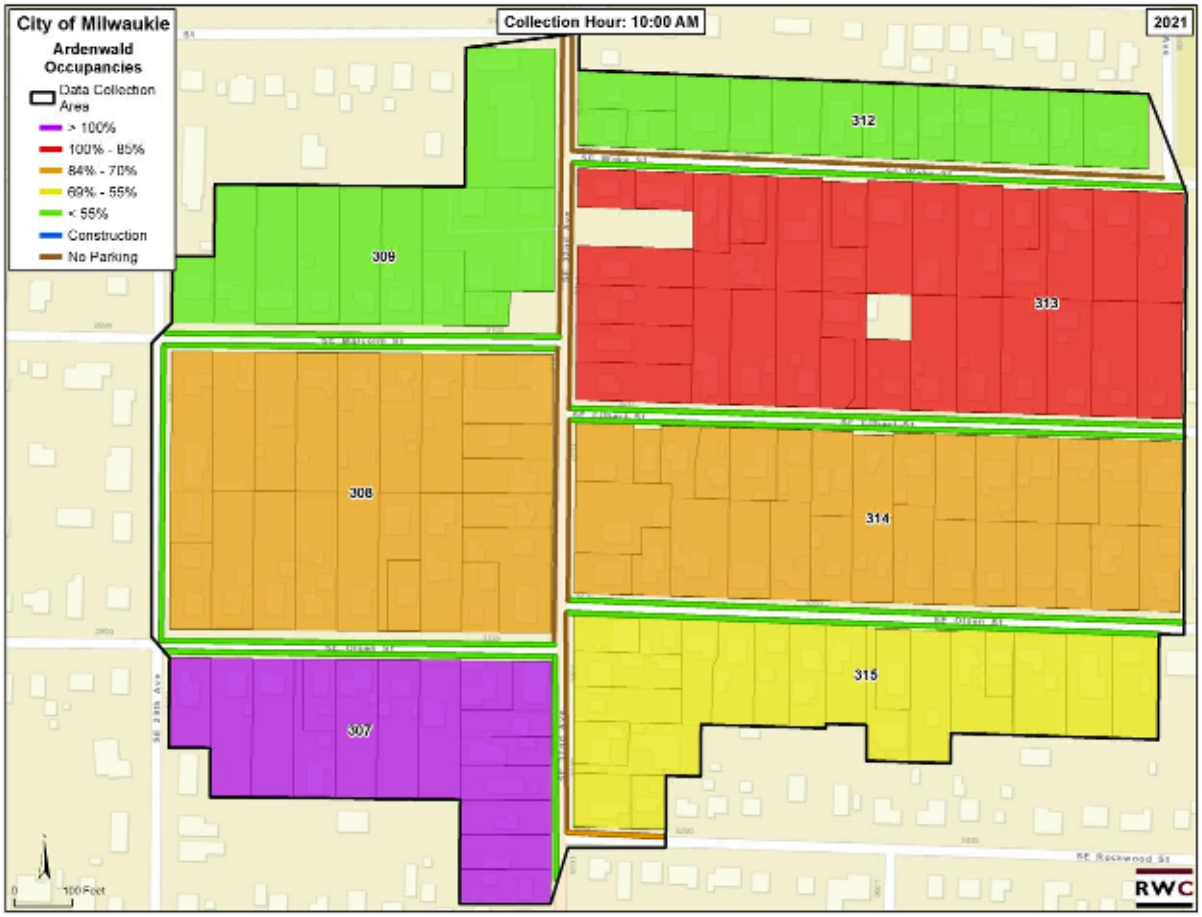


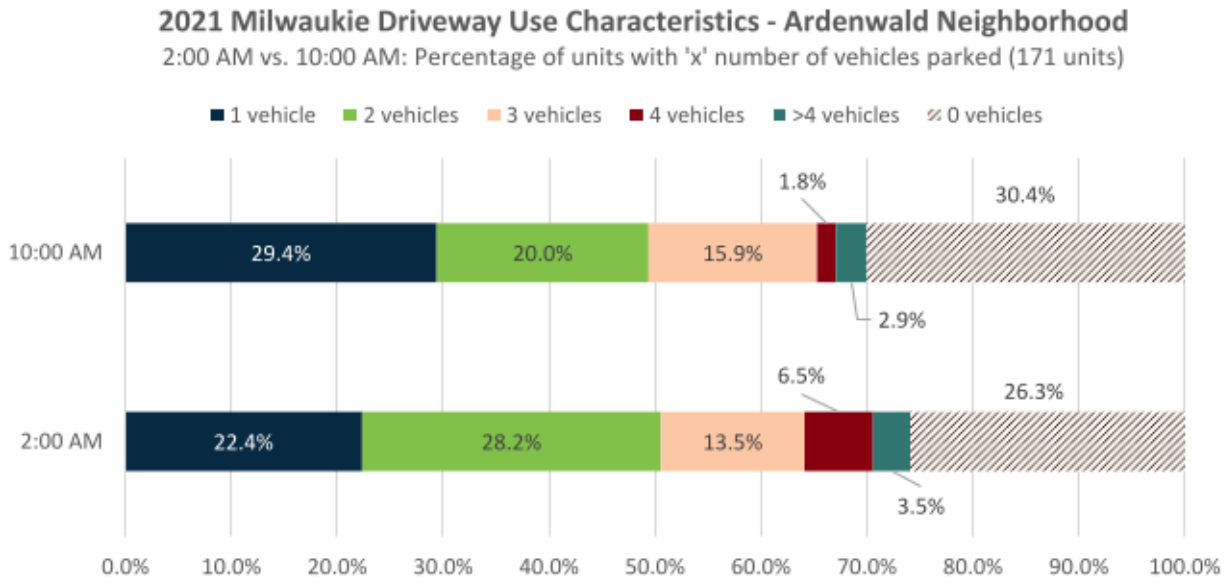
Figure N: Parking Occupancy Heat Map – 10:00 AM



Number of Vehicles Parked On-site – By Individual Parcels

Figure O provides a summary of the percentage of vehicles parked on-site at unique residential parcels within the Ardenwald study area.

Figure O: Summary of Use of Observed On-site Supply



As the figure indicates, most vehicles parked at individual residential units ranges from zero (30.4%) to one (29.4%) at 10:00 AM. Units with 2 observed vehicles represented 20.0% of vehicles parked. The percentage of units observed to park 3 or more vehicles on-site during this data collection hour totals 20.6%, the highest percentage of all neighborhood study areas.

At 2:00 AM, the percentage of vehicles parked between 0 and 1 vehicles was 26.3% and 22.4%, respectively. As evidenced in the other study areas, the drop from 0 and 1, at this hour as compared to 10:00 AM, likely reflects residents returning from daytime trips (e.g., work, shopping, etc.). This is also reflected in the increase in 2 observed vehicles (raising to 28.2%) and units with 3 or more observed vehicles (raising to 23.5%).

Summary – Ardenwald Neighborhood

Data collected indicates that occupancies within the study zone are higher at the 2:00 AM hour, reflecting the minimum true demand for parking per residential unit: 2.05 vehicles/unit. There is higher overnight use of the on-site supply: 1.58/unit at 2:00 AM versus 1.35/unit at 10:00 AM. Notably, the 2:00 AM number is very near the total capacity of 1.68/unit on-site. Surveyors noted that in this study area, there was a high level of on-site vehicle storage (3 or more vehicles observed) than was evidenced in the Lake Road and Lewelling study areas.

The on-street system is not highly utilized by residential demand; there are 157 empty stalls at the 2:00 AM peak hour and 164 at 10:00 AM. Unlike other study areas, there are several block faces that do not allow parking, which may influence the high occupancy numbers on-site on several parcel blocks.

1.7 ISLAND STATION NEIGHBORHOOD

Study Area

The sample study area for the Island Station neighborhood is illustrated in **Figure P**.

The survey area for this neighborhood is comprised of 131 residential units, served by 541 parking stalls. Of the total stalls observed during data collection, 285 were on-street, 238 were in driveways/carport stalls, and 18 were on surface lots.[26] This is summarized in **Table 13.**

Table 13: Island Station Neighborhood – Breakout of observed stalls and residential units

	Island Station Neighborhood
Total Parking Stalls Studied[27]	541
On-Street Stalls	285
Driveway Stalls	238
Surface Lot Stalls	18
Residential Units	131

Figure P: Island Station Neighborhood Study Area Boundary and Parcel



[26] An additional 148 stalls of residential "capacity" were estimated during the inventory in doored garages.
[27] Residential parking stalls only. "Other" and Garage uses excluded from this summary.

Summary of Parking Occupancies

On-Street Parking Demand

There are 285 on-street parking stalls within the Island Station neighborhood study area that serve residential uses. At the 2:00 AM data collection hour, 42 vehicles were observed parked in the on-street supply. This represents occupancy of 16.5%, leaving 212 empty stalls in the usable on-street inventory.

At 10:00 AM, 51 vehicles were observed parked in the on-street supply. This represents an occupancy of 20.1%, with 203 empty stalls available within the useable on-street inventory.

Table 14 summarizes occupancy counts associated with the on-street supply.

Table 14: Observed Occupancies – On-street Supply

Performance Measure	On-Street Supply	
	On-Street Parking Supply: **285 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
Occupancy	**16.5%**	20.1%
Parked Vehicles[28]	**42**	51
RV/ Trailers	**-**	-
Construction/ Obstruction	**31**	31
Empty stalls (unused supply)	**212**	**203**

On-Site Parking Demand (within parcels)

Use of on-site parking in the neighborhood is summarized in **Table 15.** In the Island Station neighborhood, there are 256 on-site parking stalls, 238 in driveway/carports, and 18 stalls on surface lots serving residential uses in this neighborhood.

At the 2:00 AM hour, 209 vehicles were observed parked within residential parcels, an occupancy of 81.6%. At this hour, there were 47 empty parking stalls within the on-site supply. At 10:00 AM, occupancies dropped to 77.7%, with 199 vehicles parked and 57 stalls empty.

Table 15: Observed Occupancies – On-site supply

Performance Measure	Parking Demand Observations	
	On-Site Parking Supply: **256 stalls**	
Collection Hour	**2:00 AM**	10:00 AM
On-site Occupancy (combined)	**81.6%**	77.7%
Parked Vehicles (driveway/carport)	**195**[29]	182[30]
Parked Vehicles (surface lot)	**14**	17
Empty stalls (unused supply)	**47**	**57**

Residential Parking Demand per Unit

Table 16 summarizes occupancy data into parking demand per residential unit. Data is based on use within the entire 541 stall supply using observed vehicle occupancy numbers provided in **Tables 14** and **15** above. The table also allocates the demand for each unit between on-street and on-site occupancies to illustrate demand by stall type.

[28] Zero vehicles parked illegally.
[29] Of the vehicles parked, 24 are parked somewhere on-site other than the driveway.
[30] Of the vehicles parked, 15 are parked somewhere on-site other than the driveway.

Table 16: Residential Parking Demand per Unit

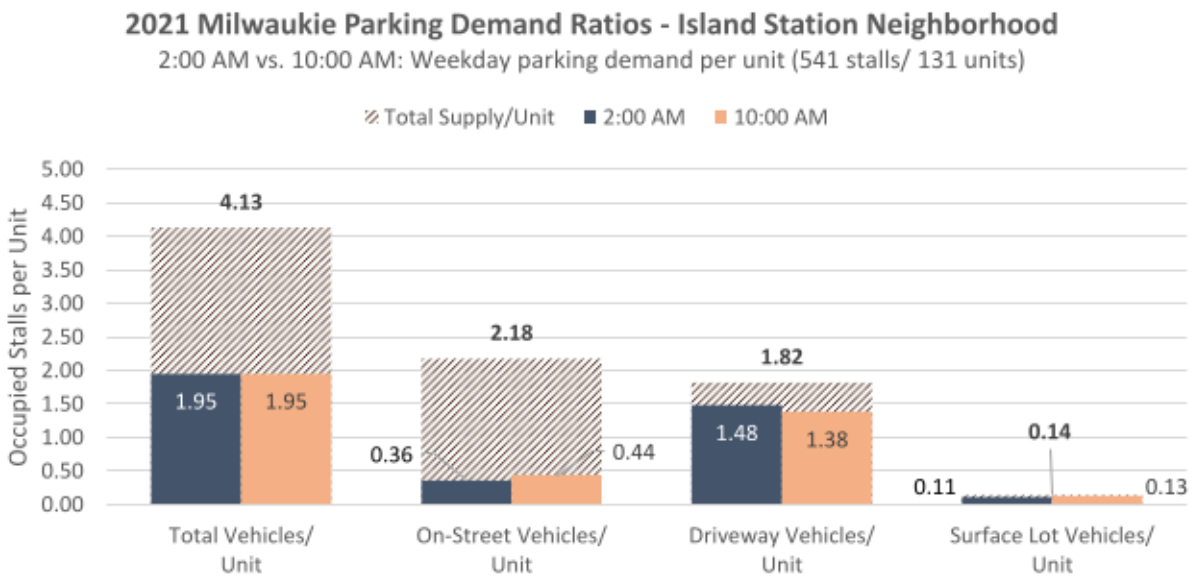
Performance Measure	Parking Demand per Unit	
	Residential Units: **131 Units**	
	2:00 AM	10:00 AM
On-Street Vehicles/Unit (Supply: 2.18 stalls/unit)	0.36	0.44
Driveway Vehicles/Unit (Supply: 1.82 stalls/unit)	1.48	1.38
Surface Lot Vehicles/Unit (Supply: 0.14/unit)	0.11	0.13
Total Vehicles/Unit (Supply: 4.13 stalls/unit[31])	**1.95**	**1.95**

As the table indicates, peak hour (2:00 AM) residential demand is 1.95 vehicles per unit. Of that total, 0.36 per unit is generated from vehicles parking on-street. Observed on-site demand is 1.59 vehicles per unit (1.48 in driveway/carports and 0.11 in surface lots).

At 10:00 AM, combined demand for parking is also 1.95 vehicles per unit; with 0.44, 1.38, and 0.13 of demand derived on-street, in driveways/carports, and on surface lots, respectively.

Figure Q illustrates demand ratios when contrasted to the built supply of parking (excluding garage capacity). For Island Station, combined supply totals 4.13 stalls of capacity serving a demand of 1.95 vehicles/unit for the 2:00 AM and 10:00 AM occupancy periods.

Figure Q: Summary of Parking Demand and Built Supply



[31] This does not include potential residential garage capacity, which totaled 148 stalls, which would raise the built ratio to 5.26.

Heat Map Summary

Figures R and **S** provide a graphic illustration of occupancies at 2:00 AM and 10:00 AM, respectively. Data is provided for both the on-street system and the on-site systems using the demand color band formula described in the Lake Road summary (**Page 7**).

On-street

There are 55 block faces in the study area. Eleven block faces do not allow parking, and at the time of the survey, 3 block faces were not available for parking because of construction (mainly on SE 22nd Avenue and SE River Road, between SE Wren and SE Bluebird Streets).

At the 2:00 AM hour, 42 of the 44 block faces that allow parking fall within the green color band (less than 55% occupancy). One block face fell within the red band (85% - 100%). This block face is located on east side of SE River Road, paralleling parcel block 122.[32] Another block face, on the north side of SE Bluebird Street (paralleling parcel block 103) fell into the yellow band (69% - 55%). At this hour, the heat maps indicate there is an abundance of on-street parking available. Interestingly, the parcel blocks most affected by lack of on-street parking (e.g., blocks 116 and 117) have moderate on-site parcel demand.

At the 10:00 AM hour, 41 of 44 block faces that allow parking fall within the green color band (less than 55% occupancy). Two block faces fall within the red band (85% - 100%); located on the east side of SE River Road, paralleling parcel block 122 and on the north side of SE Bluebird Street paralleling parcel block 113. One block face falls within the yellow band (69% - 55%) at the south side of SE Bluebird Street paralleling parcel block 104. As with the 2:00 AM counts, the heat maps indicate there is an abundance of on-street parking available at 10:00 AM.

On-site

The Island Station study area totals 17 parcel blocks serving 131 unique residential units. For purposes of this discussion, occupancy data is aggregated to the *parcel block* level. Use at the *individual parcel level* is not displayed to ensure that individual residential sites remain anonymous.

At the 2:00 AM hour, three parcel blocks (108, 112, 115) fall within the purple band, with total parcel block demand in excess of observed supply (greater than 100%). This likely indicates high vehicle ownership and storage on parcels, which impact the overall parcel block demand number for those high demand blocks.[33]

Another five parcel blocks fall within the red band (100% - 85%); this includes parcel blocks 103, 104, 111, 118, and 123). Four parcel blocks (105, 116, 117, and 122) are yellow (69% - 55%). The remaining five parcel blocks fall within the green band (less than 55%).

At the 10:00 AM hour, three parcel blocks (112, 115, 123) fall within the purple band (greater than 100%), a slight change from the 2:00 AM count when parcel block 108 was purple and parcel block 123 was red. Two parcel blocks remain red at the 10:00 AM hour (108 and 111). Three parcel blocks (104, 117, and 118) fall within the orange band (70% - 84%), and two (105 and 116) fall within the yellow band (69% - 55%). The remaining seven parcel blocks fall within the green band (less than 55%).

The heat maps provide visual evidence of residential vehicles shifting both out of and within the study zone, based on the overall per unit demand levels for parking (1.95 vehicles/unit) staying consistent between the two occupancy counts (see **Table 16** and **Figure S**).

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[32] Occupancy on this block face may have been influenced by the adjacent construction.
[33] As noted above in footnotes 29 and 30 (**Page 27**), surveyor field notes indicated a high number of vehicles parked on parcels in excess of reasonable driveway/carport capacity.

Figure R: Parking Occupancy Heat Map – 2:00 AM

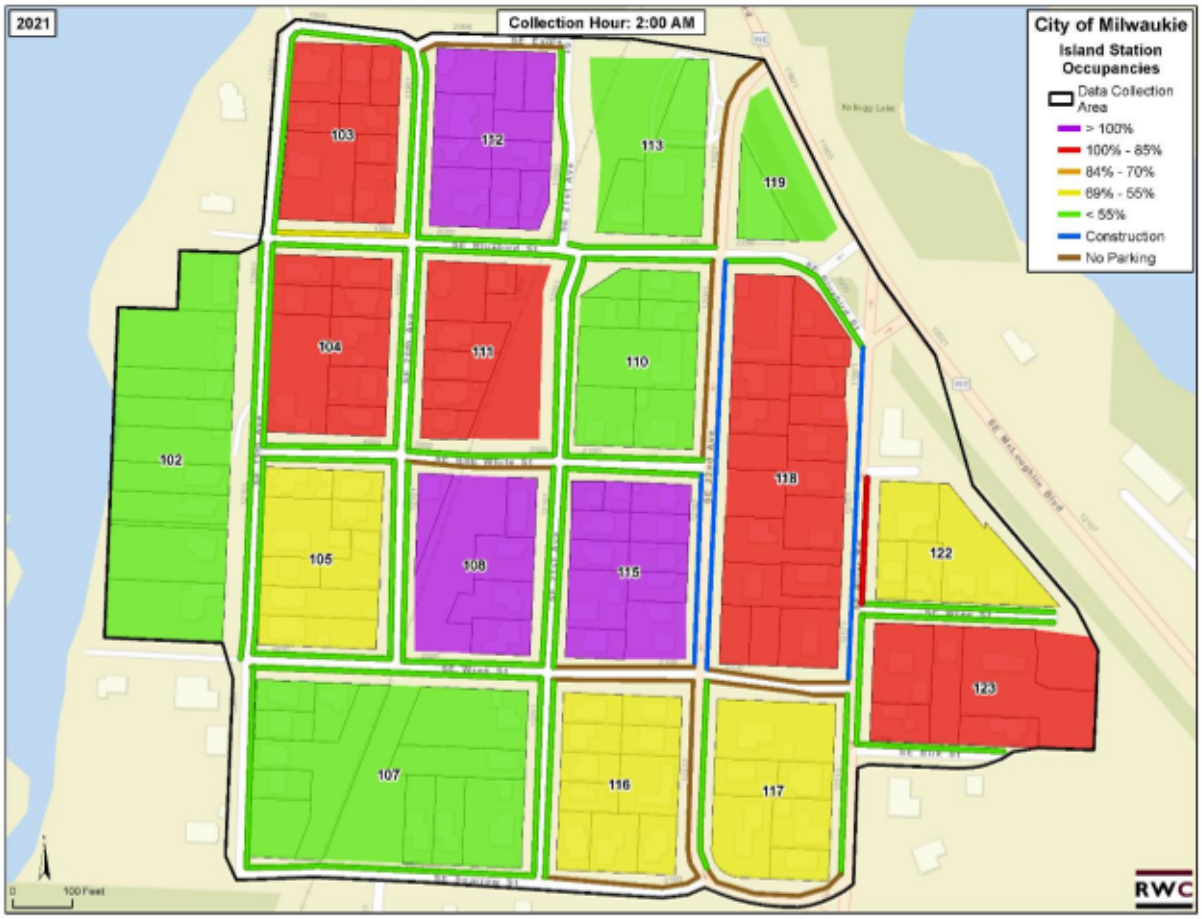
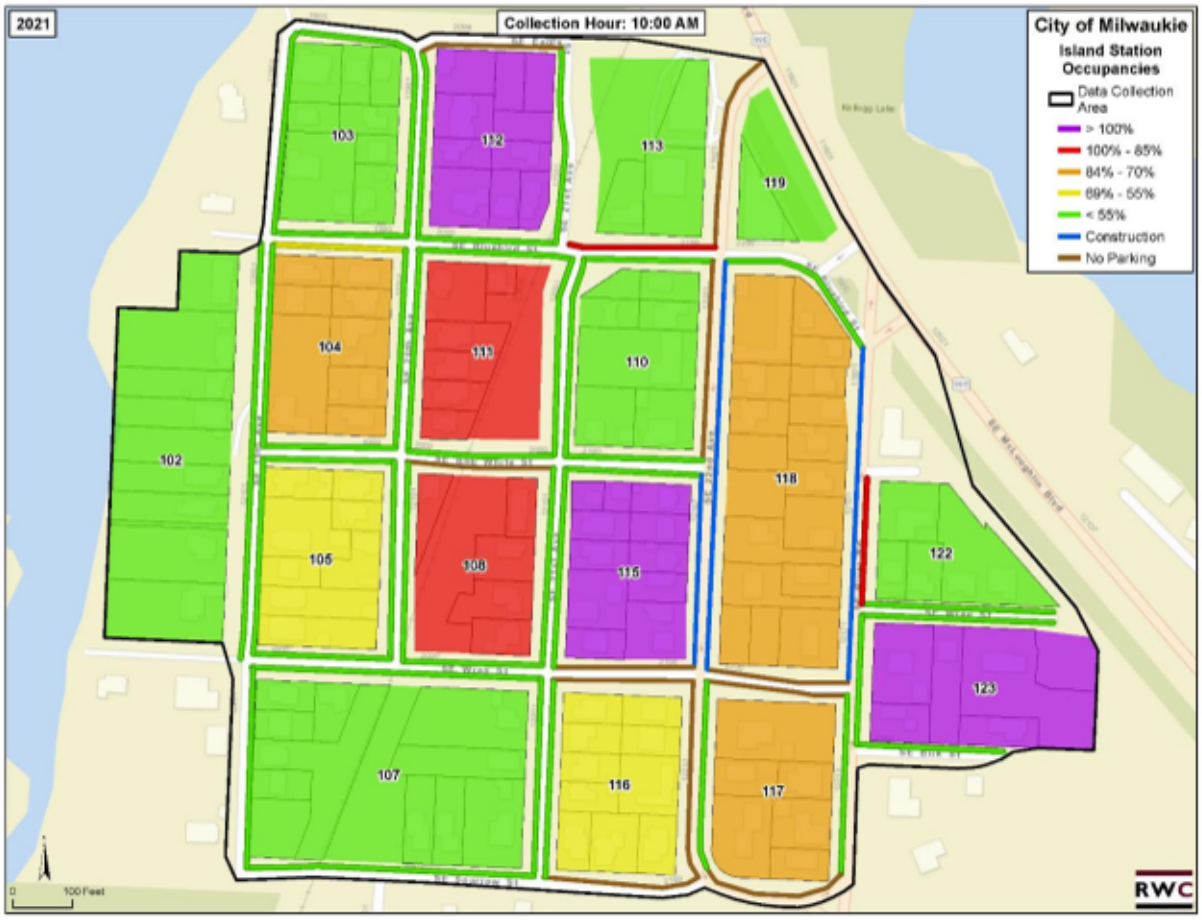


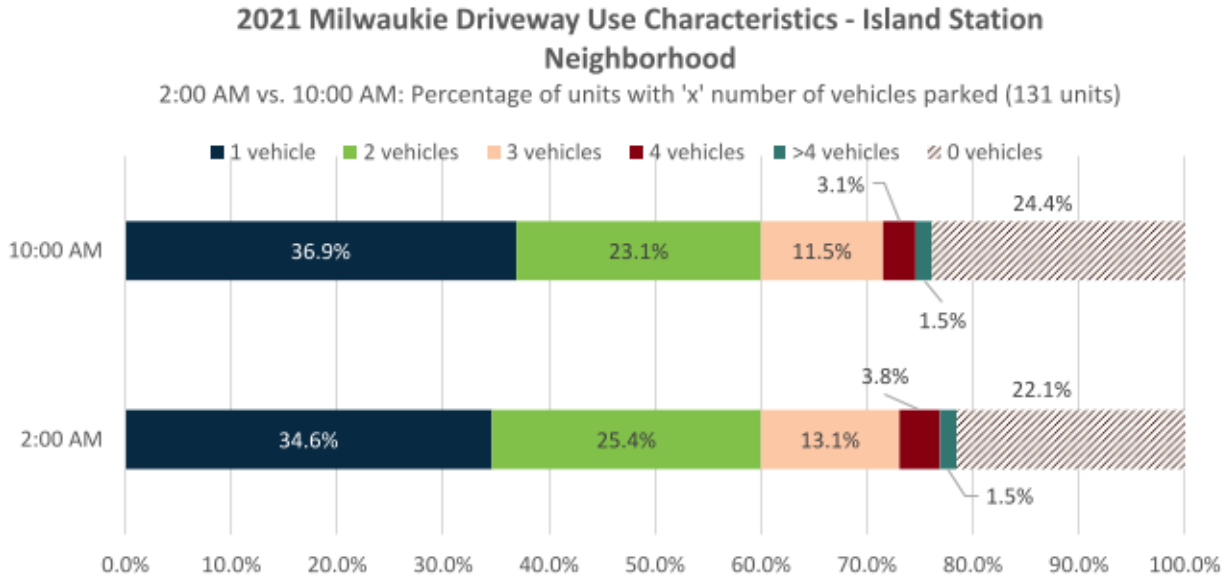
Figure S: Parking Occupancy Heat Map – 10:00 AM



Number of Vehicles Parked On-site – By Individual Parcels

Figure T provides a summary of the percentage of vehicles parked on-site at unique residential parcels within the Island Station study area.

Figure T: Summary of Use of Observed On-site Supply



As the figure indicates, most vehicles parked at individual residential units ranges from zero (24.4%) to one (36.9%) at 10:00 AM. Units with 2 observed vehicles represented 23.1% of vehicles parked. The percentage of units observed to park 3 or more vehicles on-site during this data collection hour totals 16.1%.

At 2:00 AM, the percentage of vehicles parked between 0 and 1 vehicles was 22.1% and 34.6%, respectively. As evidenced in the other study areas, the drop from 0 and 1, at this hour as compared to 10:00 AM, likely reflects vehicles returning from daytime trips (e.g., work, shopping, etc.). This is also reflected in the increase in 2 observed vehicles (raising to 25.4%) and units with 3 or more observed vehicles (raising to 18.4%).

Summary – Island Station Neighborhood

Data collected indicates that occupancies within the study zone are constant with the minimum true demand for parking per residential unit at 1.95 vehicles/unit. At the 2:00 AM peak hour, nearly half of all parcel blocks (8 of 17) have demand in the red and purple range. Surveyors did note that like the Ardenwald study area, there was a higher level of on-site vehicle storage than was evidenced in other neighborhood study areas (i.e., Lake Road and Lewelling).

The on-street system is not highly utilized by residential demand; there are 212 empty stalls at the 2:00 AM peak hour and 203 at 10:00 AM. Like Ardenwald, there are several block faces that do not allow parking. Also, three block faces were not available for use due to construction at the time of the survey, which may be influencing the high occupancy numbers on-site on some parcel blocks. Additionally, on-street parking in the Island Station neighborhood is not well-delineated, with many areas requiring residents to park on grass or gravel; this environment likely contributes to reduced on-street demand.

1.8 SUMMARY

Averaged over all four study areas, the combined **minimum residential peak parking demand** during the overnight peak hour, including on-street and visible on-site parking, was found to be **1.99 vehicles per residential unit.** On-street parking contributes 0.48 vehicles per unit, and on-site parking (including driveways and surface lots) contribute the remaining 1.51 vehicles per unit. Parking demand in garages could not be observed or estimated in the field. However, it is known that additional demand in garages could contribute anywhere from 0.00 additional vehicles per residential unit (assuming no parking demand in garages) up to 1.09 additional vehicles per unit (if all garage stalls are completely occupied with vehicles).

Each neighborhood has unique characteristics, but on-site parking (excluding garage demand) makes up **at least 75% of the total residential parking demand** on average (ranging from 57% to 86% of the observed demand within each neighborhood).

Additionally, the on-site system is much more heavily utilized than the on-street parking system. On average, on-site parking stalls were found to be **77% occupied** during the peak hour, averaged over all four study areas. By contrast, the on-street system was found to be **23% occupied** during the peak hour across all four study areas. Overall, the entire observable residential parking system (excluding garages) was found to be **49% occupied** during the overnight peak hour.

The following table summarizes the supply and demand across all four neighborhoods. Demand observations shown represent the 2:00 AM overnight hour, which was found to be the peak hour for all four neighborhoods[34].

Table 17: Overall Residential Parking Demand per Unit

		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**
	Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
	Surface Lot Stalls/Unit	-	-	0.25	0.14	**0.09**
	[35]Total Stalls Studied/Unit	[36]4.12	[37]4.93	[38]3.13	[39]4.13	**[40]4.05**
Demand*	**On-Street Vehicles/Unit**	0.89	0.29	0.29	0.36	**0.48**
	Driveway Vehicles/Unit	1.16	1.60	1.58	1.48	**1.44**
	Surface Lot Vehicles/Unit	-	-	0.18	0.11	**0.07**
	[41]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.

[34] On-street and surface lot demand were slightly higher at 10:00 AM for the Island Station neighborhood, but overall demand was equivalent at both 2:00 AM and 10:00 AM so the 2:00 AM hour is used in the summary table for consistency with other neighborhoods.
[35] Residential parking stalls only. "Other" and garage uses excluded from this summary.
[36] This does not include 0.84 residential garage stalls per unit, which would raise the built ratio to 4.96.
[37] This does not include 1.57 residential garage stalls per unit, which would raise the built ratio to 6.50.
[38] This does not include 0.91 residential garage stalls per unit, which would raise the built ratio to 4.04.
[39] This does not include 1.13 residential garage stalls per unit, which would raise the built ratio to 5.26.
[40] This does not include 1.09 residential garage stalls per unit (combined average for all neighborhoods), which would raise the built ratio to 5.14.
[41] Residential parking only. "Other" and garage parking excluded from this summary.

City of Milwaukie: Residential Parking Inventory
Summary of Findings

February 2021

1.1 INTRODUCTION

In 2017, the City of Milwaukie adopted a 20-year vision effort, and in 2018, the City began a two-year process to update the Comprehensive Plan. 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 significant 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 in single dwelling residential areas. These areas of the zoning code will need to be amended to achieve several Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

In support of these efforts the City of Milwaukie is interested in how parking typically functions in residential neighborhoods. A better understanding of this dynamic will help facilitate decision making regarding parking in the context of the Comprehensive Plan, the zoning code, and state level requirements.

The purpose of this report is to summarize a recently completed assessment of parking supplies in four Milwaukie neighborhoods. Data includes the format of the parking supply (e.g., on-street, in driveways) compared against the number of residential units in the neighborhood. The inventory is a catalogue of the total number of parking spaces reasonably available for the safe and efficient parking of authorized vehicles in targeted study zones. This inventory will be used to support an actual counting of parked vehicles during two time periods in February 2021, known as a parking occupancy study. A summary report of the occupancy study will be produced at that time.

The sample study zones are within the following neighborhoods, selected in consultation with the City of Milwaukie and Urbsworks (the prime consultant for the larger Comprehensive Plan Implementation Project):

- Lake Road
- Lewelling
- Ardenwald
- Island Station

1.2 GLOSSARY OF TERMS

Building: Any built structure within a parcel intended for residential use (e.g., single family households, duplexes, and apartments) or, in some cases, non-residential use (e.g., retail, restaurant, etc.). In this case garages are excluded from this definition.

Capacity: The estimated number of physical parking stalls associated with a parcel or fully inventoried supply.

Carport: A roofed structure within a parcel intended for the parking of vehicles; unlike a garage, a carport does not contain walls or doors.

Driveway: Any area within a parcel that is legally intended for the parking of vehicles. Driveways are identified as having an associated curb cut from a street into a parcel. A driveway will have a clearly visible apron of pavement or gravel (usually in front of a garage). A driveway must be large enough in size to accommodate a vehicle without infringing on a sidewalk or street.

Garage: Any built structure within a parcel intended for the parking of vehicles. In the context of this study, garage capacity was estimated based on the width of the garage door (or number of doors, if multiple doors were observed).

Inventory: **Land Use -** A land use inventory is a catalogue of all residential dwelling units and non-residential units (e.g., retail, restaurant, industrial) in a designated study area.

Parking - A parking inventory is a catalogue of spaces that can be legally and safely used for parking. The catalogue of parking is separated by type of parking identified (i.e., on-street, in driveways, and garages.)

Parcel: A piece of real property as identified by the county assessor's parcel number (APN) that is one contiguous parcel of real property. Individual parcels are demarcated on study area maps developed for each study area. All land uses and parking within parcels are associated with that specific parcel. See **Figure A** as an example (page 5).

Parking stall: An area located on-street, in driveways and carports, in surface lots, or in garages that is available to park vehicles by authorized users (hourly, daily, and/or overnight). Parking stalls need to be reasonably sized to ensure appropriate access and maneuverability.

Ratio of stalls to units: Calculations of the relationship of the number of parking stalls to residential units are made at different levels, including in aggregate or by type of supply (e.g., on-street, in driveways, and/or garages). This ratio is useful in examining actual physical parking built within a supply and what a code might require.

Unit: **Residential** - A residential unit is identified as a unique address within a parcel. This could be a single family dwelling, or multiple units within multifamily dwellings (e.g., duplex, apartment).

Non-residential – A non-residential unit is identified as real property within a parcel that provides services or business within a study area. This could be individual free standing businesses or services or multiple activity spaces within a shared building. Examples include workspaces, restaurants, retail spaces and event venues (if housed in a building).

1.3 METHODOLOGY

The inventory catalogue for residential units and parking stalls is summarized below. The inventory assembled for each neighborhood provides a large amount of data. The data has been sorted to provide metrics that are intended to inform and support future discussions regarding parking in these neighborhoods. If needed, the data can be reformatted or reorganized to assist the City and stakeholders in examining issues and developing solutions. This is the first task of a data collection effort that will soon include occupancy data, which can now be engaged with accurate inventory/supply totals.

Study Zone Boundaries

Study area boundaries in the four neighborhoods were developed in coordination with the City of Milwaukie and the Comprehensive Plan Implementation team. The intent for establishing study zones was to develop sample areas to collect usage data from selected neighborhoods. Outputs from collected data can serve as "typical" representations of how parking is currently provided (supply) and used (demand) in these neighborhoods. An initial consideration on boundaries for the sample areas would assume that a resident parking on-street within the center of the study zone would not have to park more than 600 feet from their primary residence (if they chose to park on-street).

Inventory – Cataloguing Parking Supply by Type

A parking inventory is a catalogue of all parking within a study area assembled by location and type of stall. For this project, inventories were created in sample areas for each of the four selected neighborhoods. Inventory databases were established after completing the following tasks:[1]

- Aerial maps were used to identify all streets and potential on-street parking stalls located within study zones.
- Parcel maps were used to identify unique land parcels within each study area.
- A unique number was assigned to each city block in each study area. These unique block identifiers allowed for creation of inventory templates for use within the field by consultant crews.
- From January 11 through 16, 2021 surveyors were dispatched to each neighborhood study area to observe unique parcels and the location, type, and number of parking stalls.[2]
- Each parcel in the study area was visually evaluated to determine the number of buildings (properties or structures, excluding garages) and residential units located on that parcel within a numbered city block. In some cases, a single parcel had more than one building or unit.[3]
- Parking located within a parcel was quantified by built garage capacity and driveway capacity.[4]
    - **Garage capacity** was typically estimated by counting the number of garage doors located on a parcel. One door equaling the capacity to park one vehicle inside the built garage. When garage doors were wide enough to fit two cars, they were counted as such.[5]
    - **Driveway capacity** was estimated based on a reasonable assumption of the number of cars that could safely park on a surface that is easily identified as a driveway.
- For on-street parking, a measuring wheel was used to estimate the number of available parking stalls a vehicle could properly park on each block face. Care was taken to consider driveway curb cuts, sight lines, location of fire hydrants, and other factors in the roadway that would preclude using an area for parking. A length of 23 feet and width of 8 feet per stall guides the quantification of usable stalls. This provides for reasonable spacing, maneuverability, and safe access to and from vehicles into and out of a roadway.

[1] An example surveyors inventory template is attached at the end of this document.
[2] For on-street parking, surveyors only quantified parking stalls that were (a) reasonably usable, and (b) provided a safe and functional place to park. During the inventory collection, surveyors found numerous vehicles parked in areas that would not be considered reasonable, safe, or functional. The intent was to be conservative in cataloguing on-street stalls as these neighborhoods have large areas where curbs or sidewalks are not in place.
[3] Further, a few parcels had non-residential uses which were denoted.
[4] Is some instances vehicles were parked in front lawns and other areas of a parcel. This type of parking was not included in the inventory as "capacity," as such parking is likely not allowed by code, nor would it be assumed in any time of current or future parking requirement for development. Where possible, field crews made notes in their templates to locate and describe such instances.
[5] As most garage doors are closed, the inventory can only estimate their potential capacity (by number of garage doors). Surveyors cannot assume whether cars are parked within the garage or not. Surveyors took care to assure that buildings identified as garages were not actually upgraded dwelling units. To this end, as they are built as garages, the inventory assumes they have capacity to serve as garages.

1.4 LAKE ROAD NEIGHBORHOOD

Study Area

The sample study area for the Lake Road neighborhood is illustrated in **Figure A**.

Public On-Street Parking

There are 451 on-street parking stalls within the study area. There are no signed time restrictions on how parking is used in the neighborhood. A user may park in a stall for an unlimited time on a typical day.

Stall Type	Stalls	% Total
On-Street Supply	**451**	**100%**
No Limit	451	100%

Off-Street Parking – Parking located within a Parcel

There are 188 unique residential buildings identified in the study area accommodating 190 residential units. For parking located within these parcels, there is a combined capacity of 492 parking stalls; 160 in garages and 332 on driveways.

Two (2) buildings had more than one residential unit located within a parcel (in this case, two duplexes).

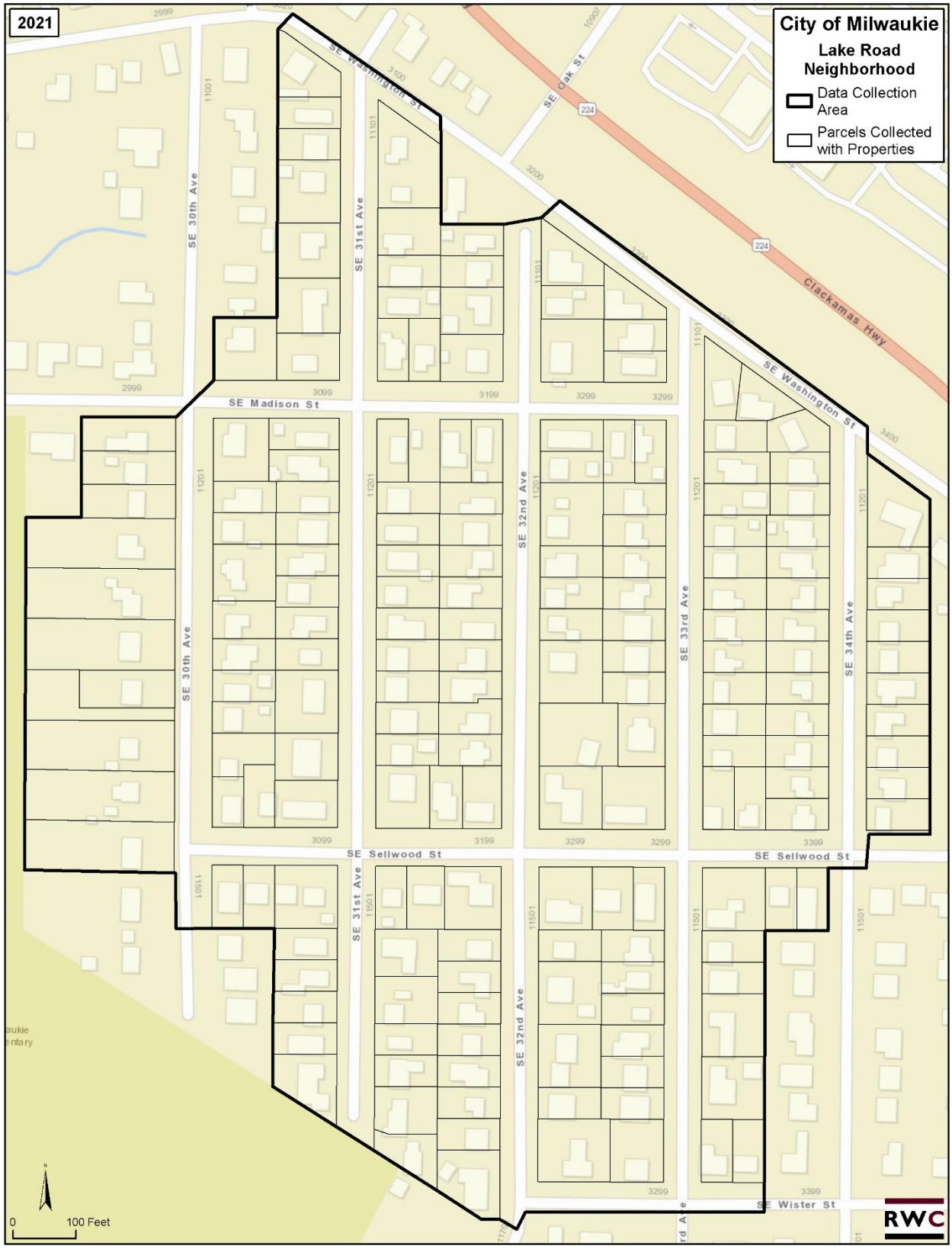
Use Type	Buildings	% Total	Units	% Total	Garage Capacity	% Total	Driveway Capacity	% Total
Property Supply	**188**	**100%**	**190**	**100%**	**160**	**100%**	**332**	**100%**
Single Family Household	186	98.9%	186	97.9%	157	98.1%	326	98.2%
Duplex	2	1.1%	4	2.1%	3	1.9%	6	1.8%

Ratio of Usable Parking per Residential Unit – Combined Study Area

The 190 residential units within the study area are adjacent to a combined parking supply of 943 stalls. As a combined supply, the ratio of usable parking to residential units is 4.96 parking stalls per unit, which includes both on- and off-street parking. Excluding the shared on-street supply, the average parcel has 2.59 off-street parking stalls per residential unit (1.75 stalls on driveways and 0.84 stalls within garages).

	All Stalls	On-Street	Driveway	Garage
	Residential Uses: **190 Units**			
Parking Stalls	943	451	332	160
Parking Stalls per Unit	4.96	2.37	1.75	0.84
Stalls provided on-site:			**492**	
On-site stalls per unit:			**2.59**	

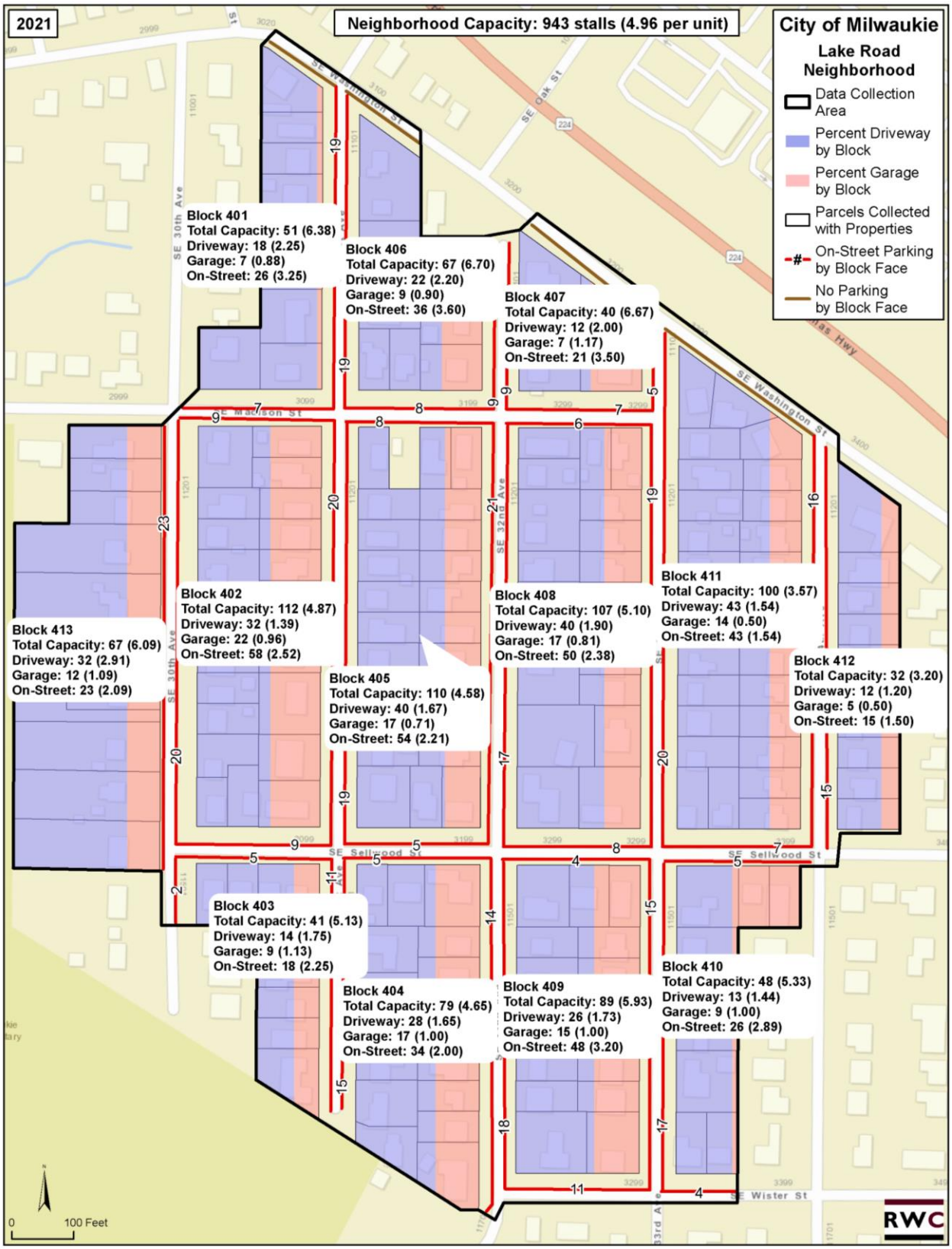
Figure A: Lake Road Neighborhood Study Area Boundary and Parcel Map



Parking by Block

Figure B provides a breakout of the number of parking stalls on each city block and the ratio of parking per typical residential unit on that specific city block. For example, the city block with the highest combined number of parking stalls is Block 405 with 110 stalls. The block with the lowest combined number of stalls is Block 412 with 32 stalls. As a ratio of parking to residential units, Block 406 (at 6.70 stalls per unit) is the highest and Block 412 (at 3.12 stalls per unit) is the lowest. All unique factors that comprise the combined numbers (on-street, driveways, and garages) are provided within the Figure.

Figure B: Breakout of Parking by Numbered Block



Field Notes - Observations

Field observation notes compiled during the inventory in this neighborhood are noted below:





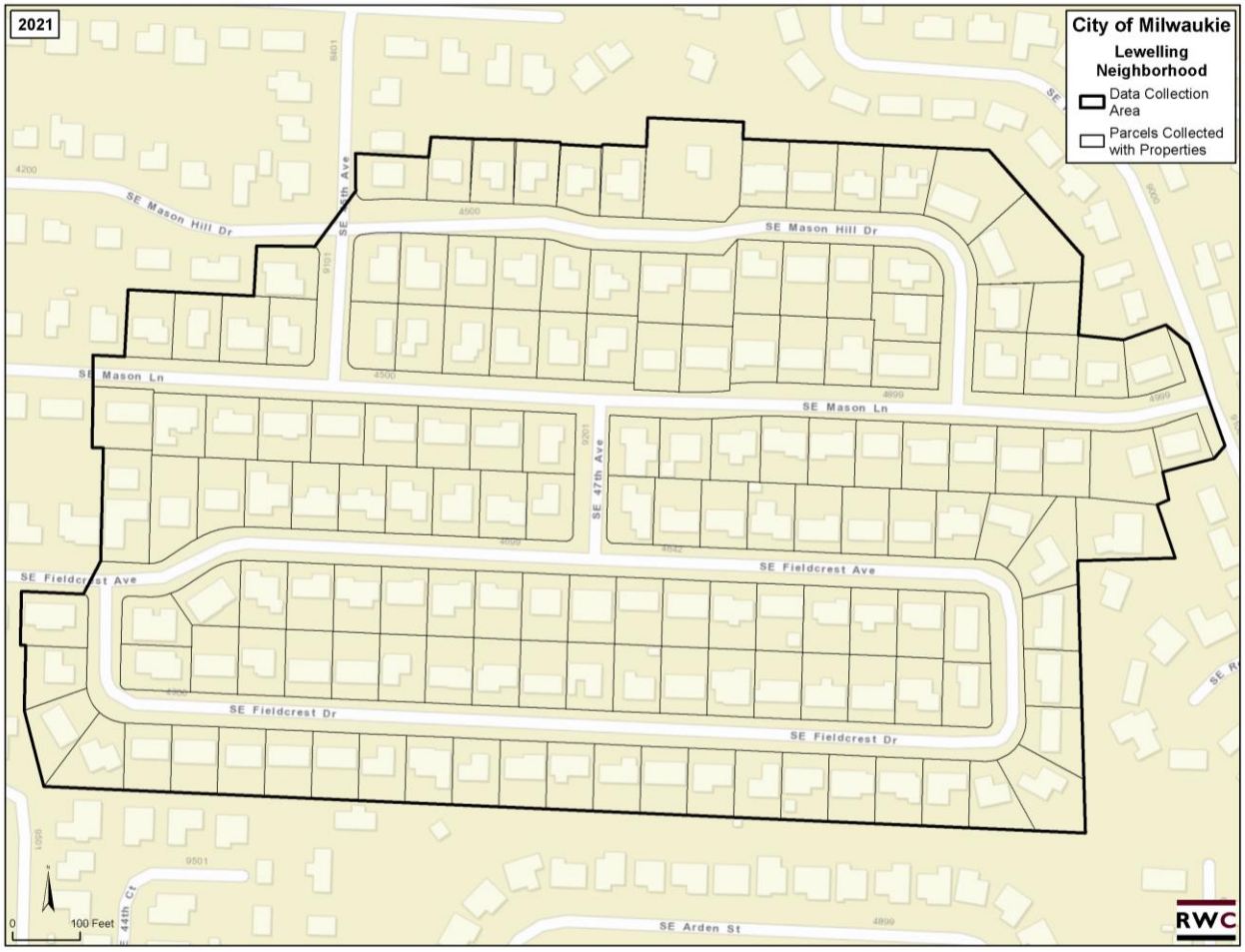
- Photo at left: We found that there was a driveway/ramp (1 stall) that was turned into an ADA accessible entry that prohibits a car from parking in the garage. For this reason, the garage was not counted as capacity within the inventory.
- Middle photo: Appears as if the garage was turned into an ADU unit. The property owner has turned this property's driveway into a two-stall driveway without a garage.
- Photo at right: Found two (2) carports throughout the neighborhood that looked to be added for shelter of property owner's RV. Looks like only one (1) vehicle is reasonably parked in driveway, with one (1) garage door. Cars parked on the grass in this picture will be captured during the demand study but were not collected as part of the inventory count.
- All the on-street parking occurred on paved roads in front of mostly single-family residential houses.
- Driveways often could accommodate at least two vehicles, while many homes also had either a garage or carport for additional off-street parking.
- All the blocks had curbs for easy parking access and made it very pedestrian friendly. Observed many people out walking their dog or just enjoying a nice walk through the neighborhood.

1.5 LEWELLING NEIGHBORHOOD

Study Area

The sample study area for the Lewelling neighborhood is illustrated in **Figure C**.

Figure C: Lewelling Neighborhood Study Area Boundary and Parcel Map



Public On-Street Parking

There are 406 on-street parking stalls within the study area. There are no signed time limits on how parking is used in the neighborhood. A user may park in a stall for an unlimited time on a typical day.

Stall Type	Stalls	% Total
On-Street Supply	**406**	**100%**
No Limit	406	100%

Off-Street Parking – Parking located within a Parcel

There are 153 unique buildings identified in the study area accommodating 154 residential units. For parking located within these parcels, there is a combined capacity of 595 parking stalls; 242 in garages and 353 on driveways.

One (1) building had more than one residential unit located within a parcel (in this case, a duplex).

Use Type	Buildings	% Total	Units	% Total	Garage Capacity	% Total	Driveway Capacity	% Total
Property Supply	**153**	**100%**	**154**	**100%**	**242**	**100%**	**353**	**100%**
Single Family Household	152	99.3%	152	98.7%	240	99.2%	349	98.9%
Duplex	1	< 1%	2	1.3%	2	< 1%	4	1.1%

Ratio of Usable Parking per Residential Unit – Combined Study Area

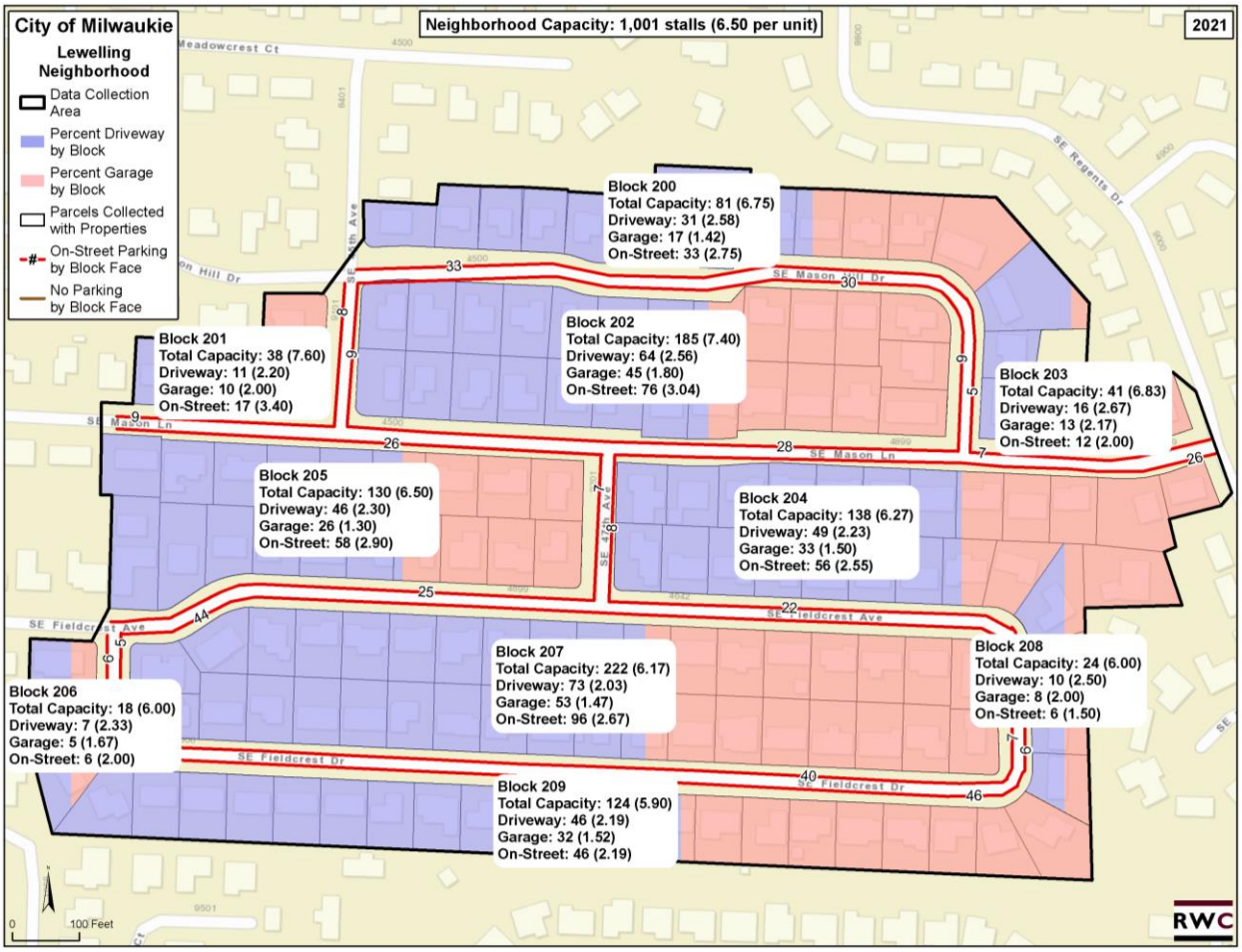
The 154 residential units within the study area are adjacent to a combined parking supply of 1,001 stalls. As a combined supply, the ratio of usable parking to residential units is 6.50 parking stalls per unit, which includes both on- and off-street parking. Excluding the shared on-street supply, the average parcel has 3.86 off-street parking stalls per residential unit (2.29 stalls on driveways and 1.57 stalls within garages).

	All Stalls	On-Street	Driveway	Garage
	Residential Uses: **154 Units**			
Parking Stalls	1,001	406	353	242
Parking Stalls per Unit	6.50	2.64	2.29	1.57
Stalls provided on-site:			**595**	
On-site stalls per unit:			**3.86**	

Parking by Block

Figure D provides a breakout of the number of parking stalls in place on each city block and the ratio of parking per typical residential unit on that specific city block. For example, the city block with the highest combined number of parking stalls is Block 207 (with 222 stalls). The block with the lowest combined number of stalls is Block 206 (with 18 stalls). As a ratio of parking to residential units, Block 201 (at 7.60 stalls per unit) is the highest and Block 209 (at 5.90 stalls per unit) is the lowest. All unique factors that comprise the combined numbers (on-street, driveways, and garages) are provided within the Figure.

Figure D: Breakout of Parking by Numbered Block



Field Notes – Observations

Field observation notes compiled during the inventory in this neighborhood are noted below:





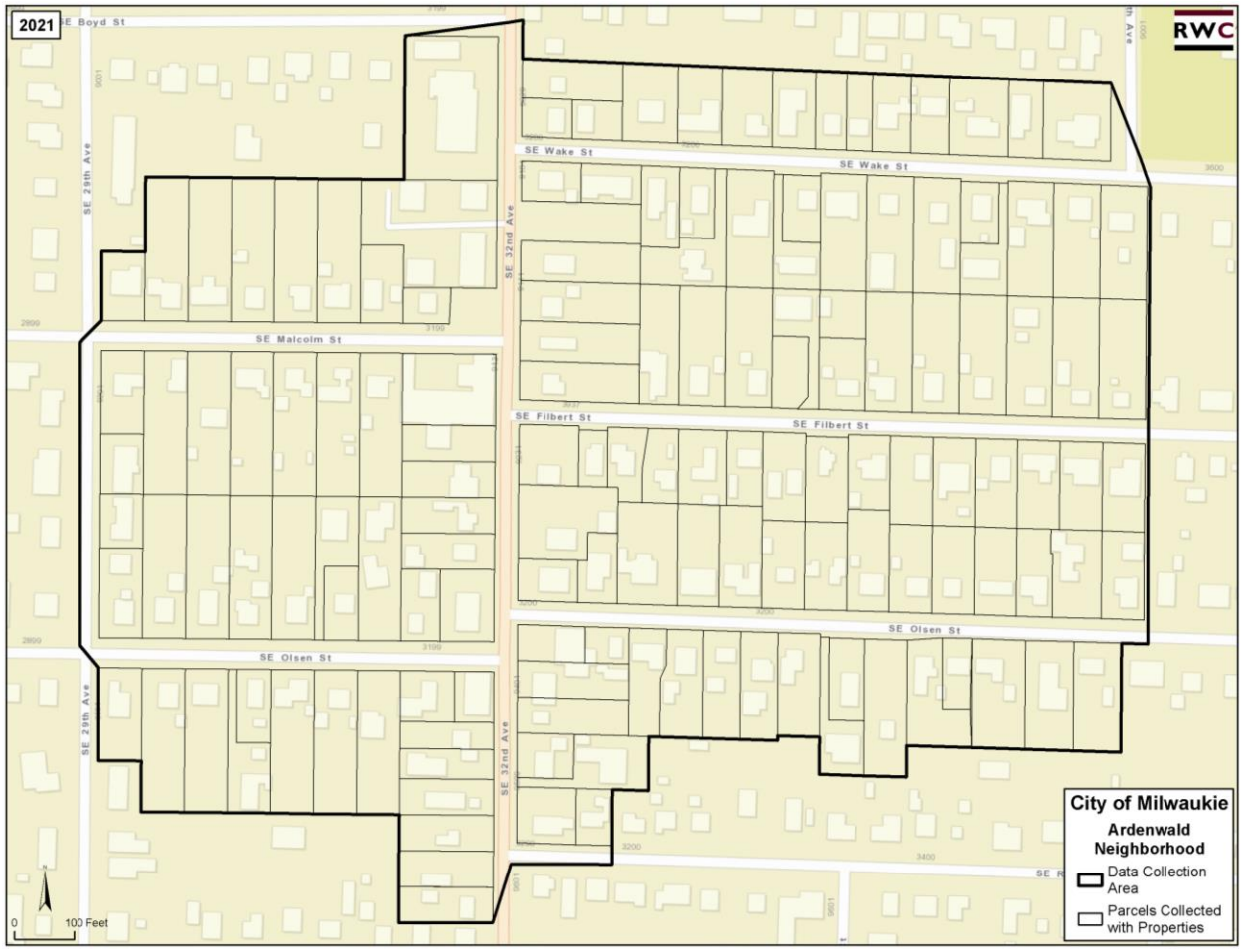
- It was garbage collection day when we collected inventory in this neighborhood, yet there was still plenty of available parking with little to no obstructions, regardless of the several garbage and recycling cans sitting on the street.
- All blocks had curbs for easy parking access, however, only one-third of them had sidewalks (left photo).
- All the on-street parking occurred on paved roads in front of single-family residential houses, some of which seemed very new (middle photo).
- Legal on-street parking was available on every block face inventoried in the Lewelling neighborhood. However, there was little signage to indicate illegal parking. Almost all illegal parking was determined by faded yellow paint on curbs (right photo) near the ends of blocks or by the narrowing of a street, leaving legal space either for one side or neither side of the road.
- Driveways often could accommodate at least two vehicles, while many homes also had either a garage or carport for additional off-street parking.
- With few sidewalks, pedestrians are forced into the streets leading to safety concerns. Many pedestrian and vehicle close-call encounters were observed on the inventory day, primarily in low visibility areas such as street corners.

1.6 ARDENWALD NEIGHBORHOOD

Study Area

The sample study area for the Ardenwald neighborhood is illustrated in **Figure E.**

Figure E: Ardenwald Neighborhood Study Area Boundary and Parcel Map



Public On-Street Parking

There are 207 on-street parking stalls within the study area. Two (2) stalls were time limited: one 15-minute stall and a single 1-hour stall. The remaining parking has no signed time limits on how parking is used in the neighborhood. A user may park in a stall for an unlimited time on a typical day.

Stall Type	Stalls	% Total
On-Street Supply	**207**	**100%**
15 Minute	1	< 1%
1 Hour	1	< 1%
No Limit	205	99.0%

Off-Street Parking – Parking located within a Parcel

Unlike the Lake Road and Lewelling neighborhoods, Ardenwald has several non-residential uses within its study area. Of the 178 total units identified in 147 buildings, there were two duplexes (4 units), three small apartment buildings (30 units), three retail buildings (with 3 business units), one industrial building (3 units), and one land use that surveyors denoted as undesignated (i.e., unable to identify specific use). Residential units total 171 of the total 178 units identified.

For parking located within these parcels, there is a combined capacity of 524 parking stalls: 163 in garages, 289 on driveways and 72 on surface lots; mostly associated with the apartment complex (43 stalls) and the retail units (20 stalls). The industrial and undesignated surface lot use maintained 5 and 4 stalls, respectively.

Use Type	Buildings	% Total	Units	% Total	Garage Capacity	% Total	Driveway Capacity	% Total	Surface Lot Capacity	% Total
Property Supply	**147**	**100%**	**178**	**100%**	**163**	**100%**	**289**	**100%**	**72**	**100%**
Single Family Household	137	93.2%	137	77.0%	156	95.7%	281	97.2%	0	< 1%
Duplex	2	1.4%	4	2.2%	0	< 1%	6	2.1%	0	< 1%
Apartment Complex	3	2.0%	30	16.9%	0	< 1%	0	< 1%	43	59.7%
Retail	3	2.0%	3	1.7%	0	< 1%	2	< 1%	20	27.8%
Industrial	1	< 1%	3	1.7%	2	1.2%	0	< 1%	5	6.9%
Undesignated	1	< 1%	1	< 1%	5	3.1%	0	< 1%	4	5.6%

Ratio of Usable Parking per Residential Unit – Combined Study Area

The table below separates the total parking supply observed to better evaluate *parking related to residential uses* as opposed to parking serving the non-residential units in the study area. Parking associated with retail, industrial and undesignated (as shown in the table above) are removed to derive this residential ratio per unit.

The 171 residential units within the study area are adjacent to a combined parking supply of 691 stalls. As a combined supply, the ratio of *usable parking to residential units* is 4.04 parking stalls per unit, which includes both on- and off-street parking. Excluding the shared on-street supply (207 stalls), the average parcel has 2.84 off-street parking stalls per residential unit (1.68 stalls on driveways, 0.91 stalls in garages, and 0.25 stalls on surface lots). This is based on a combined off-street supply of 486 stalls associated directly to residential use.

Non-residential units in the study zone are served by a combined supply of 40 stalls, including 2 on-street and 38 in driveways, garages, and surface lots. As a combined supply, the ratio of usable parking to other, non-residential units is 5.71 parking stalls per "Other" unit. Excluding the shared on-street supply, the average site has 5.43 off-street parking stalls per "Other" unit, the majority (4.14 per "Other" unit) being on surface parking.

	All Stalls	On-Street	Driveway	Garage	Surface Lot
Parking Stalls	731	207	289	163	72
Residential Uses: **171 Units**					
Parking Stalls	691	205	287	156	43
Parking Stalls/Unit	4.04	1.20	1.68	0.91	0.25
Stalls provided on-site:			**486**		
On-site stalls per unit:			**2.84**		
Other Land Uses: **7 Units**					
Parking Stalls	1,001	2[6]	2	7	29
Parking Stalls/Unit	5.71	0.29	0.29	1.00	4.14
Stalls provided on-site:			**38**		
On-site stalls per unit:			**5.43**		

Parking by Block

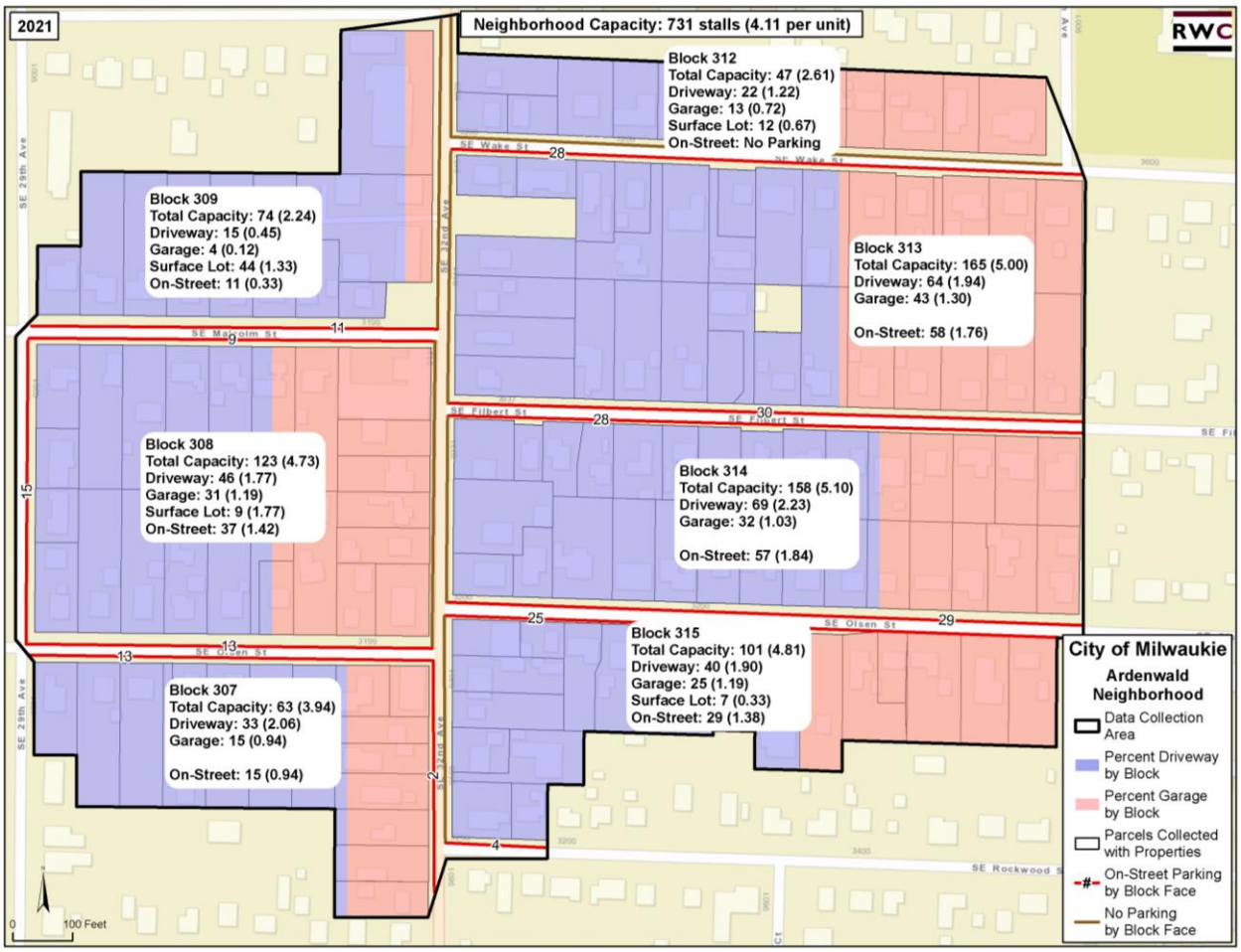
Figure F provides a breakout of the number of parking stalls in place on each city block and the ratio of parking per typical unit on that specific city block.[7] For example, the city block with the highest combined number of parking stalls in Block 313 (with 165 stalls). The block with the lowest combined number of stalls is Block 312 (with 47 stalls). Contributing to this may be that Block 312 has no on-street parking.

As a ratio of parking to units, Block 314 (at 5.10 stalls per unit) is the highest and Block 309 (at 2.24 stalls per unit) is the lowest. All unique factors that comprise the combined numbers (on-street, driveways, garages, and surface lots) are provided within the Figure (next page).

[6] The only on-street stalls assigned for Other Units were the 2 stalls with time limited signage, a 15 minute and a 1 hour stall.

[7] All units, both residential and non-residential, were combined by City block on the map, for the purpose of visual clarity and due to the small number of "Other" use types.

Figure F: Breakout of Parking by Numbered Block



Field Notes – Observations

Field observation notes compiled during the inventory in this neighborhood are noted below:







- Legal on-street parking was confusing and inconsistently signed in the Ardenwald neighborhood. Photo at left: Residents tend to park on the south side of the street; no parked vehicles were observed on the north side of the street, despite no signage indicating parking on this side is prohibited. Signage was not consistently present. If on-street parking occurred on both sides of the street, emergency vehicle access would be restricted from passing.
- Photo in the middle: Example of what looks like City placed signage (again, not consistent within study area).
- Photo at right: Much of the on-street parking occurred in unimproved on-street parking stalls in front of single-family residential houses. Dirt or gravel was the on-street surface for most of the stalls.
- Driveways often could accommodate at least two vehicles, while many homes also had either a garage or carport for additional off-street parking.
- The unimproved streets did not have sidewalks, forcing pedestrians into the streets leading to safety concerns.

1.7 ISLAND STATION NEIGHBORHOOD

Study Area

The sample study area for the Island Station neighborhood is illustrated in **Figure G.**

Figure G: Island Station Neighborhood Study Area Boundary and Parcel



Public On-Street Parking

There are 285 on-street parking stalls within the study area[8]. There are no signed time limits on how parking is used in the neighborhood. A user may park in a stall for an unlimited time on a typical day.

Stall Type	Stalls	% Total
On-Street Supply	**285**	**100%**
No Limit	285	100%

Off-Street Parking – Parking located within a Parcel

Like the Ardenwald neighborhood study area, Island Station has several non-residential land uses within the study area. These other land uses are located in the far northeast corner of the study area, adjacent to McLoughlin Blvd. Overall, the study area is predominantly residential, with residential units making up 131 of the 137 units observed. Other uses include an apartment complex (11 units), two retail buildings (4 units), a restaurant, and an event venue.

Overall, there is a combined capacity of 469 parking stalls: 148 in garages, 238 on driveways, and 79 on surface lots. The surface lot breakout includes parking for the apartment complex (18 stalls), the retail units (26 stalls), the restaurant (25 stalls), and the event venue (10 stalls).

Use Type	Parcels	% Total	Units	% Total	Garage Capacity	% Total	Driveway Capacity	% Total	Surface Lot Capacity	% Total
Property Supply	**125**	**100%**	**137**	**100%**	**152**	**100%**	**238**	**100%**	**79**	**100%**
Single Family Household	120	96.0%	120	87.6%	148	97.4%	238	100%	0	< 1%
Apartment Complex	1	< 1%	11	8.0%	0	< 1%	0	< 1%	18	22.8%
Retail	2	1.6%	4	2.9%	2	1.3%	0	< 1%	26	32.9%
Restaurant	1	< 1%	1	< 1%	2	1.3%	0	< 1%	25	31.6%
Event Venue	1	< 1%	1	< 1%	0	< 1%	0	< 1%	10	12.7%

[8] On the date the field review was completed (January 15, 2021), much of the west side of SE 22nd Avenue (one-way southbound with a bike lane on the west side) was under construction. Based on historical images and observed field conditions, there is no on-street parking on most of the west side of SE 22nd Avenue. However, the section between SE Bob White Street and SE Wren Street has a wide gravel shoulder on the west side off the edge of the bike lane, and 10 parking spaces were included within the inventory under the assumption that this section will have adequate width for on-street parking without blocking the bike lane after construction is completed.

Ratio of Usable Parking per Residential Unit – Combined Study Area

The table below separates the total parking supply observed to better evaluate parking related to residential uses as opposed to parking serving the non-residential units in the study area.

The 131 residential units within the study area are adjacent to a combined parking supply of 689 stalls. As a combined supply, the ratio of usable parking to residential units is 5.26 parking stalls per unit, which includes both on- and off-street parking. Excluding the shared on-street supply, the average parcel has 3.08 parking stalls per residential unit (1.82 stalls on driveways, 1.13 stalls in garages, and 0.14 stalls on surface lots).

All parking for non-residential (Other) units in the study zone is off-street for a combined supply of 65 stalls, 4 in garages and 61 in surface lot parking. The ratio of usable parking to non-residential units is 10.83 parking stalls per "Other" unit.

	All Stalls	On-Street	Driveway	Garage	Surface Lot
Parking Stalls	754	285	238	152	79
Residential Uses: **131 Units**					
Parking Stalls	689	285	238	148	18
Parking Stalls/Unit	5.26	2.18	1.82	1.13	0.14
Stalls provided on-site:			**404**		
On-site stalls per unit:			**3.08**		
Other Land Uses: **6 Units**					
Parking Stalls	65	0	0	4	61
Parking Stalls/Unit	10.83	0.00[9]	0.00[10]	0.67	10.17
Stalls provided on-site:			**38**		
On-site stalls per unit:			**10.83**		

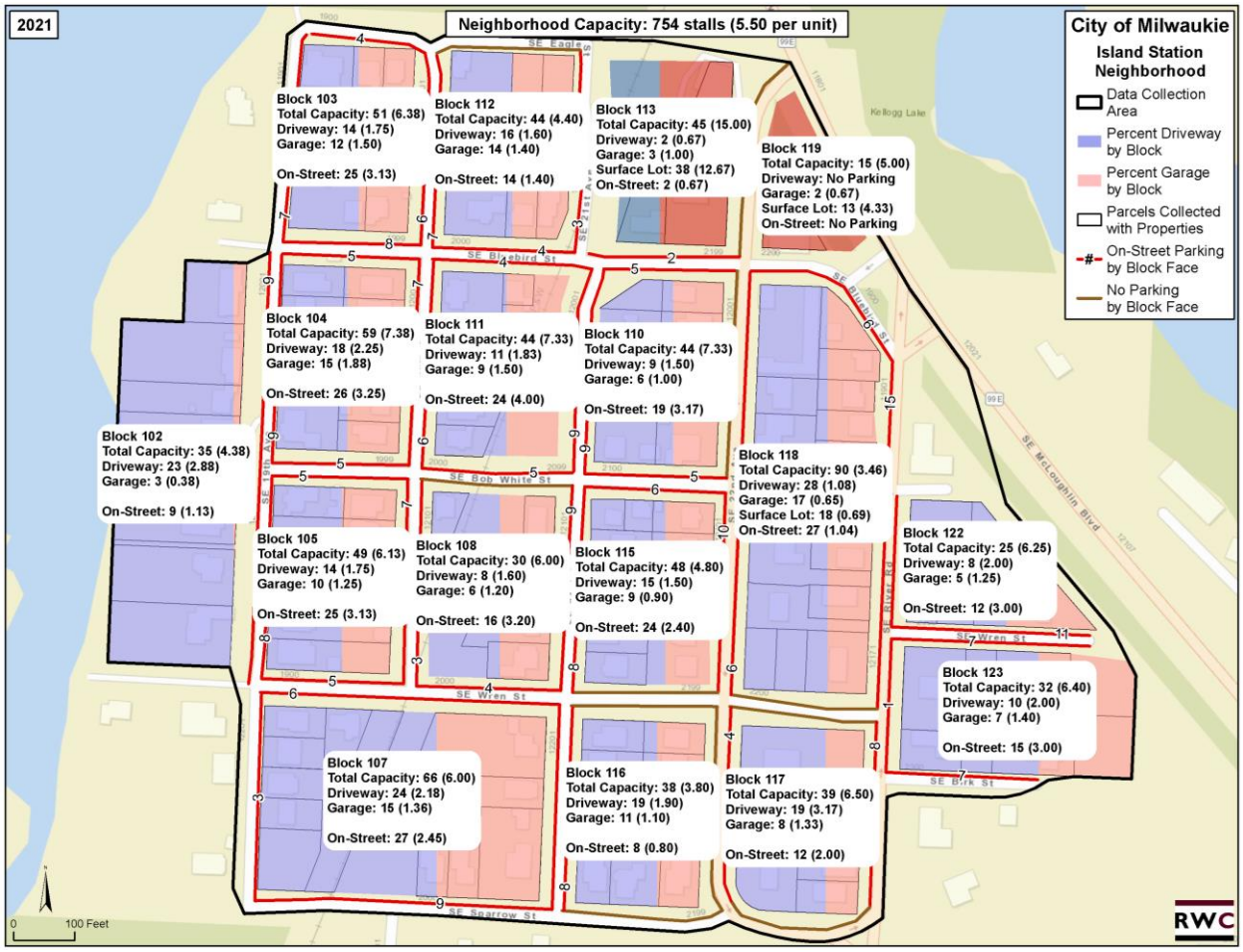
[9] There were no signed time limited stalls on-street.
[10] All parking associated with Other Units were either in a garage (no usable driveway capacity) or on surface lots.

Parking by Block

Figure H provides a breakout of the number of parking stalls in place on each city block and the ratio of parking per typical unit on that specific city block.[11] For example, the city block with the highest combined number of parking stalls in Block 118 with 90 stalls. The block with the lowest combined number of stalls is Block 122 with 25 stalls, as this block has limited street frontage.

As a ratio of parking to units, Block 104 (at 7.38 stalls per unit) is the highest and Block 116 (at 3.80 stalls per unit) is the lowest. All unique factors that comprise the combined numbers (on-street, driveways, garages, and surface lots) are provided within the Figure.

Figure H: Breakout of Parking by Numbered Block



[11] All units, both residential and non-residential, were combined by City block on the map, for the purpose of visual clarity and due to the small number of "Other" use types.

Field Notes - Observations

Field observation notes compiled during the inventory in this neighborhood are noted below:









- Most on-street parking within the study area requires residents to park at least partially on gravel, mud, or grass (top left).
- With very little parking signage, many residents may view the on-street parking adjacent to their homes as their personal parking (rather than shared parking). One resident was in the process of laying gravel adjacent to the road, which they considered their parking stall. Some residents have put up signage to indicate private parking, or, in some cases, put obstructions up to prevent parking by the public (top right).
- Most driveways were paved and any additional gravel sections of the yard that were observed were therefore not added to the inventory. However, in some cases, the only driveway present was gravel, and in these limited cases, the gravel driveway capacity was included within the inventory (bottom left).
- SE River Road is one-way northbound with a bike lane on the east side. While there is generally no on-street parking on the east side of SE River Road within the study area, a total of two on-street parking spaces on the east side of River Road are included in the inventory as there is adequate space to park in the shoulder area without blocking the bike lane in two small areas.
- The west side of SE 22nd Avenue was under construction at the time the field review was completed. SE 22nd Avenue is one-way southbound with a bike lane on the west side. Based on discussions with city construction staff, 10 on-street parking spaces on the west side of SE 22nd Avenue (between SE Bob White St and SE Wren St) were included within the inventory under the assumption that this section will have adequate width for on-street parking without blocking the bike lane after construction is completed.

1.8 SUMMARY

Averaged over all four study areas, the combined **residential parking supply**, including both on- and off-street parking, was found to be **5.15 parking stalls per residential unit.** On-street parking contributes 2.09 parking stalls per unit, and off-street parking (including driveways, garages, and surface lots) contribute the remaining 3.06 parking stalls per unit.

Each neighborhood has unique characteristics, but on-street parking makes up **at least 30% of the total residential parking supply** in each (ranging from 30% to 48% of the observed supply). The majority of the parking supply is contained within private off-street parking in all four neighborhoods.

	Lake Road	Lewelling	Ardenwald	Island Station	Total
Total Parking Stalls[12]	943	1,001	691	689	**3,324**
On-Street Stalls	451	406	205	285	**1,347**
Driveway Stalls	332	353	287	238	**1,210**
Garage Stalls	160	242	156	148	**706**
Surface Lot Stalls	0	0	43	18	**61**
Residential Units	190	154	171	131	**646**
Total Stalls/Unit	4.96	6.50	4.04	5.26	**5.15**
On-Street Stalls/Unit	2.37	2.64	1.20	2.18	**2.09**
Driveway Stalls/Unit	1.75	2.29	1.68	1.82	**1.87**
Garage Stalls/Unit	0.84	1.57	0.91	1.13	**1.09**
Surface Lot Stalls/Unit	0.00	0.00	0.25	0.14	**0.09**
				Stalls provided on-site:	**1,977**
				On-site stalls per unit:	**3.06**

1.9 NEXT STEPS

This memo focuses exclusively on the land use characteristics and parking supply observed within each neighborhood. This data will serve as the foundation for an **occupancy study** that will document observed parking demand (over two time periods) by each parking stall type. The occupancy study will provide additional detail regarding actual usage of the system, both in terms of overall parking demand as well as how residents are using each portion of the available parking supply (e.g., the on-street system and their private off-street parking supply).

[12] Residential parking stalls only. "Other" uses excluded from this summary.

Appendix A – Example Inventory Field Template

Neighborhood: Lewelling								Block Number: 202				
On-Street Parking												
Block ID	Stall Count/Type							Notes				
202A	2 NL, 1 NL, 2 NL, 4 NL, 1 NL, 2 NL, 4 NL, 2 NL, 3 NL, 1 NL, MB - 2 NL, 6 NL,											
202B	3 NL, 2 NL, 4 NL											
202C	2 NP - 1 NL, 3 NL,, 2 NL, 1 NL, 3 NL, 2 NL, 3 NL, 1 NL, 2 NL, 4 NL, 3 NL, 1 NL, 2 NL							NP sign at beginning of block				
202D	9 NL											
On-Site Parking by Parcel												
Parcel ID	Entry Side	Number of Properties	Number of Units	Garage Capacity	Driveway Capacity	Surface Lot Capacity	Use Type	Notes				
202_1	A	1	1	2	2	0	F					
202_2	A	1	1	2	2	0	F					
202_3	A	1	1	2	2	0	F					
202_4	A	1	1	2	4	0	F					
202_5	A	1	1	2	3	0	F					
202_6	A	1	1	2	2	0	F					
202_7	A	1	1	2	2	0	F					
202_8	A	1	1	2	3	0	F					
202_9	A	1	1	1	2	0	F					
202_10	A	1	1	2	2	0	F					
202_11	A	1	1	1	3	0	F					
202_12	AB	1	1	1	5	0	F	Driveway on A and B side				
202_13	B	1	1	2	2	0	F					
202_14	C	1	1	2	3	0	F					
202_15	C	1	1	2	2	0	F					
202_16	C	1	1	2	2	0	F					
202_17	C	1	1	1	3	0	F					
202_18												
202_19												
202_20												
202_21												
202_22												

February 8, 2022

Mayor Gamba
Council President Hyzy
Councilor Batey
Councilor Falconer
Councilor Nicodemus

Re: ZA-2021-002 Middle Housing and Parking Code Amendments

Dear Mayor Gamba, Council President Hyzy, and fellow Councilors:

As two appointed, volunteer members of your Planning Commission, we are deeply invested in the city of Milwaukie. While we both have different experiences of the city — one of us has a deep history in the area and the other is newer and raising a young family here — we both have a genuine interest in the long term health and success of Milwaukie. Although you will recognize us as members of the Planning Commission, we are writing to express our perspectives as individuals and we are not representing the Planning Commission as a body.

The important job before you today is to adopt the proposed changes to Milwaukie Municipal Code that will implement new housing policies in support of our city's Comprehensive Plan. We expect you will hear from many stakeholders who may have many questions or express concern during the City Council's public hearings process about some of the recommended code amendments that are now before you. As two Planning Commissioners who directly advanced several policy changes to better promote housing affordability in Milwaukie, including reducing minimum lot sizes and allowing for two Accessory Dwelling Units on many lots, we write to share more perspective on the policy recommendation to reduce required parking minimums for Middle Housing, including Cottage Clusters. We hope you will find the information and analysis in this letter useful as you deliberate on how best to implement the Comprehensive Plan, and we encourage you to to pass these important Middle Housing and Parking Code amendments.

Policy Development Process

In 2015, the City of Milwaukie set out to update its Community Vision, an aspirational document intended to serve as a guide for the city's subsequent comprehensive planning process. City residents enthusiastically engaged in the visioning process, culminating in City Council adopting the Community Vision in 2017. Importantly, this Community Vision calls for affordable housing, a complete network of sidewalks and bicycle lanes, and robust transit, amongst other features. The vision does not call for a driveway or garage for every home, nor does it prioritize driving or parking at all.

Next, the process to update the city's Comprehensive Plan was initiated in 2017 and included several phases to develop long range land use policies with deep engagement from the community. The Comprehensive Plan Advisory Committee (CPAC), Planning Commission, and City Council studied proposed policies using the Four Lenses of affordability, equity, livability,

and sustainability. As you well remember, the Comprehensive Plan was adopted in 2020 and its suite of policies went to great lengths to prioritize housing choice, encourage private investors to build smaller homes that people from all walks of life could better afford, reduce automobile dependency, and help the city to be a leader of environmental stewardship and climate change mitigation. We thank you all for your leadership during that process.

During the process to update the city's Comprehensive Plan, the Oregon Legislature passed House Bill 2001 (HB2001) to require cities across the state to allow Middle Housing in areas zoned for single-unit detached dwellings. Middle Housing includes Accessory Dwelling Units (ADUs), duplexes, triplexes, quadplexes, and cottage clusters. Housing affordability has become a major issue with Oregonians struggling to find housing options across the state. While there was considerable overlap in the policy objectives for HB2001 and the city's own direction, the Milwaukie's housing policy development process was a response to the adopted Community Vision — not because of a state mandate.

Following adoption of the new Comprehensive Plan in 2020, the city appointed a Comprehensive Plan Implementation Committee (CPIC) charged with advising staff and consultants as they drafted new policies to balance tree preservation, Middle Housing production, and parking needs. The consultant team led the CPIC through many exercises to identify preferences for a variety of options to flexibly legalize Middle Housing. This input was largely affirmed through multiple surveys and virtual workshops using the Engage Milwaukie platform.

However, although the Community Vision was the impetus for the city's housing policy development, the consultant instead advanced a proposal of *minimum compliance* with state rules implementing HB2001. Several CPIC members expressed frustration during Planning Commission hearings that, although they were presented with some options and code concepts at CPIC, they rarely dug into details and were not asked to prioritize or vote on code concepts. For example, there was never serious consideration of allowing three- and four-plexes on smaller lot sizes than the minimums mandated by HB2001 rules, and there was no substantive discussion of the projected impacts of reducing minimum parking below the maximum threshold imposed by HB2001 rules. Additionally, there was no information shared about expected Middle Housing production, so CPIC never had a sense of how different policy options might impact the number of families who could benefit from any code amendments.

The Planning Commission had several opportunities to hear about and discuss the code amendments before public hearings commenced in the autumn of 2021. However, it was only during the public hearings when the Planning Commission first analyzed and discussed projected aggregate benefits and impacts of the proposed code amendments on increasing Middle Housing. Using the city's own data from the Buildable Lands Inventory and the Rick Williams Consulting (RWC) Residential Parking Occupancy Study, the Commission was able to calculate projected aggregate benefits and impacts of different policy choices over the 20-year Comprehensive Plan horizon. This analysis was persuasive to five members of the Planning Commission who voted to amend and approve the proposed code package for City Council's

deliberation. Dissenting comments from two Commissioners did not question the supporting data, impact analysis methodology, or conclusions.

Policy Context

During the process to update the city's Comprehensive Plan, city staff ensured the CPIC, Planning Commission, and City Council were deliberately educated about the history of structural racism in housing policy that has not only perpetuated segregation in our cities, but has also left generations of Black Americans at a wealth disadvantage when compared to their white counterparts that have significantly benefited from these same policies. As was discussed in those sessions, in the 1940s these racist laws and practices were ruled unconstitutional by U.S. courts and, by 1960, most U.S. cities and counties across America had shifted to using restrictive zoning ordinances to codify these racist practices without using illegal language. Instead minimum lot sizes, setbacks, minimum parking requirements, and other seemingly innocuous regulations took their place, ensuring that most residential land could only be developed for families who could afford a detached dwelling. City staff should be commended for advancing the city's equity goals by making sure that CPIC, Planning Commission, and City Council members understood the ramifications of this harmful history.

To understand how past practices may continue to impact Milwaukie today, it is important to look at the data. Census data reveals that urban northern Clackamas County, including Milwaukie, experienced a building boom in the 1960s and 1970s, adding nearly 20% to its housing stock in just the ten years from 1970 to 1980, in compliance with the modern zoning ordinances that, as previously mentioned, were often designed to perpetuate racial segregation. However, since 1980, housing production and population growth have substantially been directed to other portions of the Metro area, with only tepid increases in housing supply in North Clackamas that have resulted in young families being priced out of our city as demand for housing has increased. This effect was exacerbated by the recession of 2008-09, when regional population growth continued apace but housing production essentially stopped. Although we started building again, cities have never recovered from the deficit and house prices continue to rise while individual wages have stagnated for decades, putting access to housing out of reach for an increasing number of families in our region. We must be clear: Unless we decide to chart a new path, we will continue to promote a built environment that is largely comprised of housing developments that were historically designed to perpetuate racial segregation.

As you know, there are many factors that positively or negatively impact housing production. Over the past decade, academic research and public policy attention has been increasingly focused on the impacts of parking on people living in urban areas, on the built environment, and on other public policy objectives. In regions like ours, each surface parking space can cost $20,000 to $30,000 to build — in addition to taking up valuable land that may accommodate dwellings. This adds significantly to the cost of construction and raises the price point at which the dwelling must be rented or sold to meet investment targets. This could also result in a project not being built at all, thereby adding no new housing units for Milwaukie families. Increased rents and higher sale prices mean there are more and more families at the margins

who are harmed by the prioritization of parking requirements over the provision of housing for people.

In addition to that research, other research by the Sightline Institute demonstrates the causal relationship between minimum parking requirements and vehicle ownership. Where jurisdictions prioritize the use of land for parking, people adapt to that signal by driving more and even adding vehicles to their household. Where jurisdictions do not prioritize using land for parking, people drive less and are more likely to walk, ride a bicycle, or use transit, and these people are more likely to reduce the number of vehicles in their household over time.

Given the ongoing climate emergency, it is reasonable to focus on the levers cities have influence over to mitigate the climate impacts caused by activities within its borders. In Oregon, the largest share of carbon pollution comes from the transportation sector. The city has influence over the use of land and can — and should — use its influence to implement regulations that are shown to reduce activities that contribute to carbon pollution. Due to the links between parking supply and driving — and driving to carbon pollution — the city should adopt policies and regulations that, by 2040, will result in less carbon pollution.

Impact Analysis

To inform the process to update the Comprehensive Plan, the City commissioned Rick Williams Consulting to prepare a Residential Occupancy Parking Study and analyze representative parking supply and demand in four of the city's residential neighborhoods. The study was conducted early in the pandemic when residential parking demand was higher than historic trends. While the researchers counted parking spaces in driveways and on-street, they only estimated garage parking spaces and generally excluded it from their analysis. In Planning Commission analysis and deliberation on reducing required parking minimums to incentivize Middle Housing options, the Commission focused its discussion on available parking stalls in driveways and on-street spaces. Without accounting for any additional parking space that may exist in residents' garages, the city's parking consultant counted over 2,600 parking spaces available for use by residents and their visitors in the four neighborhoods.

Page 33 of the study also documents that residents in the study areas had, on average, two (1.99) vehicles per household and that roughly 50% of the total on-street and off-street parking spaces were occupied during the overnight period. This means that for every two vehicles parked overnight at a housing unit, there were two more empty parking stalls available at the same unit. If estimated capacity for garages were also included, the consultants suggest that there are more than three empty parking spots alongside every two parked vehicles at each housing unit in the study area. Furthermore, the study shows that many of those excess parking spots are located in on-street stalls. As discussed by the Planning Commission, the City of Milwaukie's Residential Occupancy Parking study demonstrates there is significantly more capacity for on-street parking in the city and, although some stakeholders may believe otherwise, the evidence is clear.

It is worth noting that the ratio of 1.99 vehicles per household in the study neighborhoods is significantly higher than is often seen for low-income households (0.5 vehicles per household) or households living in market rate transit oriented developments (0.7 vehicles per household), both of which might be more attracted to new Middle Housing options, like ADUs, duplexes, triplexes, quadplexes, and Cottage Clusters. However, the Planning Commission used the higher value from the RWC study (1.99 vehicles per household) for its impact analysis, which means any projected parking impacts from new Middle Housing may be overstated.

When drafting HB2001, legislators included a provision to help cities estimate the impact of HB2001 on Housing Needs Analyses as used for determining Urban Growth Boundary expansions. The resulting provision directs cities to estimate a 3% market absorption rate — or, increase in density — in non-urbanized ("greenfield") areas, or a 1% increase for infill areas like Milwaukie, unless the city can demonstrate why it believes a larger increase is likely. During the Planning Commission's public hearings, there was no testimony that indicated Middle Housing production would exceed this 1% infill projection in Milwaukie. In fact, testimony to the Planning Commission from the Sightline Institute indicated that even this lower rate is considered optimistic. In this case, the Planning Commission again used the higher value in its impact analysis (3%), which should overestimate Middle Housing production compared to what is expected.

The City's current Buildable Lands Inventory identifies 765 potential new residential lots or redevelopment sites in areas zoned for single-unit detached dwellings. These are the candidate lots for new Middle Housing development. Using the higher (3%) market absorption rate, this would project roughly 22 additional Middle Housing units city-wide over the 20-year planning horizon. Using the lower market absorption rate for infill areas (1%), the expected Middle Housing production would total seven (7) additional dwellings over 20 years.

In considering the impact of new Middle Housing on the on-street parking supply, the Planning Commission looked at the RWC study to estimate that each new dwelling adds approximately two new vehicles. To estimate the most extreme impact — that all new Middle Housing built over the next 20 years contributes zero parking spaces to the supply — we multiplied two vehicles by the number of Middle Housing units expected to be built over that period. For the sake of simplicity, we multiplied two vehicles by the 22 additional Middle Housing units to get to a total of 44 new vehicles using on-street parking citywide over the next 20 years. As mentioned previously, these might be overestimates, particularly when considering the lower household vehicle ratios for low income residents and people living in transit oriented developments. When compared to the available supply of parking spaces in the four studied neighborhoods (1,300 parking spaces available from a supply exceeding 2,600 total), the Planning Commission looked at the evidence and agreed that reducing required parking minimums to incentivize Middle Housing production will have *de minimis* impact on the citywide on-street parking supply.

The Four Lenses

The Comprehensive Plan housing policy development phase featured a very deliberate effort to view the draft policies through the Four Lenses of affordability, equity, livability, and

sustainability. Because these Middle Housing code amendments derive from those policies, the recommended code amendments to reduce parking requirements for Middle Housing should be analyzed through these same Four Lenses to ensure consistency with the housing policy objectives.

The minimum parking standard that best satisfies a goal of ***affordability*** is no minimum parking standard at all. As mentioned previously, even basic surface parking spaces can cost over $20,000 per stall to construct. Each parking space is a cost borne by the new residents of the development. A requirement by the City to build parking guarantees that every resident of every Middle Housing development will be paying some of their housing costs towards parking, whether or not they use it. As such, required parking minimums for Middle Housing do not support affordability objectives.

A minimum parking standard benefits people who own a vehicle. People who own vehicles tend to have higher incomes, are more likely to be white, and have a greater number of options for places they can choose to live. People who don't own vehicles tend to live on lower incomes, are more likely to be from communities of color, and have fewer options for places they can live while continuing to have good access to basic services and to employment. An ***equitable*** regulation would deliberately create opportunities for housing for people who do not own vehicles, particularly in inner-ring suburbs like Milwaukie where basic services and employment can be found in all directions. Additionally, removing or reducing required parking minimums does not mean on-site parking will not be built. Developers have the choice to continue to build on-site parking so long as parking maximums are not exceeded. These recommended code changes provide more flexibility to develop Middle Housing, creating more likelihood that people from all income levels can find housing options in Milwaukie.

Livability is a subjective lens, where some might argue that 44 additional vehicles parked on the streets in 20 years from now is a detriment. Others might argue that livability is improved by safer streets with slower traffic and more sidewalks. New Middle Housing developments will certainly contribute their fair-share to street frontage improvements, including sidewalks, and research confirms that vehicles using on-street parking helps slow traffic and leads to safer road conditions for users of all ages and abilities. However, regardless of those debates, the small number of additional vehicles expected to be parked on the street will have *de minimis* impact on livability city-wide.

Sustainability is undeniably advanced by reducing driving, which as noted above is the greatest source of harmful greenhouse gas emissions in Oregon. Even if widespread adoption of electric cars were possible, the manufacturing processes and expense to households is both environmentally and economically challenging at scale. Additionally, other impacts caused by all vehicles — including water pollution from metals that are extremely toxic to endangered juvenile salmonids passing through our cities — result in unsustainable paradigms that we cannot mitigate our way out of. According to a sustainability lens, the best course of action for a city is to adopt regulations that are shown to reduce unsustainable activities; reducing the minimum parking standard for Middle Housing is one such regulation.

Conclusion

The Planning Commission used the best available data to carefully consider the potential positive and negative impacts of reducing required parking minimums for Middle Housing. In a majority vote, the Commission concluded that the impact of shifting to on-street parking for Middle Housing is supported by the evidence, by our Community Vision and our Comprehensive Plan goals, and is a worthwhile policy choice to help ensure parking is not a barrier to more affordable housing options being added into the city's housing supply. The number of estimated Middle Housing units expected to be produced is so small and the available supply of on-street parking is so large that it is not reasonable to conclude any near-term livability risks exist as a result of these proposed code amendments. As such, we encourage you to adopt the proposed code amendments with a reduced minimum parking requirement for Middle Housing, including for Cottage Clusters.

Thank you for taking the time to weigh this testimony, and we would be happy to answer any questions. We appreciate your leadership and thank each of you for your service to our community.

Respectfully,

Joseph P. Edge
Oak Grove resident

Jacob Sherman
Ardenwald resident

From: OCR
To: City Council
Cc: Vera Kolias; Natalie Rogers; Laura Weigel; Peter Passarelli
Subject: FW: 2/15/22 Milwaukie City Council Parking & Housing Code amendment testimony
Date: Thursday, February 10, 2022 8:09:25

Good Morning – please see the correspondence below; it will be included in the record of the 2/15 RS.

SCOTT STAUFFER, CMC
City Recorder
he • him • his
City of Milwaukie
p: 503.786.7502

From: Joel Bergman <jwbpdx@hotmail.com>
Sent: Thursday, February 10, 2022 8:06 AM
To: OCR <OCR@milwaukieoregon.gov>
Subject: 2/15/22 Milwaukie City Council Parking & Housing Code amendment testimony

This Message originated outside your organization.

To the Milwaukie City Council:

Speaking as a member of the Comprehensive Plan Implementation Committee, 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 that was to go to the Planning Commission from STAFF would be "one-space-per-unit". I'm sure the Planning Commissioners & City Councilors have their own opinions on this, but in the context of what the CPIC was to "recommend", I think there should be some consistency and transparency.

It is also very important to note that during the 10/26/21 Planning Commission discussion, it was really highlighted how ineffective & impotent the CPIC process was as it relates to actual policy recommendations, specifically with regards to Parking. 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, MOTION, or official recommendation made by the CPIC body as a whole during the entire process. We didn't make any concrete decisions or debate any issues with opposing viewpoints and it's being dramatically highlighted by these discussions initially during the Planning Commission hearings on this.

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 its 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.

I appreciate all your time & efforts and hope the CPIC process can more be more effective moving forward.

Best,
Joel Bergman

RS 8. B. 2/15/22
Correspondence

Scott Stauffer

From: Adam Ericksen <adamericksen@gmail.com>
Sent: Monday, February 14, 2022 5:06 PM
To: OCR
Subject: Middle Income Housing Recommendation

This Message originated outside your organization.

Hello,

I am writing in support of the Planning Commission's recommendation to legalize middle housing. The housing market has skyrocketed during the last few years, leaving many people unable to afford housing. I would love to see more low and middle income housing develop throughout Milwaukie. It is crucial that we seek solutions to our houseless crisis, and this is a great step in that direction.

Thank you for all the work you do.

Sincerely,

Rev. Adam Ericksen
Pastor, Clackamas United Church of Christ
adam@c-ucc.org

Scott Stauffer

From: Sara Gross Samuelson <sara@storylinecommunitypdx.org>
Sent: Tuesday, February 15, 2022 9:01 AM
To: OCR
Subject: Proposed Recommendations on Middle Housing

This Message originated outside your organization.

To the City Council and Planning Commission of the City of Milwaukie,
I am writing to express my support, pride and congratulations on this first hearing of proposed changes to city code that allow for more variety in housing options including what we have named as the "missing middle". I am a resident of this city in the Ardenwald neighborhood, but I am also a pastor and a community organizer in this city and a volunteer alongside many of our long-standing neighbors who struggle to find and keep stable housing in this economy.
The Clackamas Land and Housing Cohort, a community organizing coalition of faith communities that includes three communities rooted right here in the City of Milwaukie (Milwaukie Lutheran, St. Paul UMC and Storyline Community where I am the pastor/organizer), has been journeying with our housing and land stories. Our leaders have uncovered the hard reality that you cannot separate the history of our region's racist actions and policies from our current housing crisis. You cannot tell the story of Asian-American hatred or red-lining neighborhoods without also connecting it to the story of how our city struggles with rent and mortgage-burdened households. According to State of Oregon records, in 2021 just over 1/4 of our households in this city paid *more than 50% of their income* on rent. Some of those households are my neighbors. And anecdotally, of the handful of households I know through working alongside organizations like LoveOne Laundry and our school district, the majority of those who might fall into that statistic are not white.... leaving me to notice a dissonance between our previous housing policies and zoning and our city's equity goals.
Establishing zoning and coding that allows for more middle housing options will improve this situation. Establishing zoning and coding that makes it possible for more kinds of housing to be built will alleviate this burden. Establishing zoning that increases density in our city is the equitable thing to do. If we want to say that black and brown lives matter in Milwaukie, these changes are overdue. If we want to say that our schools and the stability of our kids matter, these changes are overdue.
Thank you so much Planning Commission, councilors, and Planning staff for your dedication and work in these proposals. May these changes be swift and may we work together to get more of our neighbors out of burden and into stable and affordable housing.

Peace to you all,
Rev. Sara Gross Samuelson
co- Lead Pastor/Organizer
Storyline Community
--

Sara Gross Samuelson
co-lead pastor/organizer - Storyline Community
cell: 503-367-7439
sara@storylinecommunitypdx.org
pastorsara@storylinecommunitypdx.org
Work rhythms = Monday mid-day - Thursday

"Don't let shame get in the way of your healing. I know. I know. I know how you've been feeling. But don't. let. shame. get in the way." - Abigail Bengson

February 15, 2022

Re: ZA-2021-002 Middle Housing and Parking Code Amendments

Dear Mayor Gamba, Council President Hyzy, and fellow Councilors:

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 was pleased to see that the Planning Commission has proposed to go further than minimal legal compliance with HB2001 and has recommended the re-legalization of many middle housing options with no costly car parking mandates.

I encourage you to adopt the proposed code amendments, but I also urge you to go further and allow cottage clusters to be built with no off-street car parking.

The proposed amendments, and my friendly suggestion, are not radical. Planning Commissioners Edge and Sherman have submitted excellent testimony supporting this proposal with ample evidence that legalizing middle housing with no car parking is not only in-line with Milwaukie's values and goals, but also will have little to no negative impact for residents who may choose to still own cars and drive.

Milwaukie will be joining hundreds of cities in the United States which have eliminated some car parking mandates. The scope of these reforms vary in their scope and which land uses are exempted, but the trend is definitely toward repeal of parking mandates in favor of more abundant housing and safer streets. You can view the evidence yourself at the Parking Reform Network's Parking Mandates Map (https://parkingreform.org/resources/mandates-map/)

But, perhaps more importantly, this proposal is an essential step Milwaukie must take if we are going to meet our regional housing, climate, and transportation goals. The study by Rick Williams Consulting shows that Milwaukie could not meet regional transportation and climate targets if existing parking supply is fully utilized, after all that would mean more than twice the existing number of cars on already congested roads.

There are many things we must do to ensure a stable and sustainable future for our children. Allowing homes to be built without car parking doesn't guarantee that future but requiring more car parking is a sure sign that we aren't even going to try for it.

Tony Jordan
Portland, OR - 971.207.1348

Scott Stauffer

From: Cole Merkel <cjmerkel@gmail.com>
Sent: Tuesday, February 15, 2022 2:36 PM
To: OCR
Subject: In support of Planning Commission's Missing Middle recommendations

This Message originated outside your organization.

Hi there,
I wanted to write a quick note to thank the Planning Committee for their hard work on recommending ways to change Milwaukie's zoning code to allow for more development of missing middle housing.

This work, when implemented, will help more people afford housing in Milwaukie and will help Milwaukie lead the region--and especially Clackamas County--as a place that prioritizes affordability, density and community.

I hope the City Council will approve these recommendations so staff can begin implementing them immediately.

All best,
Cole Merkel
Resident of Oak Grove