



CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

August 10, 2021

Present: Joseph Edge, Vice Chair
Greg Hemer
Adam Khosroabadi
Robert Massey
Jacob Sherman

Staff: Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Justin Gericke, City Attorney

Absent: Lauren Loosveldt, Chair
Amy Erdt

(00:00:05)

1.0 Call to Order – Procedural Matters*

Vice-Chair Edge called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

(00:00:29)

2.0 Informational Items

No information was presented for this portion of the meeting.

(00:00:37)

3.0 Audience Participation

No information was presented for this portion of the meeting.

(00:01:26)

4.0 Work Session

(00:01:37)

4.1 Summary: Comprehensive Plan Implementation - Draft Code/Map Amendments –Batch #1

Vera Kolias, Senior Planner shared an update about the Comprehensive Plan Implementation project. The policy mandates were to increase the supply of middle

housing, increase city-wide tree canopy and preserve existing trees, and manage parking to enable middle housing. Draft code and maps were under development. The Comprehensive Plan included a policy to create an equitable distribution of housing choices throughout the city. Some of the key amendments were to:

- Consolidate the eight residential zones to six
- Allow lot size to determine permitted housing types
- Allow middle housing to be permitted as attached or detached units
- Require one parking space per unit and allow the space to be located in the driveway or setback
- Require tree preservation, protection, and replacement of removed trees in new development and private property

The code will still have development standards, such as maximum lot coverage, building height, minimum landscaping, and setbacks. 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 House Bill 2001.

The purpose of this meeting was to present the comprehensive plan and land use map, zoning map, permitted uses, definitions, parking, ADU review and design, and development standards. On August 10, there will be a discussion about flag lots and back lots, natural resource code, and Title 17 – Land Division. On August 24, which will be the final meeting prior to the public hearing there will be a focus on tree code, and design and development standards for middle housing.

There was a proposal for new definitions related to middle housing. Those included middle housing, multi-unit development, quadplex, triplex, and uses allowed by right. Some of the key code amendments regarding ADUs were to allow them by right and subject them to design and development standards, and revisions to the footprint requirement for accessory structures more than 3 years old when converted to an ADU. There was a proposal to create a new Type II variance for Type B ADUs for a 25% increase in size over the maximum square feet currently allowed instead of a Type III variance. Yurts will no longer be an allowed detached ADU because Yurts do not meet the building code.

Commissioner Sherman asked about the rationale of the different sizes of an ADU and the 25% variance option. **Kolias** responded, this would give the applicant some flexibility as they designed their ADU. A Type II ADU would require a Neighborhood District Association and public notice. This aligned with other variances within the code for setbacks, lot coverage, and fences. **Commissioner Sherman** understood that the code only allowed one ADU per lot. They were interested in discussing the possibility of an attached and detached ADU per lot. **Kolias** responded, currently, the plan was one ADU per lot. **Kolias** wanted to discuss this further. **Commissioner Hemer** shared, one or two ADUs should be maximum to ensure if cottage clusters needed to be built that should be the focus instead of building multiple ADUs. **Vice Chair Edge** shared, each duplex, triplex, or quadplex should be allowed to have an ADU. Also, single dwelling units should be permitted two ADUs per lots as long as they followed the code requirements, such as maximum lot coverage, minimum vegetation, and other requirements. **Commission Khosroabadi** asked, were there any cons to allowing more

than one ADU on a lot? **Kolias** responded, they did not think there were any cons and wanted the group to keep in mind that as the code was written there were not any parking requirements for ADUs, therefore ADU parking is likely to occur on the street. **Commissioner Sherman** shared, two ADUs should be outright permitted and it did not matter if the ADU would be attached or detached. **Commissioner Hemer** shared, where density was happening additional ADUs should not be permitted. **Vice Chair Edge** asked, if staff would be willing to draft language regarding ADUs with middle housing for a later discussion?

Kolias presented the draft parking code updates. The proposed code was one space per unit, not including ADU's, with an option to have the required space in the driveway or within the setback. There were conversations about parking alternatives, which included the parking modification process or considering incentives for income-restricted housing. There were conversations to incentivize income-restricted housing through the parking requirements. The Planning Department proposed a by right reduction in minimum off-street parking for development meeting a specific level of affordability. Possible code language discussed was to allow any multi-unit dwelling unit or middle housing dwelling unit that was affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development to receive a 25% parking reduction. The reduction would only apply to the income-restricted units. **Commission Khosroabadi** shared, the incentive for affordable housing was beneficial to the city and had the ability to drive more development for affordable housing. **Commissioner Sherman** shared, the percentage could be higher. Maybe 50%. **Commissioner Massey** shared, 25% was not a needle mover. **Commissioner Hemer** shared, the parking reductions should be based on income tiers because some of individuals in the restricted-income housing may have a car. **Vice Chair Edge** shared, they wanted to review the amount of the reduction indexed to the percentage of the AMI the restricted-income housing provided. They agreed with Commissioner Hemer that the developer needed some parking for restricted-income residents. **Kolias** shared, the Planning Department could review the Hillside project and their parking spaces projection. The applicant was developing restricted-income housing and applied for a parking reduction. **Commissioner Sherman** shared, the Planning Department should consider the location of the restricted-income housing and proximity to public transportation. If the two were close maybe the parking modification would permit zero parking spaces. **Kolias** shared, the code already allowed parking modifications for development near public transportation. This was something that needed an additional look to understand how this portion of the code could benefit restricted-income housing. **Commissioner Sherman** shared, it would be beneficial to the City to not require a minimum parking for single family housing. **Kolias** responded, the code needed to be the same for middle housing and single family by state law. **Vice Chair Edge** asked, what Comprehensive Plan policies supported having a minimum parking space per one dwelling unit vs zero parking spaces?

Kolias presented the Comprehensive Plan residential maps updates. The plan was to consolidate four residential land use designations to two, which were moderate density and high density. The Moderate Density Residential (R-MD) Zone included what was R-5, R-7, and R-10. The permitted housing types were single-unit detached on moderate to

small lots and middle housing. Any site with natural resource or natural hazard overlays may require a reduction in density. The High Density Residential Zone included R-1, R-1-B, R-2, R-2-.5, R-3. The permitted housing types were a wide variety of housing types with the predominant housing type being multi-unit development. Office uses were outright permitted and commercial uses were conditional uses in limited areas. The zoning permitted uses in the high density zones were not in alignment. Some of the zones outright permitted multi-unit and in other zones, it was a conditional use. Due to the inconsistent criteria between the different zones, it was difficult to consolidate these zones. The Planning Department proposed to maintain the HD zones as they were. The Planning Department would insert middle housing and amend associated minimum lot sizes and terminology as needed. In conclusion, the city will have 6 zones: R-1, R-1-B, R-2, R-2-.5, R-3 and R-MD. **Commissioner Massey** shared, as the Planning Department considered the congregate housing definition it needed to be more diverse and include halfway housing, like a Northwest Housing Alternatives, and temporary housing shelters. **Kolias** and **Vice Chair Edge** agreed. **Commissioner Hemer** would like the Planning Department to conduct more outreach due to lack of public responses. They wanted the Planning Department to ensure what was being proposed aligned with the Comprehensive Plan and what the residents wanted. **Kolias** responded, they went to Milwaukie's Farmer's Market, among multiple outreach efforts, to answer questions about the code updates. **Laura Weigel, Planning Manager** recommended Kolias share an update about the various engagement that they completed thus far. **Commissioner Sherman** agreed that was a great idea. It would be valuable to start each meeting sharing an updated outreach plan with the Planning Commission. **Kolias** shared, there was an article about the project in every pilot newsletter since September 2020.

Commissioner Sherman asked about the criteria for townhomes and cottages and wondered how the criteria impacted the tree canopy goals. **Kolias** responded, the criteria was based on House Bill 2001. A cottage cluster had to be part of a cluster and the lot must be at least 1,500 square feet (sf) for each cottage. **Commissioner Sherman** encouraged the Planning Department to take the first sentence from the townhomes' statement and add it to the cottage clusters' statement. They also would like more information about the cottage clusters setbacks. **Kolias** shared, the consultant looked at the cottage cluster codes from other cities and the model code from House Bill 2001. They asked to hold off on discussing this until August 24th, when the Planning Department was returning to present the cottage cluster code. From now until then, there was a possibility for some tweaks to the code. **Commissioner Sherman** asked, about the design standards and wanted to make sure those standards were not lost as the City will allow other types of development.

Kolias presented the project's timeline. During July and August, they were hosting Planning Commission work sessions, tracking written public comments, and engaging with the public. From September until the code adoption, there will be Planning Commission and City Council public hearings, the final draft code would be posted, and conduct community engagement activities.

(01:48:08)

5.0 Planning Department Other Business/Updates

Weigel shared, Janine Gates, Assistant Planner was leaving the Planning Department to join the Community Development Department as their Housing and Economic Development Program Manager.

(01:49:00)

6.0 Planning Commission Committee Updates and Discussion Items

Commissioner Sherman asked about federal funding for park development. **Weigel** responded, they were unsure and needed to check with Kelly Brooks, Interim Community Development Director. **Commissioner Sherman** wanted an update about the Milwaukie Bikeway plan. **Weigel** responded, the plan went to Council and they did not decide on the preferred plan. That was still in the works.

(01:54:1828)

7.0 Forecast for Future Meetings

August 10, 2021	Work Session Item: Comprehensive Plan Implementation – Draft Code/Map Amendments – Batch #2
August 24, 2021	Work Session Item: Comprehensive Plan Implementation – Tree Code; Draft Code/Map Amendments – Batch #3
September 14, 2021 (tentative)	Hearing Item: VR-2021-013, Bonaventure Senior Living Walkways

Meeting adjourned at approximately 8:30 PM.

Respectfully submitted,

N. Janine Gates
Assistant Planner



CITY OF MILWAUKIE

AGENDA

August 5, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the Planning Commission will hold this meeting through Zoom video. The public is invited to watch the meeting online through the City of Milwaukie YouTube page (https://www.youtube.com/channel/UCRFbfqe3OnDWLQKSB_m9cAw) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at planning@milwaukieoregon.gov. Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time. To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-special-meeting>) and follow the Zoom webinar login instructions.

1.0 Call to Order – Procedural Matters — 6:30 PM

2.0 Information Items

3.0 Audience Participation — This is an opportunity for the public to comment on any item not on the agenda

4.0 Work Session Items

4.1 Summary: Comprehensive Plan Implementation - Draft Code/Map Amendments – Batch #1

Staff: Senior Planner Vera Kolias

5.0 Planning Department Other Business/Updates

6.0 Planning Commission Committee Updates and Discussion Items — This is an opportunity for comment or discussion for items not on the agenda.

7.0 Forecast for Future Meetings

August 10, 2021 Work Session Item: Comprehensive Plan Implementation – Draft Code/Map Amendments – Batch #2

August 24, 2021 Work Session Item: Comprehensive Plan Implementation – Tree Code; Draft Code/Map Amendments – Batch #3

September 14, 2021 Hearing Item: VR-2021-013, Bonaventure Senior Living Walkways (tentative)

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to planning@milwaukieoregon.gov.
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at www.milwaukieoregon.gov/meetings.
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

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.

Milwaukie Planning Commission:

Lauren Loosveldt, Chair
Joseph Edge, Vice Chair
Greg Hemer
Robert Massey
Amy Erdt
Adam Khosroabadi
Jacob Sherman

Planning Department Staff:

Laura Weigel, Planning Manager
Vera Kolias, Senior Planner
Brett Kelter, Associate Planner
Mary Heberling, Assistant Planner
Janine Gates, Assistant Planner
Tempest Blanchard, Administrative Specialist II



CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Date: July 27, 2021, for August 5, 2021, Worksession (rescheduled from July 13)

Subject: Comp Plan Implementation Project Update – Draft map and code review #1

ACTION REQUESTED

No action. Review the proposed draft plan, map, and code amendments related to housing, trees, and parking in residential areas and provide direction about implementing the changes under consideration. This is a briefing for discussion only and is the first of three scheduled discussions.

Note: Revisions have been made to the staff report issued for the July 13 meeting. These sections are indicated with a “**Revision**” notation and in some cases are highlighted.

ANALYSIS

Proposed Review Process

Attachments 1-3 include all of the proposed code amendments. However, due to the complexity of the code amendment package, staff proposes to divide the review and discussion topics between a total of three worksessions as follows:

- ~~July 13:~~ August 5: Comprehensive plan and land use map; zoning map; permitted uses; definitions; parking; ADU review and design and development standards
- August 10: Flag lots and back lots; NR code; Title 17 – land division (**Revision**)
- August 24: Tree Code; Design and development standards for middle housing (**Revision**)

The revised draft code at the conclusion of this series of worksessions will be posted in early September for the October 12 and October 26 public hearings.

Project Background

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options throughout the state. In November 2019, Council

discussed how to proceed with code amendments after the updated plan was adopted, setting the stage for the recently initiated implementation project.

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.

The scope of work for this project includes the following tasks:

1. Public Engagement
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. Code and Map Review and Reconciliation
7. Final Code and Map Changes and Adoption

Project Schedule

Project overview and timeline – Part 1			
September 2020	January – April 2021	March – May 2021	May - June 2021
Code Audit Identified existing policies and regulations that prevent implementation of the Comprehensive Plan.	Code Concepts Based on the code audit findings, described six multi-faceted approaches for amending Milwaukie's implementing ordinances.	Selected Proposed Code Amendments – community testing Specifically identifies which code sections will be amended to remove barriers associated with building middle housing, and residential parking. Open House #2	Milestone: Adoption-ready draft amendments Presentations to NDAs Open House #3
Code Adoption Process			
July – Aug 2021	September 2021	Oct - Nov 2021	December 2021
Planning Commission worksessions Engage Milwaukie Written comments–tracked in spreadsheet	Revised draft code and maps 35-day public notice Code posted Social media; postcards; Engage Milwaukie	Planning Commission public hearings Public testimony Spreadsheet tracking written comments Final Draft Code and Maps	City Council public hearings Public testimony Spreadsheet tracking written comments Adopted Code and Maps

A key element in the project schedule is the adoption-ready draft amendments – this is a requirement of the grant the City received from DLCD. Staff and the consultants prepared this draft set of amendments and submitted them to DLCD on June 18 to close out the grant and provide draft code that is compliant with HB 2001. The submittal package also included the draft tree code for residential property.

Virtual Open House #3 on the Engage Milwaukie online platform provided summaries and other information about the key proposed amendments, the opportunity to provide comments, and links to the text of the draft amendments for public review.

Please refer to Attachments 1 – 3 for the draft proposed code amendments in underline/strikeout format and the existing and proposed maps. These attachments will be the ones referenced in all of the worksession discussions, although the discussions will be focused on specific sections during each worksession, as noted above.

Key Changes – Batch #1

Per the proposed review process noted above, the key changes in this first batch of amendments are summarized in this section.

Proposed Amendment	Comprehensive Plan Policies and HB 2001 compliance	Proposed Municipal Code Section
Amends Comprehensive Plan Land Use Map to consolidate residential land use designations into three new designations.	Implements Equity (Housing 7.1.2, 7.1.3, 7.2.2) Implements HB 2001	19.107.1 19.107.2
Amends Zoning Map to consolidate residential land use designations into three zones (currently named R-1, R-1-B, and R-2 zones). Revision	Implements Equity (Housing 7.1.2, 7.1.3, 7.2.2) Implements HB 2001	19.107.1 19.107.2
Amends definitions of housing types to permit new forms of middle housing and clarify the number of units on lots based on lot size	Implements Equity, Affordability (Housing 7.1.2, 7.1.3, 7.2.2, 7.3.1, 7.3.2) Implements HB 2001	19.201
Amend Comprehensive Plan Land Use Designations to reflect changes to permitted housing types and density ranges in Title 19	Implements Equity, Affordability (Housing 7.1.1, 7.1.2, 7.2.2, 7.2.3) Implements HB 2001	19.300

Amend base residential zones, permitted uses and development standards to permit middle housing	Implements Equity, Affordability (Housing 7.1.1, 7.1.2, 7.2.2, 7.2.3, 7.2.4, 7.3.1, 7.3.2, 7.4.3, 7.4.4, 7.4.5) Implements HB 2001	19.300 19.301.5 19.302.5
Amend minimum on-street parking requirements to one space per dwelling unit Consider parking reductions for income-restricted housing Revision	Implements Built Environment (Climate Change/Energy 6.1.5, 6.1.6) Implements Equity and Affordability (Housing 7.1.1, 7.1.3, 7.2.2, 7.2.3) Implements HB 2001	19.605.1
Allow the location of off-street parking space be within front setback or within 15 feet of front lot line or within side setback.	Implements Built Environment (Climate Change/Energy 6.1.4) Implements Equity and Affordability (Housing 7.1.1, 7.1.3, 7.2.2, 7.2.3) Implements Livability (Urban Design/Land Use 8.2.2)	19.607
Amend review type for ADUs and duplexes to allow outright (same as single detached units)	Implements Equity (Housing 7.1.1, 7.1.2, 7.1.3) Implements Process (Urban Design/Land Use 8.3.1, 8.3.2) Implements HB 2001	19.910
Update some ADU standards for clarity.	Implements Equity and Affordability (Housing 7.1.1, 7.1.3, 7.2.2, 7.2.4) Implements Process (Urban Design/Land Use 8.3.1, 8.3.2)	19.910

Zone Consolidation (Revision)

Staff proposes to re-name the lower density consolidated zone to Residential-Moderate Density (R-MD).

As originally conceived, the proposed code would consolidate the city's 8 residential zones to 3 zones (with generic names):

- R-1 (High Density): R-1, R-2, R-2.5, R-3
- R-1-B (High Density with office uses: R-1-B
- R-2 (Moderate Density): R-5, R-7, R10

However, upon further detailed review, staff has found numerous inconsistencies in the permitted uses between the medium and high density zones:

Table 19.302.2						
Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	
Manufactured dwelling park	III	N	N	N	N	
Multifamily	CU	CU	P	P	P	
Congregate housing facility	CU	CU	P	P	P	
Senior and retirement housing	CU	CU	CU	P	P	
Office	CU	CU	CU	CU	P	
Hotel or motel	N	N	N	N	CU	

To consolidate the zones, a decision would have to be made to either change some uses to be permitted by right that are now subject to Type III Conditional Use review or make those same uses now subject to Type III review where they are permitted by right. This is particularly concerning when addressing multifamily housing, for example. Because the city's goal is to provide more opportunities for the development of different types of housing, staff does not recommend making these types of developments subject to a Type III review in the R-2, R-1, and R-1-B zones. Conversely, to now allow multifamily development by right in the R-3 and R-2.5 zones eliminates any public notice, notice to the NDAs, or public review process, which has not been discussed as part of this project.

Staff is concerned that introducing this new topic would distract from the main focus of this project which is to provide middle housing opportunities throughout the residential zones in the city. It would require additional analysis and public outreach to ensure sufficient community engagement.

Therefore, staff proposes to NOT consolidate the medium and high-density zones, and only insert middle housing into these code sections. The majority of residential land in the city is zoned low density (2,017 acres as compared to 392 acres in the medium and high-density zones), so the bulk of the residential zone area would be consolidated. As part of the upcoming Neighborhood Hubs project, we can bring this issue back up and incorporate it into that discussion and reconcile the permitted use table at that time.

Please refer to Attachment 3 for the revised zoning map reflecting this recommendation.

Parking Incentives for Income-Restricted Housing (Revision)

Data shows that developing parking is expensive and can affect the affordability of housing, and that household income level can reduce the need for parking. In on-going discussions about how to provide incentives for income-restricted housing, staff proposes to provide a by-right reduction in minimum off-street parking for dwelling units meeting a specific level of affordability.

Draft code language for this incentive:

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements**B. Reductions to Minimum Parking Requirements****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 is affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee, the minimum parking requirement for that unit may be reduced by 25 percent.

This provision effectively reduces the minimum parking ratio from 1 to 0.75 spaces per unit. As an example, a 10-unit cottage cluster that included 2 income-restricted units, rather than providing 10 off-street parking spaces, the development would provide 9 ($2 \times 0.75 = 1.5$ spaces = 1 space when rounded down).

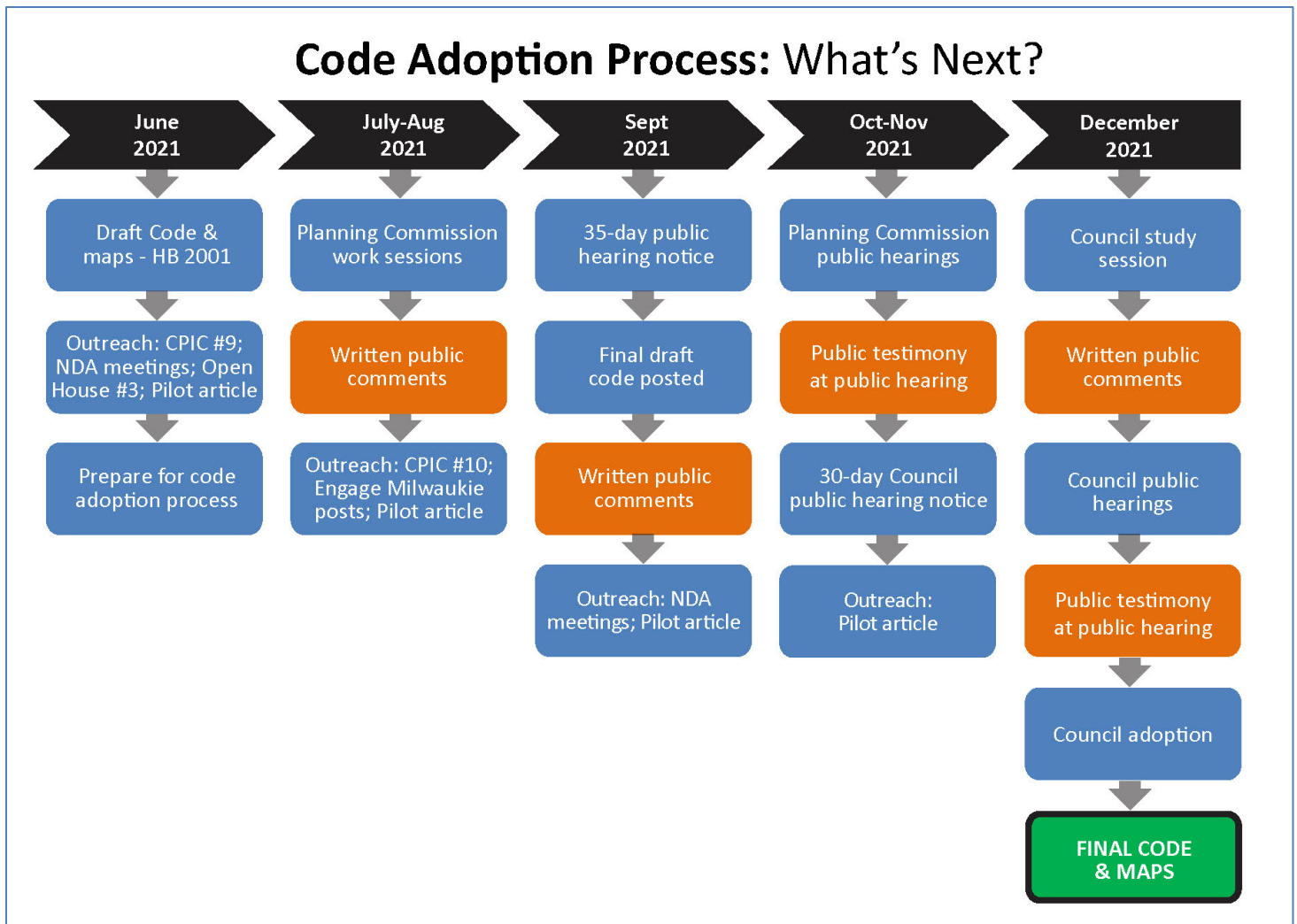
This provision would eliminate the need to go through a Type II parking modification process for a small reduction, because it would be permitted by-right. If a larger reduction is requested, then a parking modification application would be required.

Key Questions for Discussion

1. Does the Commission concur with the proposed zones and associated comp plan land use map and designations?
2. Does the Commission concur with the proposed list of permitted uses in each zone?
3. Does the Commission concur with the proposed amendments in the definitions?
4. Does the Commission concur with the proposed amendments related to off-street parking?
 - a. Do the amendments accurately reflect previous discussions about parking modifications?
 - b. Does the Commission concur with the proposed amendment related to income-restricted housing?

5. Does the Commission concur with the proposed amendments related to ADUs, specifically:
- Elimination of required land use review
 - Amendments to development standards for each “type” of ADU

Next Steps



ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	Packet
1. Draft plan and code text amendments (underline/strikeout format)	☒	☒	☒
2. Draft tree code amendments (underline/strikeout format)	☒	☒	☒
3. Draft plan and zoning map amendments (Revised)	☒	☒	☒
4. Comments received			

Key:

PC Packet = paper materials provided to Planning Commission 7 days prior to the meeting.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission

meeting. E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-special-meeting>.

Underline/Strikeout Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

Updated to show three residential designations reflecting changes to zoning map per 19.107.

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-2 (3.5 – 8.7 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) Zone R-1 (11.6-32.0 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.

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 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5
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 three residential designations reflecting changes to zoning map per 19.107.1 (Attachment 3)

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:

“Outright Allowed” 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.~~

“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 1 dwelling unit on 1 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.

“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 3-5 or more dwelling units on 1 lot (except cottage clusters) within a single structure with the dwelling units separated vertically and/or horizontally. 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 Multi-unit 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.

~~“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 dwelling units.~~

“Triplex” means three 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.~~

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-2. 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 there is a broad range of housing types. Some non-household living uses are allowed but overall the character is of residential neighborhoods.

19.301.2 Allowed Uses in Moderate Density Residential Zones

Uses allowed, either outright 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.

<u>Table 19.301.2</u>		
<u>Moderate Density Residential Uses Allowed</u>		
<u>Use</u>	<u>R-2</u>	<u>Standards/Additional Provisions</u>
<u>Residential Uses</u>		
<u>Single detached dwelling</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>

<u>Duplex</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Triplex</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Quadplex</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Townhouse</u>	<u>P</u>	<u>Subsection 19.505.5 Standards for Townhouses</u>
<u>Cottage Cluster</u>	<u>P</u>	<u>Subsection 19.505.4 Cottage Cluster Housing</u>
<u>Residential home</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Accessory dwelling unit</u>	<u>P</u>	<u>Subsection 19.910.1 Accessory Dwelling Units</u>
<u>Manufactured dwelling park</u>	<u>N</u>	<u>Subsection 19.910.3 Manufactured Dwelling Parks</u>
<u>Senior and retirement housing</u>	<u>CU</u>	<u>Subsection 19.905.9.G Senior and Retirement Housing</u>
<u>Commercial Uses</u>		
<u>Bed and breakfast or Vacation rental</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
<u>Accessory and Other Uses</u>		
<u>Accessory use</u>	<u>P</u>	<u>Section 19.503 Accessory Uses</u>
<u>Agricultural or horticultural use</u>	<u>P</u>	<u>Subsection 19.301.3 Use Limitations and Restrictions</u>
<u>Community service use</u>	<u>CSU</u>	<u>Section 19.904 Community Service Uses</u>
<u>Home occupation</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>
<u>Short-term rental</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>

P = Permitted/outright allowed

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 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.

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Table 19.301.4
Moderate Density Residential Development Standards

Standard	R-2				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 ADU, Duplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex, Triplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, 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 For a Cottage within a Cottage Cluster only

² Townhouses are not permitted on flag lots

Table 19.301.4
Moderate Density Residential Development Standards

Standard	R-2				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
1. Minimum yard requirements for primary structures (ft)					Subsection 19.301.5.A Side Yards Subsection 19.501.2 Yard Exceptions Subsection 19.504.8 Flag Lot Design and Development Standards Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Townhouses
a .Front yard	15 ³	20	20	20	
b. Side yard	5 ³	5	5	5/10	
c. Street side yard	15 ³	15	15	20	
d. Rear yard	15 ³	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					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				

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

Table 19.301.4
Moderate Density Residential Development Standards

Standard	R-2				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
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 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	32 ⁴	8.7 ⁴	8.7 ⁴	6.2 ⁴	

⁴ Townhouses are allowed at four times the maximum density allowed for detached single dwellings in the same zone or 25 dwelling units per acre, whichever is less. Cottage clusters are exempt from density maximums.

19.301.5 Additional Development Standards

A. Side Yards

On lots greater than 7,000 sq ft in the R-2 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 Dwellings Conversions

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of ~~a single-family detached dwelling~~, or an addition to an existing ~~single-family~~ detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 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**

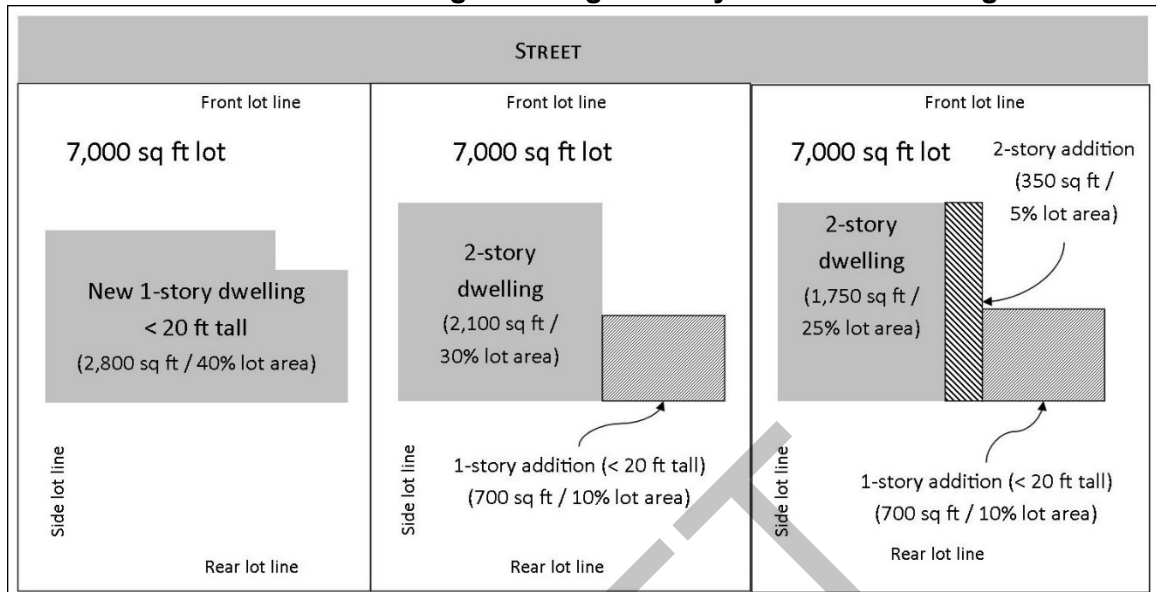


Figure 19.301.5.B.2 illustrates increased lot coverage for lots in Residential Zone R-2. ~~R-7 based on 7,000 sq ft lot area.~~

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 middle housing~~, 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.

19.501.2 (B) 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.

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	

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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	20 45			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)				
b. Slope of plane (degrees)				
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	

19.301.5 Additional Development Standards**A. Side Yards**

In the R-7 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.

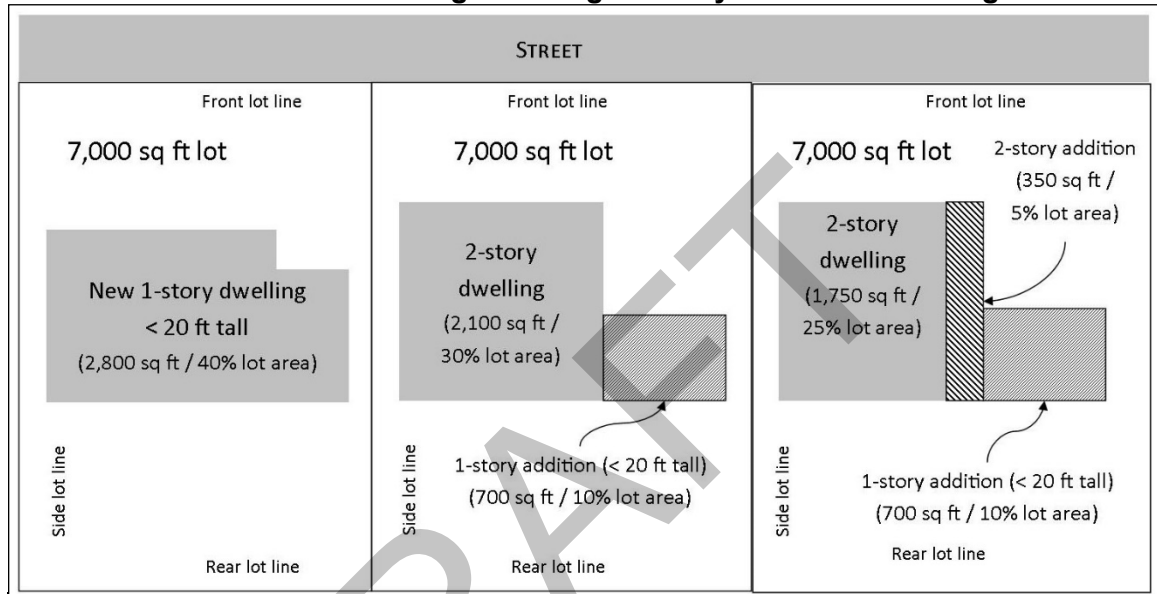
2. Increased Lot Coverage for Single-Family Detached Dwellings

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

~~an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 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



[amend figure x, y, z]

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

3. ~~Increased Lot Coverage for Duplexes~~

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

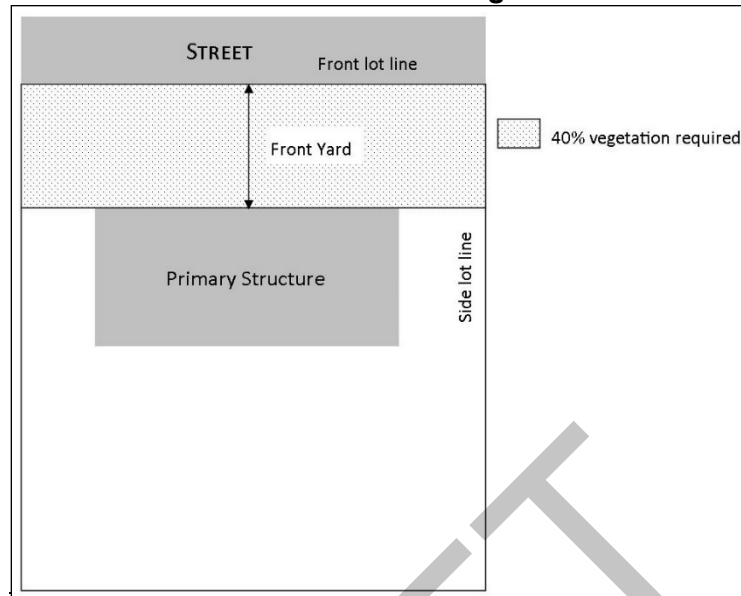
4. ~~Increased Lot Coverage for Detached Accessory Dwelling Units~~

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

C. Front Yard Minimum Vegetation

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

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

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

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

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Number of Dwelling Structures

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

G. Off-Street Parking and Loading

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

H. Public Facility Improvements

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

I. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced

~~for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.~~

- ~~1. Subsection 19.504.4 Buildings on the Same Lot~~
- ~~2. Subsection 19.504.8 Flag Lot Design and Development Standards~~
- ~~3. Subsection 19.505.1 Single Family Dwellings and Duplexes~~
- ~~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)~~

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19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are Residential Zones R-1 and 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 outright 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			
<u>Use</u>	<u>R-1</u>	<u>R-1-B</u>	<u>Standards/ Additional Provisions</u>
			<u>Residential Uses</u>
<u>Single-detached dwelling</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Duplex</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Triplex</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Quadplex</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Residential home</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.1 One to Four Dwelling Units</u>
<u>Accessory dwelling unit</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.910.1 Accessory Dwelling Units</u>
<u>Manufactured dwelling park</u>	<u>III</u>	<u>N</u>	<u>Subsection 19.910.3 Manufactured Dwelling Parks</u>
<u>Townhouse</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.5 Standards for Townhouses</u>
<u>Cottage cluster</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.505.4 Cottage Cluster Housing</u>

Table 19.302.2 CONTINUED
High Density Residential Uses Allowed

<u>Use</u>	<u>R-1</u>	<u>R-1-B</u>	<u>Standards/ Additional Provisions</u>
<u>Residential Uses CONTINUED</u>			
<u>Multi-unit</u>	<u>CU</u>	<u>P</u>	<u>Subsection 19.505.3 Multi Unit Housing</u> <u>Subsection 19.302.5.F Residential Densities</u> <u>Subsection 19.302.5.H Building Limitations</u>
<u>Congregate housing facility</u>	<u>CU</u>	<u>P</u>	<u>Subsection 19.505.3 Multifamily Housing</u> <u>Subsection 19.302.5.F Residential Densities</u> <u>Subsection 19.302.5.H Building Limitations</u>
<u>Senior and retirement housing</u>	<u>CU</u>	<u>P</u>	<u>Subsection 19.905.9.G Senior and Retirement Housing</u>
<u>Boarding house</u>	<u>CU</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
<u>Commercial Uses</u>			
<u>Office</u>	<u>CU</u>	<u>P</u>	<u>Subsection 19.302.3 Use Limitations and Restrictions</u>
<u>Hotel or motel</u>	<u>CU</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
<u>Bed and breakfast or vacation rental</u>	<u>CU</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
<u>Accessory and Other Uses</u>			
<u>Accessory use</u>	<u>P</u>	<u>P</u>	<u>Section 19.503 Accessory Uses</u>
<u>Agricultural or horticultural use</u>	<u>P</u>	<u>P</u>	<u>Subsection 19.302.3 Use Limitations and Restrictions</u>
<u>Community service use</u>	<u>CSU</u>	<u>CSU</u>	<u>Section 19.904 Community Service Uses</u>
<u>Home occupation</u>	<u>P</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>
<u>Short-term rental</u>	<u>P</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>

P = Permitted/allowed outright.

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

19.302.3 Use Limitations and Restrictions

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

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.

3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Office uses allowed in the ~~medium~~ and high density zones 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 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.

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19.302.4 Development Standards

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

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

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

In the R-1 and R-1-B zones the following housing types are permitted on lot sizes as follows:

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

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

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

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

Table 19.302.4 High Density Residential Development Standards			
Standard	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards			
1. Minimum lot size (sq ft)	<u>1,500</u>	<u>1,400</u>	Subsection 19.501.1 Lot Size Exceptions Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Townhouses
2. Minimum lot width (ft)	<u>20</u>	<u>20</u>	
3. Minimum lot depth (ft)	<u>70</u>	<u>70</u>	
4. Minimum street frontage requirements (ft)			
a. Townhouse	<u>20</u>	<u>20</u>	
b. Standard lot	<u>35</u>	<u>35</u>	
c. Flag lot	<u>25</u>	<u>25</u>	
d. Double flag lot	<u>35</u>	<u>35</u>	
Table 19.302.4 CONTINUED High Density Residential Development Standards			
Standard	R-1	R-1-B	Standards/ Additional Provisions
B. Development Standards			

1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	<u>15</u> See Subsection 19.302.5.A <u>15</u> <u>15</u>		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	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)	<u>20</u> <u>45</u>	<u>25</u> <u>45</u>	Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	<u>45%</u>	<u>50%</u>	Section 19.201 "Lot coverage" definition
5. Minimum vegetation (percent of total lot area)	<u>15%</u>	<u>15%</u>	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	<u>25</u> <u>32</u>	<u>25</u> <u>32</u>	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 zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a ~~row~~townhouse shall be at least 5 ft.
2. There is no required side yard for rowhouses that share 2 common walls. The required side yard for an exterior ~~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 Dwellings-Conversions

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of ~~a single-family detached dwelling~~, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

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

Figure 19.302.5.B.1
Increased Lot Coverage for Single-Family Detached Dwellings

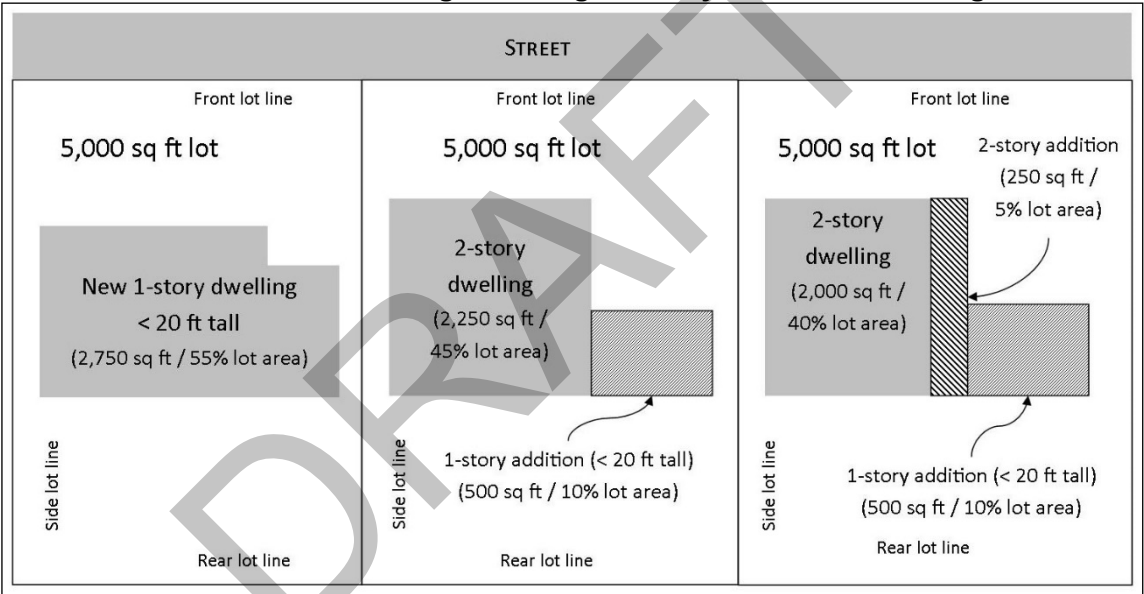


Figure 19.302.5.B.1 illustrates increased lot coverage for lots in Residential Zone R-1 ~~R-2~~ based on 5,000-sq-ft lot area.

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 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.

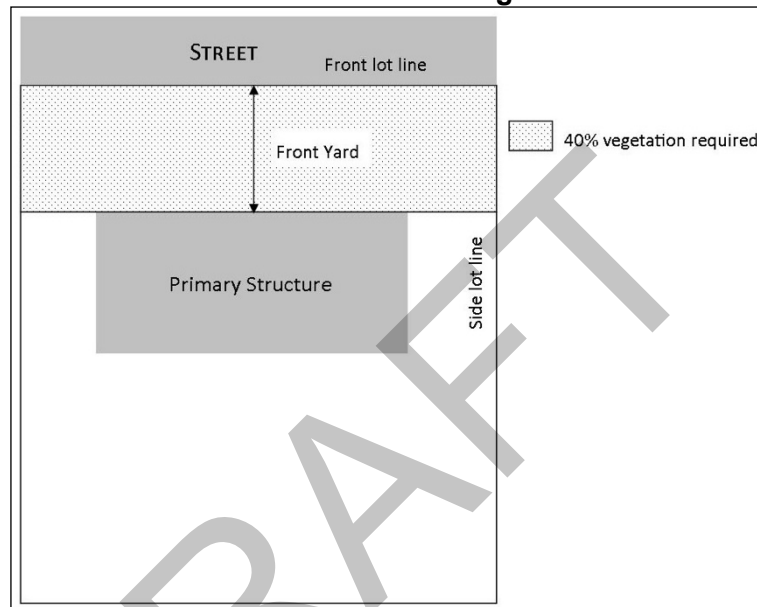
C. Minimum Vegetation

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 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 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

- ~~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.~~
- ~~Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.~~

I. Transition Measures

~~The following transition measures apply to multifamily development that abuts an R-10, R-7, or R-5 zoned property.~~

- ~~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.~~
- ~~Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way, the building height limit, for the portion of the site within 15 ft of the lot line bordering the right of way, is equal to the height limit of the lower density residential zone.~~

J. Off-Street Parking and Loading

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

K. Public Facility Improvements

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

L. Additional Standards

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

- Subsection 19.504.4 Buildings on the Same Lot
- Subsection 19.504.8 Flag Lot Design and Development Standards
- Subsection 19.504.9 On-Site Walkways and Circulation
- Subsection 19.504.10 Setbacks Adjacent to Transit

5. Subsection 19.505.1 Single-Family Dwellings and Duplexes
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multifamily 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

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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 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 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.
- b. The tree is dead, diseased, or dying and cannot be saved, as determined and documented in a report by a certified arborist.
- c. The proposal would remove more than 3 trees during any 12-month period that are categorized as nuisance species on the 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 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.
- g. For major pruning, as defined in Section 19.201, a certified arborist has determined, and documented in a report, that the tree will survive the proposed pruning.

2. The provisions of Subsection 19.402.6.A.1 do not apply to tree removal proposed in association with development or other activities regulated by Section 19.402, for which other approval criteria and mitigation standards may apply.

3. The Planning 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.
- c. Any tree that is removed in accordance with Subsection 19.402.6.A shall be replaced with a new tree, of at least ½-in caliper or at least 6-ft overall height after planting. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted, in anticipation of tree removal, or if the existing

site conditions otherwise preclude tree replacement (due to existing dense canopy coverage or other ecological reasons).

d. The replacement tree(s) shall be located in the general vicinity of the removed tree(s), somewhere within the designated natural resource (WQR or HCA). The replacement tree(s) does not have to be a native species; but, in accordance with Subsection 19.402.5.C, the replacement tree(s) shall not be categorized as a nuisance species on the Milwaukie Native Plant list. The property owner shall ensure that the replacement tree(s) survives at least 2 years beyond the date of its planting.

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:

1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or II activity.
2. Within HCAs, development that is not in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D.
3. New roads to provide access to protected water features, necessary ingress and egress across WQRs, or the widening of an existing road.
4. Improvement of existing public utility facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
5. New stormwater facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
6. New public or private utility facility construction that cannot meet the applicable standards of Subsection 19.402.11.E.
7. Walkways and bike paths that are not exempt per Subsection 19.402.4 or cannot meet the applicable standards of Subsection 19.402.11.E.
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.
9. Landscaping and maintenance of existing landscaping that would increase impervious area by more than 150 sq ft.
10. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by more than 150 sq ft within the WQR.
11. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that would disturb more than 150 sq ft within the WQR.

B. The activities listed below shall be subject to the review criteria for partitions and subdivisions provided in Subsections 19.402.13.H and I, respectively:

1. The partitioning of land containing a WQR or HCA that cannot meet the standards provided in Subsection 19.402.13.G.
2. The subdividing of land containing a WQR or HCA.

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:

1. Work areas shall be marked to reduce potential damage to the WQR and/or HCA.
2. Trees in WQRs or HCAs shall not be used as anchors for stabilizing construction equipment.
3. Native soils disturbed during development shall be conserved on the property.
4. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Public Works Standards.

5. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.
6. Stormwater flows that result from proposed development within and to natural drainage courses shall not exceed predevelopment flows.
7. Prior to construction, the WQR and/or HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Such markings shall be maintained until construction is complete.
8. The construction phase of the development shall be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.
9. Where practicable, lights shall be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting shall be selected so that impacts to habitat functions are minimized.
10. All work on the property shall conform to a construction management plan prepared according to Subsection 19.402.9.
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:

1. Disturbance

- a. Designated natural resources that are affected by temporary disturbances shall be restored, and those affected by permanent disturbances shall be mitigated, in accordance with the standards provided in Subsection 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs, as applicable.
- b. Landscape plantings are not considered to be disturbances, except for those plantings that are part of a non-exempt stormwater facility; e.g., raingarden or bioswale.

2. Required Plants

Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation shall be native plants, as identified on the Milwaukie Native Plant List. Applicants are encouraged to choose particular native species that are appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

3. Plant Size

Required mitigation trees shall average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation shrubs shall be at least 1-gallon size and 12 in high.

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.

5. Plant Diversity

Shrubs shall consist of at least 2 different species. If 10 trees or more are planted, then no more than 50% of the trees shall be of the same genus.

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-unit 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.

b. All Other Uses

A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection 19.402.11.D.2.

c. Temporary and Permanent Disturbances

All disturbances within an HCA that occur during construction or other development activities, whether temporary or permanent disturbances, count equally for the purposes of calculating and tracking the maximum disturbance area allowed for a particular site. Disturbance resulting from any activity deemed exempt per Subsection 19.402.4 shall not be counted against the amount of disturbance allowed by Subsection 19.402.

d. Disturbance in Excess of that Allowed by Section 19.402

In accordance with Subsection 19.402.8, proposed development that would disturb more HCA than allowed by Subsections 19.402.11.D.1.a and b shall be subject to the Type III review process and general discretionary review criteria, as outlined in Subsection 19.402.12.C.1.

e. Disturbance Changes HCA Status

When disturbances within HCAs are allowed, in accordance with the applicable provisions of Section 19.402, the City shall remove the HCA designation from such disturbance areas on the NR Administrative Map, as provided in Subsection 19.402.15.B.

In the case of a request to develop within an HCA on a property where a prior development request was subject to the disturbance area limitations of Subsection 19.402.11.D.1, the calculation of the new amount of disturbance area allowed within the HCA on the property shall be based on the mapped location of the HCA at the time of the request, notwithstanding any previous calculation of allowed disturbance area.

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.

a. Mitigation Option 1

This mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 19.402.11.D.2.a. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Nonnative sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 19.402.11.D.2.a Tree Replacement	
Size of Tree to be Removed (inches in diameter)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

E. Standards for Special Uses

Unless they are exempt per Subsection 19.402.4, or do not meet the nondiscretionary standards for HCAs provided in 19.402.11.D, the special uses listed in Subsection 19.402.7.A are subject to Type II review if they comply with the applicable standards in Subsection 19.402.11.E. Otherwise, the special uses listed in Subsection 19.402.7.A are subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

1. General Standards for Special Uses

Except for stormwater management plans, all nonexempt special uses listed in Subsections 19.402.11.E.2 through 5 that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D shall comply with the specific applicable standards in Subsection 19.402.11.E, as well as with the following general standards:

- a. In addition to a construction management plan prepared according to the standards of Subsection 19.402.9; a mitigation plan shall be submitted per Subsection 19.402.11.D.2 or 19.402.12.C.2 for HCAs, as applicable, or per

Subsection 19.402.11.C for WQRs. WQRs and HCAs shall be restored and maintained in accordance with the approved mitigation plan.

- b. Existing vegetation outside of approved work areas shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to WQRs and HCAs. Trees in WQRs or HCAs shall not be used as anchors for stabilizing construction equipment.
- c. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated and the vegetation shall be established as soon as practicable. Interim erosion control measures, such as mulching, shall be used to avoid erosion on bare areas.

2. Public or Private Utility Facilities

In addition to the requirements of Subsection 19.402.11.E.1, the following disturbance area limitations apply to all new public and private utility facilities, as well as to facility upgrades that are not exempted by Subsection 19.402.4 or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D.

- a. The disturbance area for the upgrade of existing utility facilities shall be no greater than 15 ft wide.
- b. The disturbance area for new underground utility facilities shall be no greater than 25 ft wide and disturb no more than 200 linear feet of WQR within any 1,000-linear-foot stretch of WQR. Such a disturbance area shall be restored with the exception of necessary access points to the utility facility.
- c. Disturbance areas shall be revegetated.
- d. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the Corps and DSL, if necessary.

5. Stormwater Management Plans

Stormwater management plans that authorize disturbance within the WQR or HCA may be approved if in compliance with all of the following standards:

- a. Stormwater facilities will be designed to provide an environmentally beneficial hydrological impact on protected water features.
- b. Protected water features will be protected from erosion by implementing a stream protection strategy and quantity control strategies.
- c. Watershed health will be improved through the use of vegetated facilities to meet pollution reduction, flow control, and infiltration goals. These facilities will be maintained in a manner that ensures a continued benefit to watershed health.
- d. Proposed stormwater management facilities will correct or improve conditions caused by past management and/or disturbance events, if any are present.
- e. Where there is no reasonable expectation of returning to natural conditions, beneficial habitat, vegetation, and stream function and hydrology will be restored to the fullest extent practicable within developed areas.

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 shall submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and shall be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

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:

- (1) A calculation of the number and size of trees and shrubs the applicant would be required to plant under Subsection 19.402.11.D.2.
- (2) The number and size of trees and shrubs that the applicant proposes to plant.
- (3) An explanation of how the proposed number and size of trees and shrubs 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. Such explanation shall be prepared and signed by a knowledgeable and qualified natural resource professional or a certified landscape architect. It shall include discussion of site preparation including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, and planting season; and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control.
- (4) A mitigation, site-monitoring, and site-reporting plan.
- (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.

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 conform to~~ with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

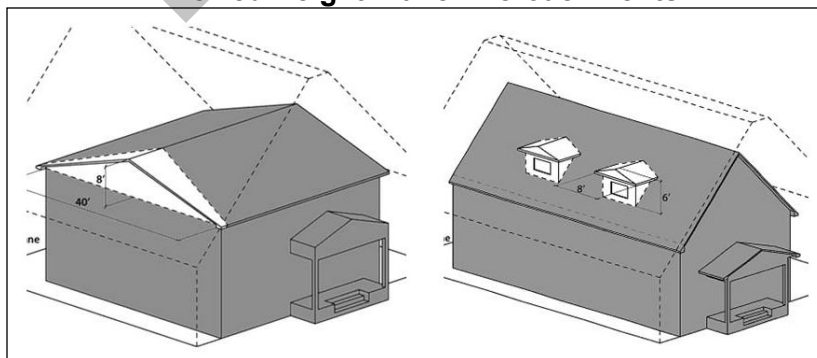
~~B. Single family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.~~

19.501.3 (B) 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.~~

19.505.1 Single-Family Dwellings and Duplexes One to Four Unit Dwelling Design Standards**A. Purpose**

The design standards for single-family dwellings and duplexes one to four (1 - 4) unit dwelling units (including single detached dwellings, duplexes, triplexes, and quadplexes) require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. ~~New single-family~~ one to four unit detached dwellings, and residential homes, ~~duplexes, and rowhouses on individual lots.~~ Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.
2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
 - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
 - b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
 - c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
 - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
 - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.

- d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
 - e. ~~Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit.~~ Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
- a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

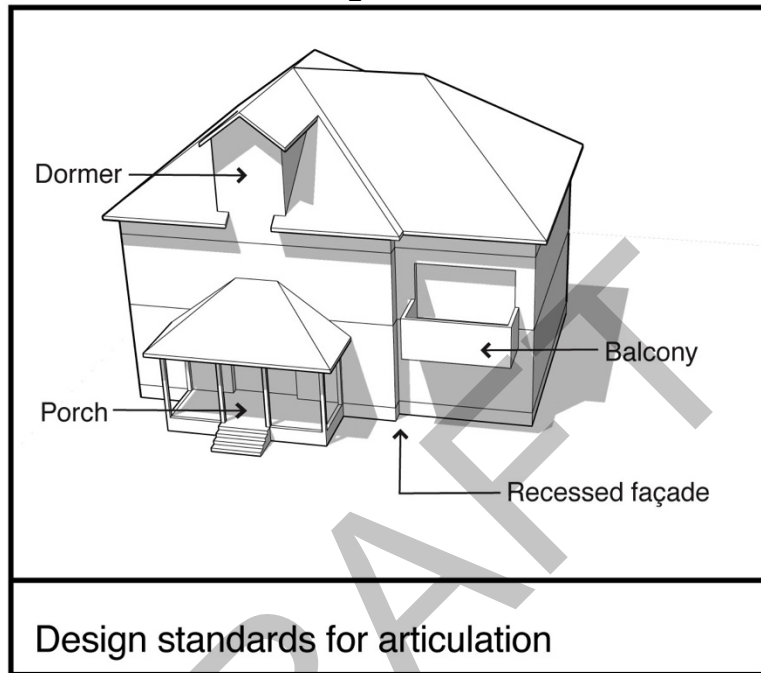
All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements shall be provided along the street-facing façades.
 - (1) A porch at least 5 ft deep.
 - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.
 - (3) A bay window that extends at least 2 ft wide.
 - (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
 - (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above shall be provided for every 30 ft of street frontage.

Elements shall be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.

- c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1
Building Articulation**

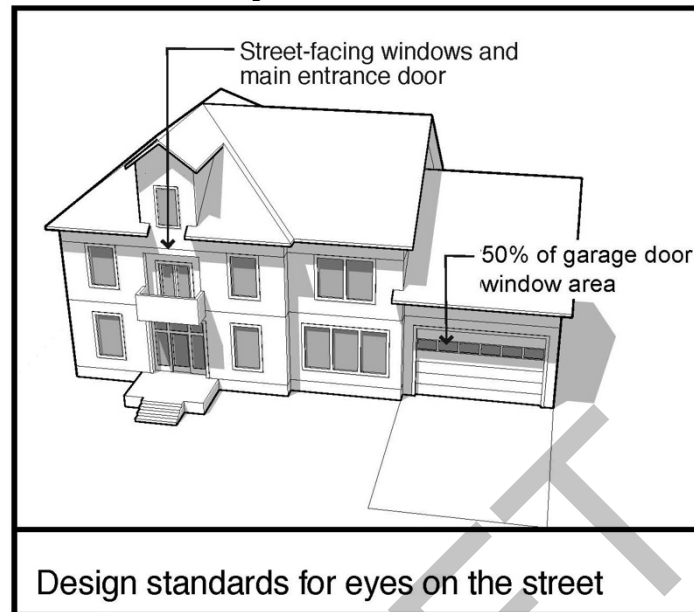


2. Eyes on the Street

At least ~~42%~~ 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**

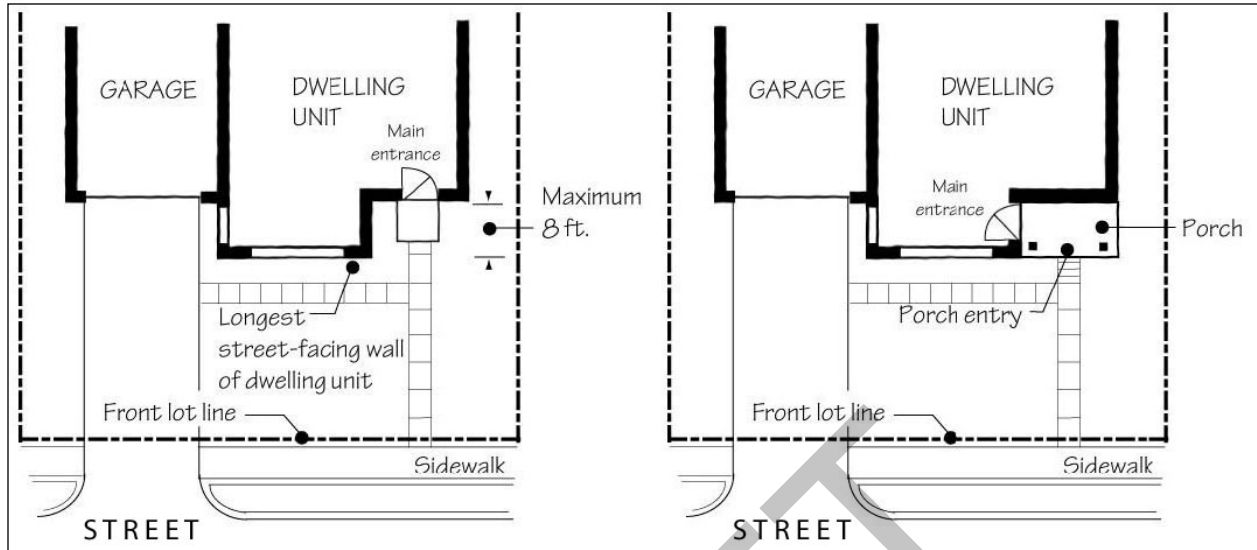


3. Main Entrance

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
 - (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
 - (2) Have at least 1 porch entry facing the street.
 - (3) Have a roof that is no more than 12 ft above the floor of the porch.
 - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3
Main Entrances**



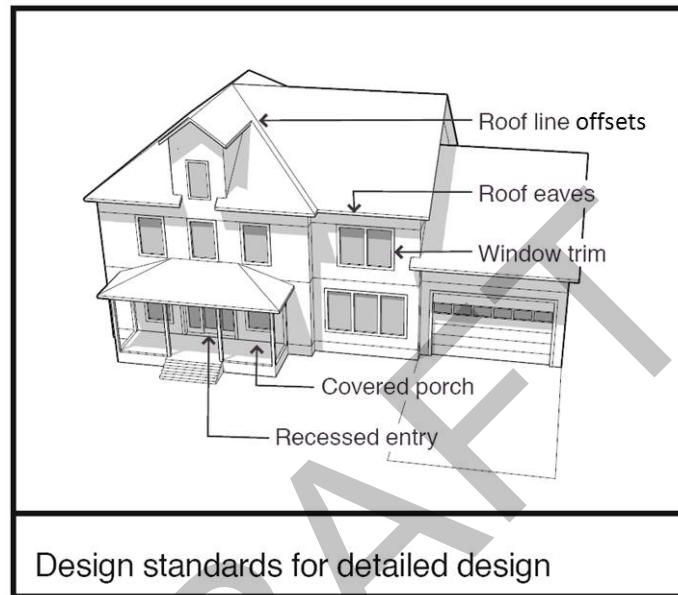
4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long.
- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

Figure 19.505.1.C.4
Detailed Design Elements



5. Standards for Duplexes

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

- a. The exterior finish of the structure must be the same for both units.
- b. The eaves must be uniform for the entire structure.
- c. The window and door trim must be the same in type, size, and location for the entire structure.
- d. Windows must match in proportion and orientation for the entire structure.
- e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.
- f. For duplexes facing 1 frontage, the following standards apply.
 - (1) Only 1 entrance is required to face the frontage.
 - (2) Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.C.3.
 - (3) A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.

19.505.4 Cottage Cluster Housing

A. Purpose

These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

C. Land Division

1. ~~A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.~~
2. ~~Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.~~
3. ~~The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off street parking areas, shall be included in calculations for minimum and maximum density.~~
4. ~~Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.~~
5. ~~Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.~~

D. Development Standards

The standards listed below in Table 19.505.4.B.1 are the applicable development and design standards for cottage cluster housing. Additional standards are provided in Subsections 19.505.4.E, 19.505.4.F, and 19.505.4.G. 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.B.1

Cottage Cluster Development Standards

<u>Standards</u>	<u>Low-density neighborhoods</u> <u>R-2</u>	<u>Transit-connected locations</u> <u>R-1, R-1-B</u>	<u>Commercial and multifamily zones</u>
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A. Home Types

1. <u>Building types allowed, minimum and maximum number</u>	<u>Detached houses containing 1-4 homes</u> <u>3 minimum</u> <u>12 maximum dwelling units</u>	<u>Detached and Attached</u> <u>3 minimum</u> <u>8 maximum dwelling units</u>	<u>Detached and Attached</u>
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B. Home Size

1. <u>Max building footprint per home</u>	<u>900 sf</u>	<u>900 sf</u>	<u>1,200-sf</u>
<u>Max total footprint per building</u>	<u>1,650-sf</u>	<u>no requirement</u>	<u>no requirement</u>
<u>Max floor area per home</u>		<u>1,600-sf</u>	
2. <u>Max average floor area per home dwelling unit</u>		<u>1,400 sf</u>	

C. Height

1. <u>Max # of stories height</u>	<u>25 feet or two (2) stories, whichever is greater</u>	<u>2-5 25 feet or two (2) stories, whichever is greater</u>	<u>3</u>
2. <u>Max structure height between 5 & 10 ft of rear lot line</u>		<u>15 ft</u>	
3. <u>Max height to eaves facing common green</u>	<u>1.618 times the narrowest average width between two closest buildings</u>		

D. Setbacks, Separations, and Encroachments

1. <u>Separation between eaves of structures (minimum)</u>	<u>6 ft</u>	<u>6 ft</u>	<u>6-ft</u>
2. <u>Side and rear site setbacks</u>	<u>5 ft</u>		
3. <u>Front site setback (minimum)</u>	<u>15-ft-10 ft</u>	<u>10 ft</u>	<u>0-10 ft</u>
4. <u>Front site setback (maximum)</u>	<u>20-ft-10 ft</u>		

E. Lot Coverage, Impervious Area, Vegetated Area

<u>Lot coverage (maximum)</u>	<u>50%</u>	<u>55%</u>	<u>60%</u>
1. <u>Impervious area (maximum)</u>	<u>60%</u>	<u>65%</u>	<u>70%</u>
2. <u>Vegetated site area</u>	<u>35%</u>	<u>30%</u>	<u>25%</u>

Table 19.505.4.B.1

Cottage Cluster Development Standards

<u>Standards</u>	Low-density neighborhoods <u>R-2</u>	Transit-connected locations <u>R-1, R-1-B</u>	Commercial and multifamily zones
<u>(minimum)</u>			
Tree cover (minimum at maturity)	40%		
<u>F. Community and Common Space</u>			
1. <u>Community building footprint(maximum)</u>	<u>1,500 sf</u>	<u>2,000 sf</u>	<u>3,000 sf</u>
<u>F. Parking</u>			
1. <u>Automobile parking spaces per primary home (minimum)</u>	<u>1</u>	<u>0.5</u>	<u>0.25</u>
2. <u>Dry, secure bicycle parking spaces per home (minimum)</u>		<u>1.5</u>	
3. <u>Guest bicycle parking spaces perhome (minimum)</u>		<u>0.5</u>	

4.E. Cottage Standards

1. Size

The total footprint of a cottage unit shall ~~must not exceed 700~~ 900 sq ft, and 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 F. 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)~~ 1. Facades

a. Cottages fronting a street shall avoid blank walls by including at least one of the following:

- ~~(a)~~ (1) Changes in exterior siding material.
- ~~(b)~~ (2) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.
- ~~(c)~~ (3) Wall offsets of at least 1 ft deep.
- ~~(2)~~ b. Trim around windows and doors shall be at least 3 in wide and $\frac{5}{8}$ in deep.
- ~~(3)~~ c. All roofs shall have a minimum roof pitch of 4/12.

~~(4) d.~~ 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) e.~~ 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. 2. Front Porches

A front porch or recessed entryway is required on each primary home in a cluster development. Front porches must meet the following standards:

- (1) The front door of the dwelling must open onto the porch or recessed entry.
- (2) The entire front porch area or recessed entry must be covered.
- (3) The surface of the front porch or recessed entry must not exceed 48 in above grade, as measured from the average ground level at the front of the porch.
- (4) The minimum porch depth is 6.5 ft.
- (5) The minimum porch width is at least 60% of the length of the front façade.
- (6) The maximum front stair encroachment into common green space is 20% of the width of the green

G 3. Eave Overhang

The maximum eave overhang onto common green space is 24 inches, or to the extent allowable by the building code

~~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.G. 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.~~

b. 2. 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.~~

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:

- ~~(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.~~
- (1) The common courtyard must be a single, contiguous piece.
- (2) Cottages must abut the common courtyard on at least two sides of the courtyard.
- (3) 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)).
- (4) The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
- (5) The common courtyard shall 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 shall not exceed 75 percent of the total common courtyard area.
- (6) Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

~~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 3. Off-Street Parking~~

- (1) There shall be at least 1 off-street parking space per dwelling unit. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.
- (2) A cottage cluster parking area ~~shall~~ 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.
- (3) 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.
- (4) Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested of the Planning Director 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.
- (5) Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

h. 4. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

Figure 19.505.4 Cottage Cluster Development

19.505.5 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 detached single dwellings 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 multifamily unit housing.

C. Townhouse Rowhouse Design Standards

1. Townhouses Rowhouses are subject to the design standards for single 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

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-2 zone, the maximum number of consecutive townhouses is 2.

E. Townhouse Rowhouse Lot Standards

1. Townhouse Rowhouse development is not allowed on lots with a lot width of more than 35 ft.
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.
3. Townhouse Rowhouse development in the R-1, R-1-B, and R-2 ~~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

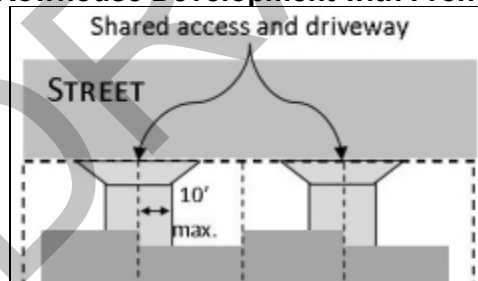
F. Driveway Access and Parking

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 rowhouses has at least 1 shared access between the lots, and development of 4 rowhouses has 2 shared accesses.

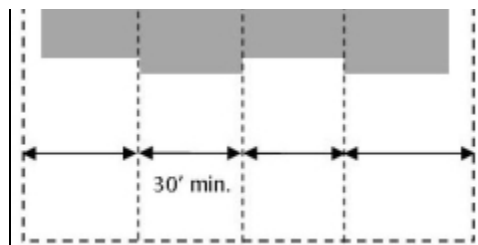
Shared accesses are spaced a minimum of 24 feet apart, see Figure 8-3b.

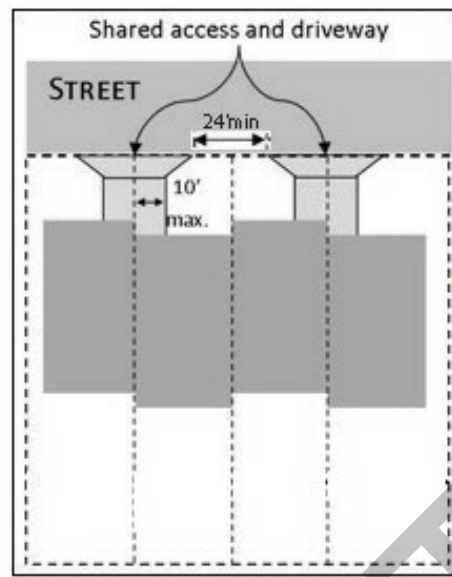
- c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
- d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

Figure 19.505.5.F.1
Townhouse Rowhouse Development with Front Yard Parking



Replace figure with figure below

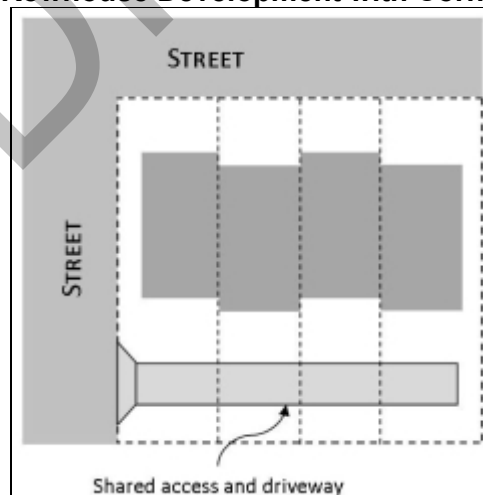




2. The following rules apply to driveways and parking areas for townhouse rowhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
 - a. Off-street parking areas ~~shall~~ must be accessed on the back façade or located in the rear yard. ~~No off-street parking shall be 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 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.

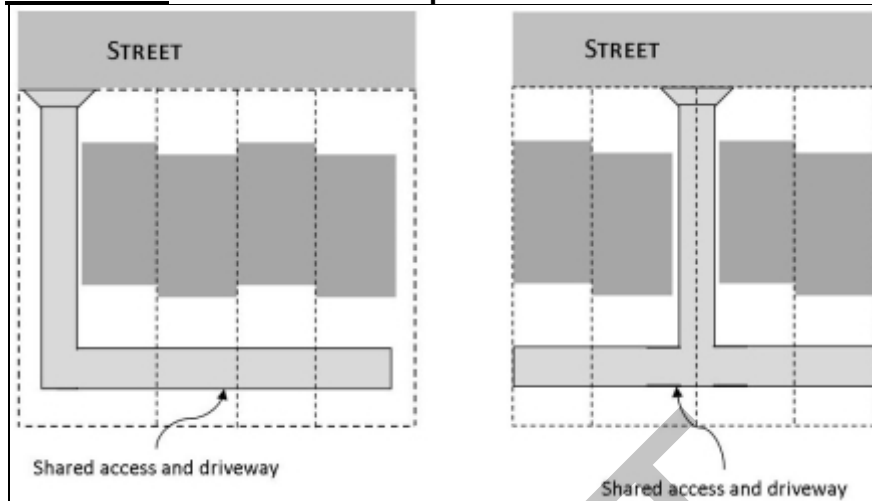
Figure 19.505.5.F.2.b

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 outright in any zone that allows single-family detached dwellings outright. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

~~A. The unit shall be multisectional (double wide or wider) and enclose a floor area of not less than 1,000 sq ft.~~

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.

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. <u>Multi-Unit Dwellings</u>	1 space per dwelling unit.	
a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone.	1.25 spaces per dwelling unit.	2 spaces per dwelling unit.
b. Dwelling units with more than 800 sq ft of floor area.		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
3 4. Residential homes and similar facilities allowed outright 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 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, occupancy and use data quantifying conditions of the on-street parking system within a reasonable proximity of a middle housing development.
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 Director shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Director, based on the applicant's materials and other data the Planning 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.
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. For middle housing, there are no by-right reductions in this section. Exemptions and reductions for middle housing can be determined only through the provisions of 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. 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 ~~uses other than 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 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 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.

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.

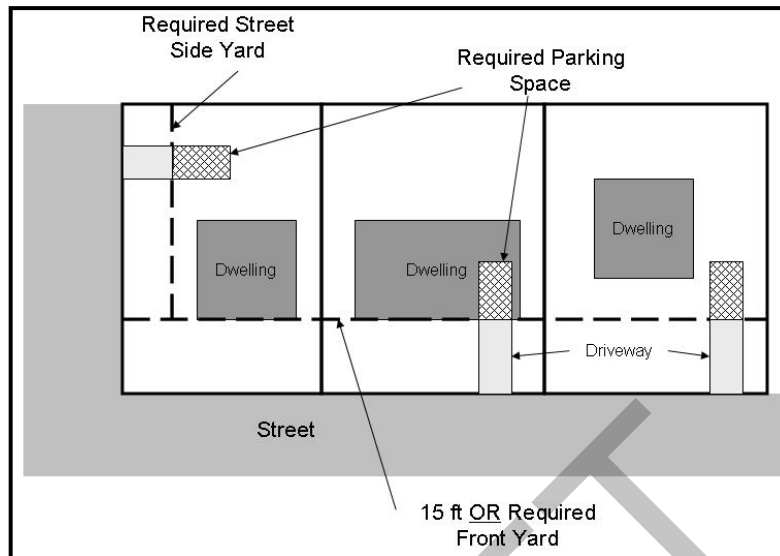
A. Dimensions

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.
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**



Amend Figure 19.607.1.B.2 to coincide with the text amendments by eliminating the required front/side yard lines and showing a street right-of-way line and public sidewalk along the street.

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 within a front or side yard subject to the standards in Subsection 19.607.1.D.

D. Parking Area Limitations

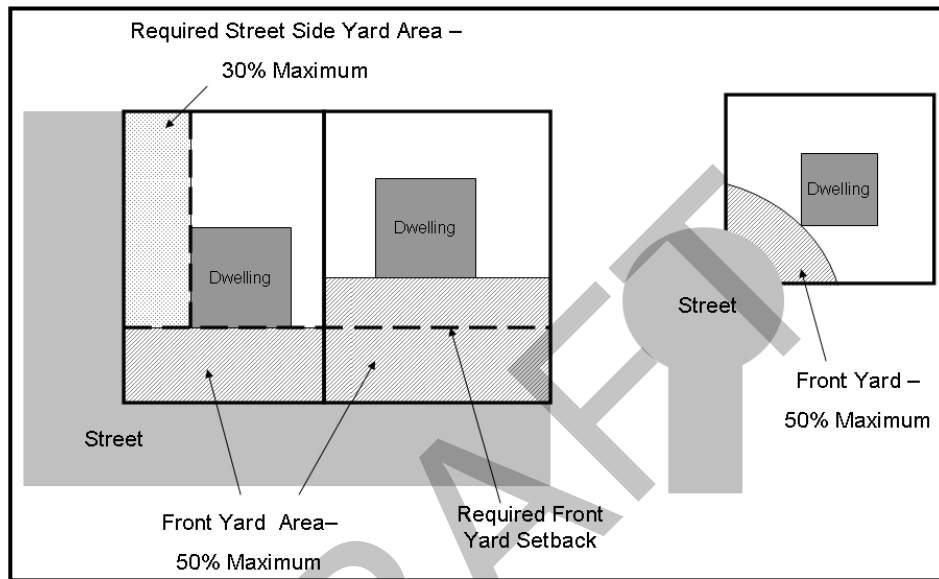
Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to rowhouses, which are subject to the standards in Subsection 19.505.5.

- 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



Amend Figure 19.607.1.D to coincide with the amendments to Figure 19.607.1.B.2 by eliminating the front/side yard line and adding the street right-of-way line. This would mean that the percentage maximums would apply to the entire front/side yard area, not just the required yard area.

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

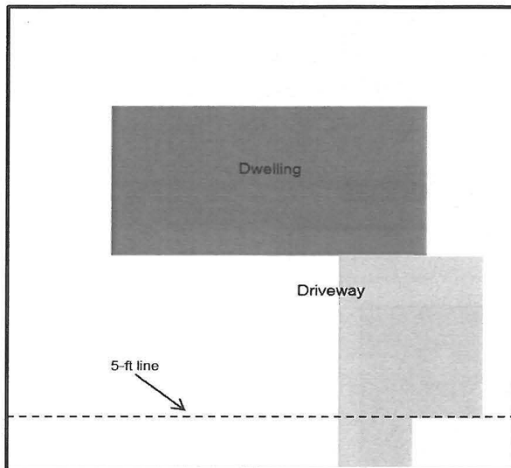
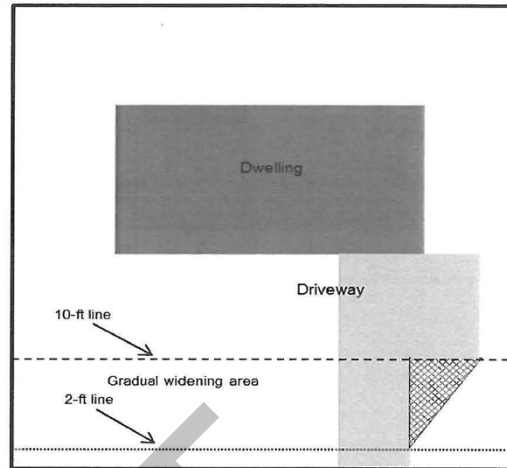


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



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 19.900 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, P, II
Duplex	Subsection 19.910.2	#
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 Development Review, Applicability

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 unit or middle housing detached or attached residential dwellings.
2. ~~Single-family~~ 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.

19.906.2 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 Director at the time of development permit submittal, outright allowed, 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.

B. Type II Review

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

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

C. Exemptions

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

1. New or expanded single-family detached or attached residential dwellings.
2. Single-family residential accessory uses and structures.
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 shall be ~~evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per~~ outright permitted. 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 outright provided reviewed through a Type I review shall be approved if the following standards are met.~~
 - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
 - ~~b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.~~
 - ~~c. One accessory dwelling unit per lot is allowed.~~
 - ~~d. The development standards of Subsection 19.910.1.E are met.~~
 - ~~e. The proposal complies with all other applicable standards of this title.~~
2. ~~An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.~~
 - ~~a. The standards in Subsection 19.910.1.D.1 are met.~~
 - ~~b. The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.~~
 - ~~c. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.~~

- ~~d. There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.~~

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

~~The more restrictive provisions shall be applicable in~~ 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.

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 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 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 4 ~~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.~~

12. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
23. 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.

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 outright. These land uses do not require land use review and are only required to obtain a building permit.

DRAFT

Reader Guide

Amendments

The following are draft amendments that seek to implement the Milwaukie Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan related to tree preservation on residential property.

Unless otherwise noted in the document, underlined text is proposed text, and ~~striketrough~~ text is existing code language proposed for deletion.

Context/Surrounding Code

The chapter, section, and subsection for the proposed code amendments are listed for reference in this document. Line breaks, like the one below, between subsequent amendments indicate that there is intervening text within the section or subsection that is not included in this document.

Please be advised that this document shows only sections of code for which amendments are proposed, along with limited surrounding sections for context. It does not include all sections of the Milwaukie Municipal Code.

Underline/Strikeout Amendments

Title 16 Environment

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 priority 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 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.

Proposed Code Amendment

“City Manager” means the city manager or the city manager’s authorized representative or designee.

“Council of Tree and Landscape Appraisers (CTLA)” means the publishers of the Guide for Plant Appraisal.

“Crown” means area of the tree above the ground, measured in mass, ~~or~~ volume, or area and including the trunk and branches.

“Cutting” means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

“DBH” means the diameter at breast height.

“Dead tree” means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Drip line” means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

“Dying tree” means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

“Hazardous tree” means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Invasive species” means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

“ISA” means the International Society of Arboriculture.

“ISA Best Management Practices” means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

“Major tree pruning” means removal of over 20% of the live crown, or removal of or injury to over 15% of the root system during any 12-month period.

“Master Fee Schedule” is the schedule of City fees and charges adopted by City Council for the services provided by the City.

“Minor tree pruning” means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

“NDA” means Neighborhood District Association.

“Noxious weed” means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s written consent.

“Park tree” means a tree, shrub, or other woody vegetation within a City park.

“Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit ~~means any individual, firm, association, corporation, agency, or organization of any kind.~~

“Planning Director” means the planning director of the City of Milwaukie or designee.

“Public agency” means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

“Public tree” means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

“Public Works Director” means the public works director of the City of Milwaukie or designee.

“Right-of-way” ~~means the area between boundary lines of a public way~~ means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement.

“Shrub” means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

“Street tree” means a tree, shrub, or other woody vegetation on land within the right-of-way.

“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.

16.32.023 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.

16.32.030 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 shall be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit for trees on public properties and rights-of-way is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12-month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City and requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting, establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal on public properties and rights-of-way has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within in the right of way and residential zones. Eligibility and extent of assistance will be based on a percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

The tree preservation and planting standards in this subsection apply to the following types of development in residential zones:

1. Land Divisions.
2. Construction of New Residential Dwellings Units.

B. Tree Preservation Standards

Priority tree species are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 33 percent of existing priority tree canopy can be removed from a development site unless mitigation is provided according to MMC 16.32.042.D. Priority trees are listed on the City of Milwaukie priority tree list. The following priority trees must be considered for preservation in order of importance. Where there are multiple priority trees at a site, the higher priority trees must be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Where there are multiple trees of the same priority at a site, the trees with larger crown areas must be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. 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. Required yard setbacks may be reduced and building heights may be exceeded the minimum amount needed to preserve priority trees as determined by the Urban Forester:

1. Priority 1 Trees: Climate Resilient Native Trees in good health condition that are within or abutting Natural Resource and Willamette Greenway Overlay Zones.
2. Priority 2 Trees: Climate Resilient Native Trees in good health condition that are not within or abutting Natural Resource and Willamette Greenway Overlay Zones.
3. Priority 3 Trees: Climate Resilient Non-Native Trees in good health condition.
4. Priority 4 Trees: Other Native Trees in good health condition.
5. Priority 5 Trees: Other Native Trees in less than good health condition that are within or abutting Natural Resource and Willamette Greenway Overlay Zones and not hazardous trees.
6. Priority 6 Trees: Other Non-Native, Non-Invasive Trees in good health condition.

C. Tree Canopy Standards

In addition to the preservation of existing 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. 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 tree canopy 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. The existing or mature crown area of onsite priority trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.

4. Fifty percent (50%) of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an onsite tree except when the trunk crosses a public right-of-way line at ground level it is considered a street tree for the purposes of these tree canopy standards.

D. Mitigation Standards

If the Tree Preservation and/or Tree Canopy Standards are not practicable to meet, mitigation fees must be provided to the Tree Fund as follows:

1. The per-inch tree preservation fee in the Master Fee Schedule based on the largest diameter priority tree or trees that if preserved would meet the 33 percent minimum tree canopy preservation standard.
2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Discretionary Review Alternative

1. As an alternative to the mitigation fee payment, an applicant may apply for a Type III variance according to MMC 19.911. The applicant is required to demonstrate that the alternative proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy. The Tree Board will review the proposal and provide a recommendation to the Planning Commission. Discretionary alternatives may include but are not limited to:

- a. Techniques that minimize hydrological impacts beyond regulatory requirements (e.g. 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. 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. 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. 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 by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester or designee 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.

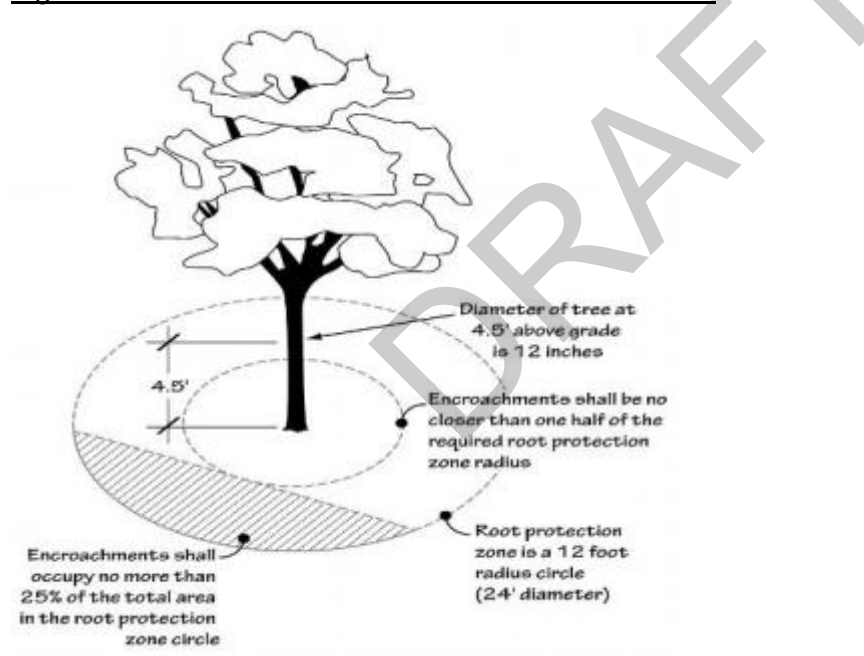
(2) For street trees – the Urban Forester may prescribe greater or lesser protection than required for onsite and offsite trees.

(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 of the remaining root protection zone area when existing encroachments are subtracted; and

(b) no new encroachment is closer than 1/2 the required radius distance (see Figure 16.32.042.F);

Figure 16.32.042.F - 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 including clearing and grading, or construction starts; and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path is not practicable, 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 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 impact 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.

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 the soil volume plan was 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 three 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 three 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 three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. Soil volume areas must be protected from construction impacts through any combination of the following methods:

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(b) When a soil volume area extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(c) Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

(2) Compaction prevention options for encroachment into soil volume areas:

(a) Steel plates placed over the soil volume area.

(b) A 12-inch layer of coarse wood chips over geotextile fabric continuously maintained over the soil volume area.

(c) A 6-inch layer of crushed gravel over geotextile fabric continuously maintained over the soil volume area.

g. Soil contaminants are prohibited from the soil volume areas.

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contaminants 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 three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. The following items may be addressed in performance path soil volume plans but are dependent on specific site conditions and should be verified on a project basis in coordination with other professionals such as civil and geotechnical engineers, landscape architects, and soil scientists as needed:

(1) Compaction Reduction

- (a) tilling
- (b) backhoe turning
- (c) subsoiling

(2) Soil Amendments

- (a) organic amendments
- (b) mineral amendments
- (c) biological amendments
- (d) chemical amendments

(3) Topsoil Replacement (when soil contamination or soil removal occurs)

(4) Soil Under Pavement

- (a) structural soil cells
- (b) structural tree soils
- (c) soil vaults
- (d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through H. Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

1. Tree Inventory Requirements

a. Survey the locations of all trees at least 6-inch DBH, and trees less than 6-inch DBH as specified on the City of Milwaukie rare or threatened tree list. Trees that must be surveyed include those that are onsite, within abutting public rights-of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.

b. Number each tree for identification at the site and on the plans.

c. Identify the common name and scientific name of each tree.

d. Measure the DBH of each tree in inches according to accepted ISA standards.

e. Measure the approximate average crown radius of each tree in feet.

f. Provide the crown area of each tree using the formula: $(\text{crown radius})^2 \times \pi$.

g. Assess the health condition of each tree using the following categories:

- (1) Good (no significant health issues)
- (2) Fair (moderate health issues but likely viable for the foreseeable future)
- (3) Poor (significant health issues and likely in decline)
- (4) Very Poor or Dead (in severe decline or dead)

h. Identify whether the tree is a priority tree and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority tree list.

i. Identify whether the tree will be removed or retained.

j. Organize the tree inventory information in a table or other approved format.

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 priority trees and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority 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 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 tree planting detail that is consistent with ISA best management practices.

g. The minimum size of planted trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

h. The minimum spacing and setback requirements in Table 16.32.042.H must be met based on the mature size class of the tree from the City of Milwaukie tree canopy list unless otherwise approved by the Urban Forester:

Table 16.32.042.H

<u>Spacing/Setback</u>	<u>Small Stature</u>	<u>Medium Stature</u>	<u>Large Stature</u>
<u>between existing and new trees</u>	<u>15 feet</u>	<u>25 feet</u>	<u>35 feet</u>
<u>from habitable buildings</u>	<u>10 feet</u>	<u>15 feet</u>	<u>20 feet</u>
<u>from pavement</u>	<u>2 feet</u>	<u>3 feet</u>	<u>4 feet</u>

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 which, 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 priority 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 a discretionary review alternative is proposed in place of providing mitigation fees, provide findings that demonstrate the alternative 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 were grown commercially for agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following review criteria and approval standards will be applied to type 1 tree removal permits by the Urban Forester:

a. Review Criteria: The City will not issue a type 1 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 have a negative impact on neighborhood character and any adopted historic or other applicable design guidelines.

b. 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 and an ISA Certified Arborist will be on site for the duration of the tree work.

(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.

(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.

(3) Unless removed for thinning purposes (criterion j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

(b) Replacement trees must be planted in a manner consistent with ISA best management practices.

(c) The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable. For example, a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone must be replaced with a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone.

(d) If planting a replacement tree is not practicable, the Urban Forester may allow a tree replacement fee in lieu according to the Master Fee Schedule based on the cost of planting and maintaining a replacement tree for three years.

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by majority vote of the Tree Board 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 in approving, approving with conditions, or denying a tree removal permit application. Type 2 tree removal permit considerations may include but are not limited to:

- a. Solar access for urban agriculture and renewable energy systems;
- b. Landscape redesign;
- c. Quality of tree species, condition, and location;
- d. Contribution to the environment;
- e. Contribution to the community;
- f. Aesthetics;
- g. Mitigation proposals such as tree replacement, restoration or preservation of wildlife habitat, and wood repurposing.

4. Ongoing Maintenance: Trees that require a permit to remove or replace must be maintained according to ISA best management practices. Management requirements include but are not limited to:

- a. Proper pruning of branches and roots;
- b. Protection from damage from construction, vehicle parking, storage, waste, and contaminants;
- c. Watering for early tree establishment;
- d. Removal of vines and other vegetation growth that could result in tree death, smothering, or structural damage; and

e. Replacement of trees that die.

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) Priority 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 apply to violations of the provisions of 16.32.042:

a. Illegal tree removal:

(1) Not 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.

(2) Revocation, suspension, or ineligibility for a building or land use permit for a period of up to 3 years when the tree removal was to potentially facilitate development as determined by the Urban Forester.

(3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

b. Topping, pruning, or other 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.

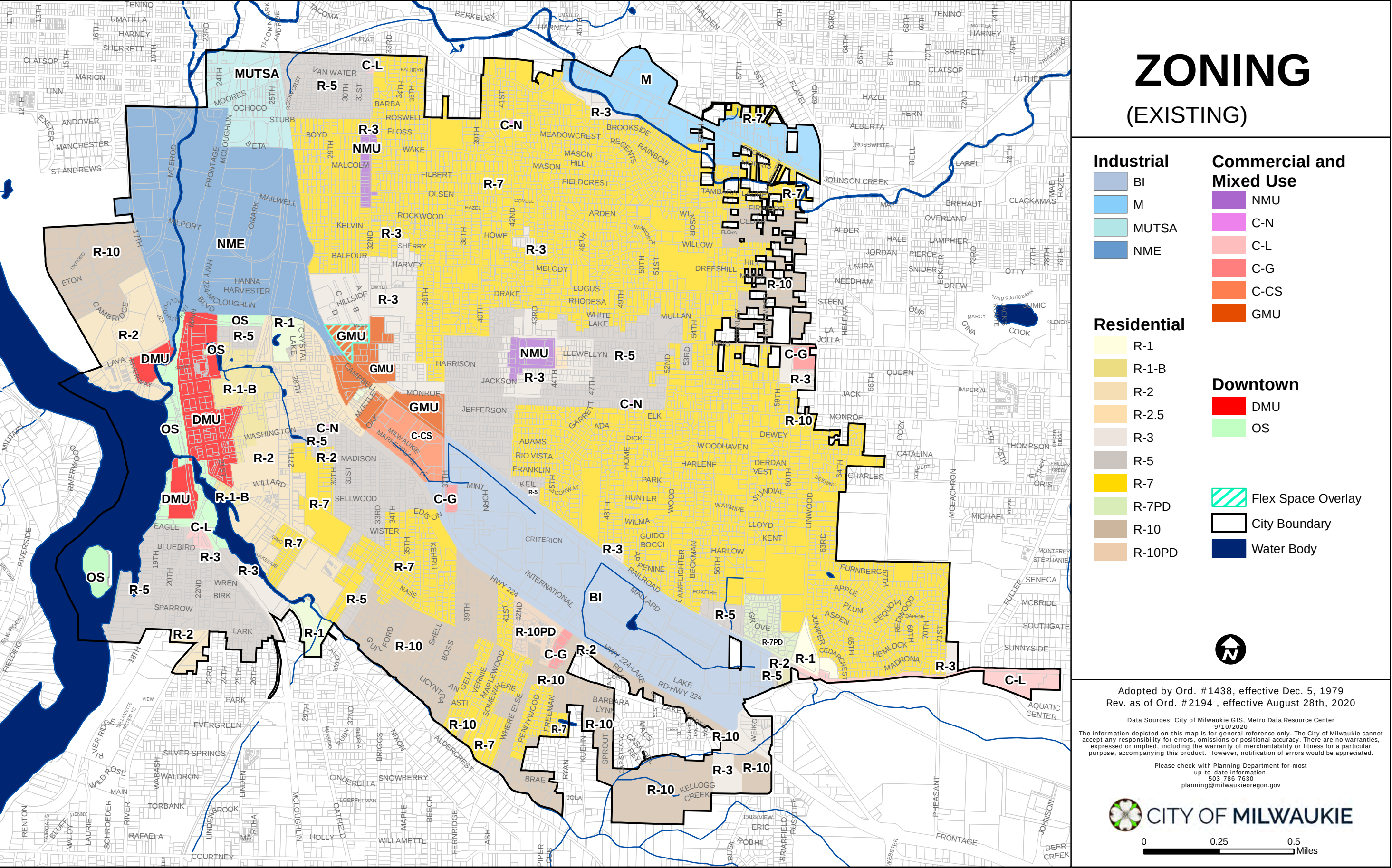
(3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

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.

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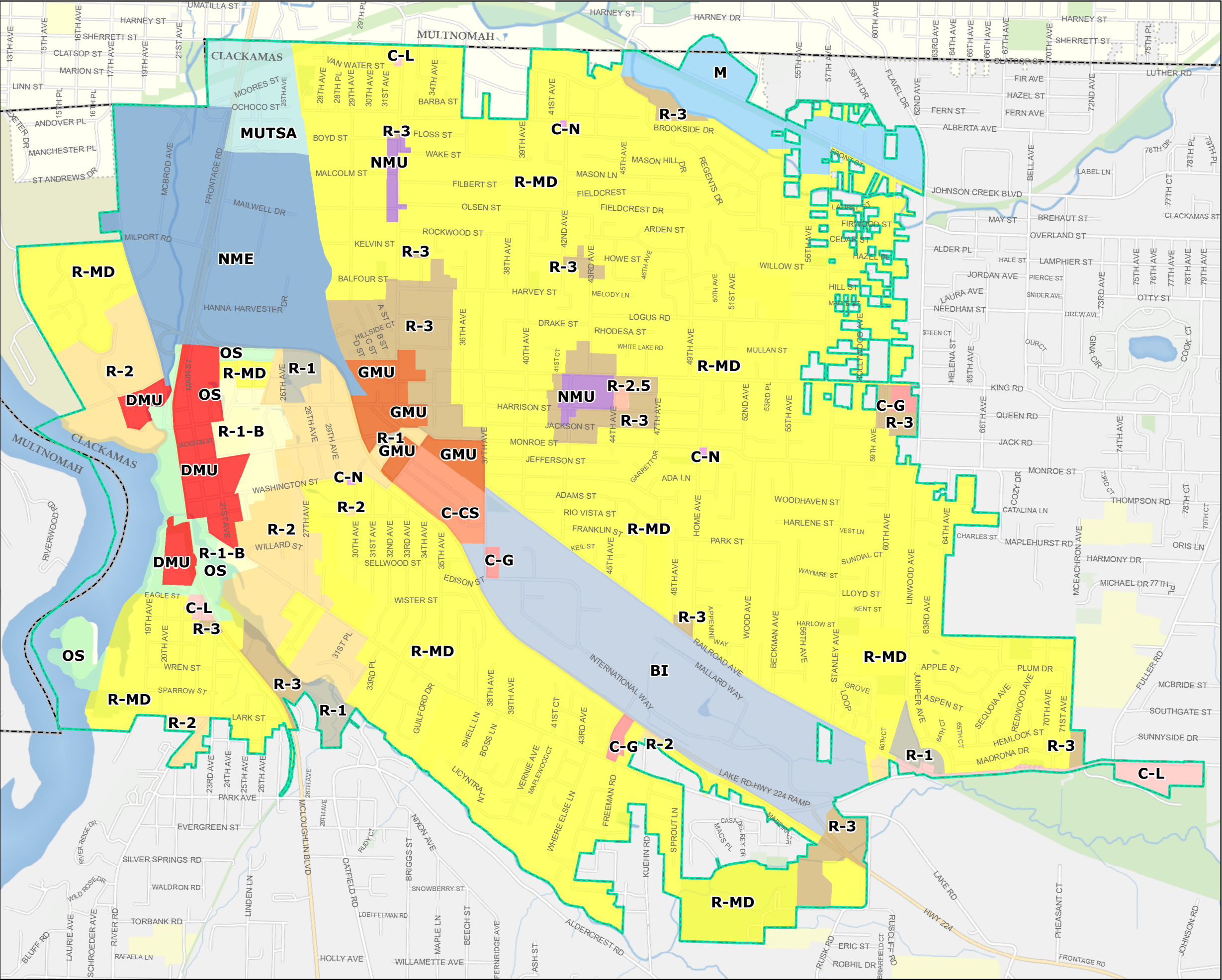
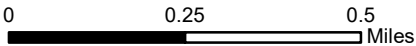
Milwaukie Comprehensive Plan
Zoning Proposed
Designations

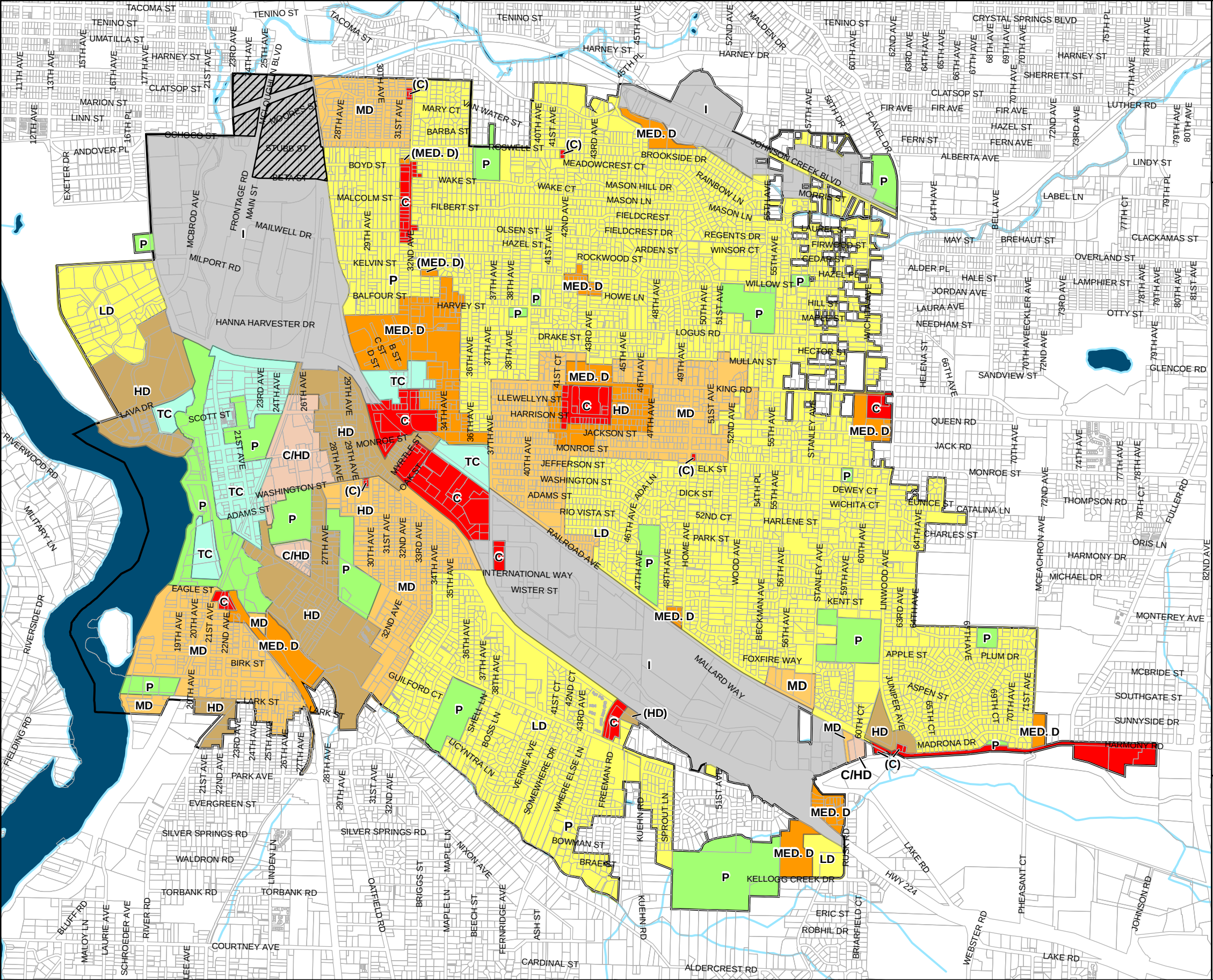
- City of Milwaukie
- County Boundary
- MUTSA
- BI
- GMU
- C-CS
- DMU
- C-G
- C-L
- C-N
- NMU
- OS
- M
- NME
- R-MD
- R-1
- R-1-B
- R-2
- R-2.5
- R-3

DRAFT



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
Date: Thursday, July 22, 2021
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GIS Coordinator
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
(503) 786-7687





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.
503-786-7630
planning@milwaukieoregon.gov



0 0.25 0.5 Miles

Milwaukie Comprehensive Plan
Proposed Land Use

-  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

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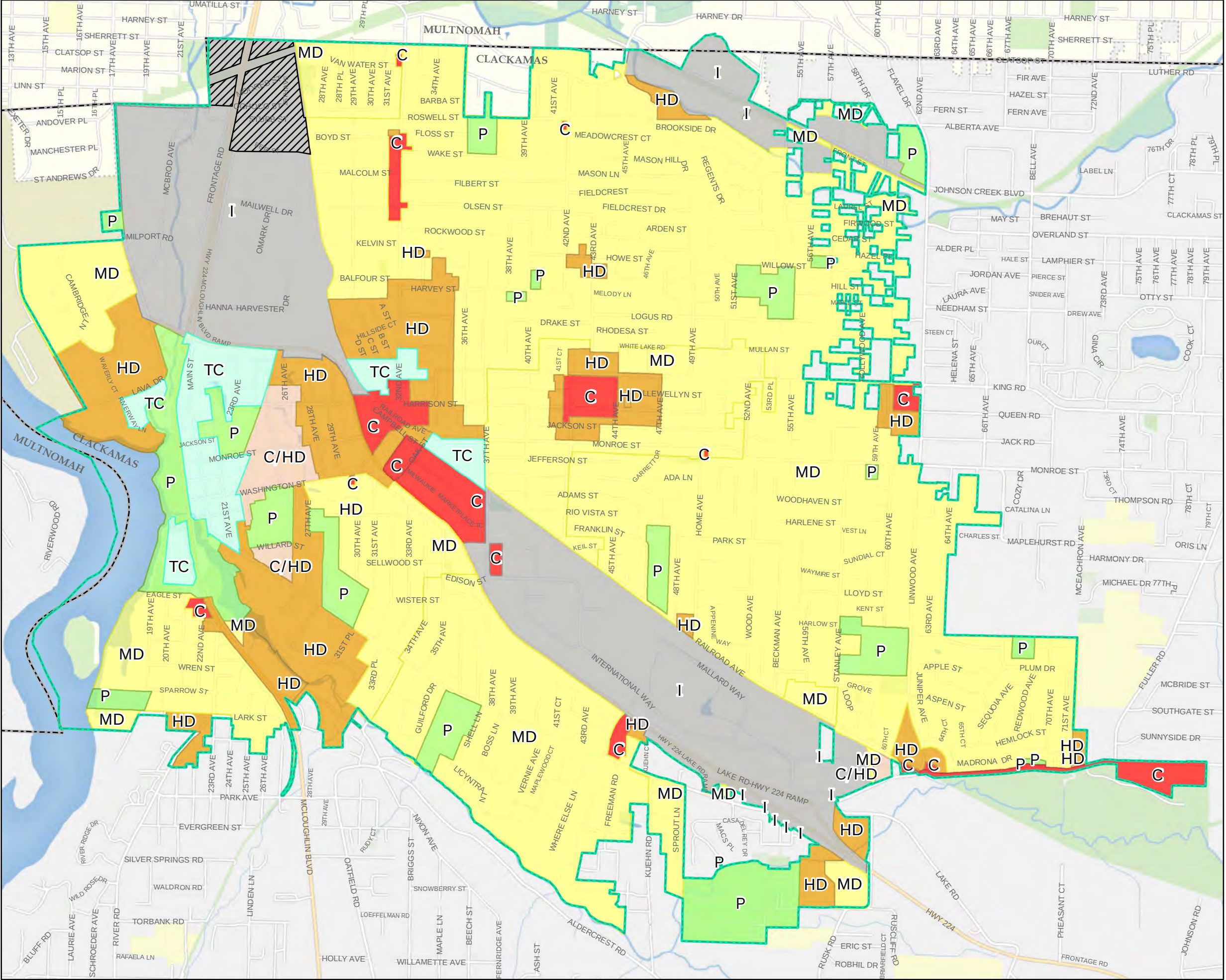
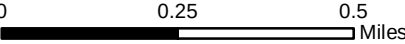


Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Wednesday, June 9, 2021

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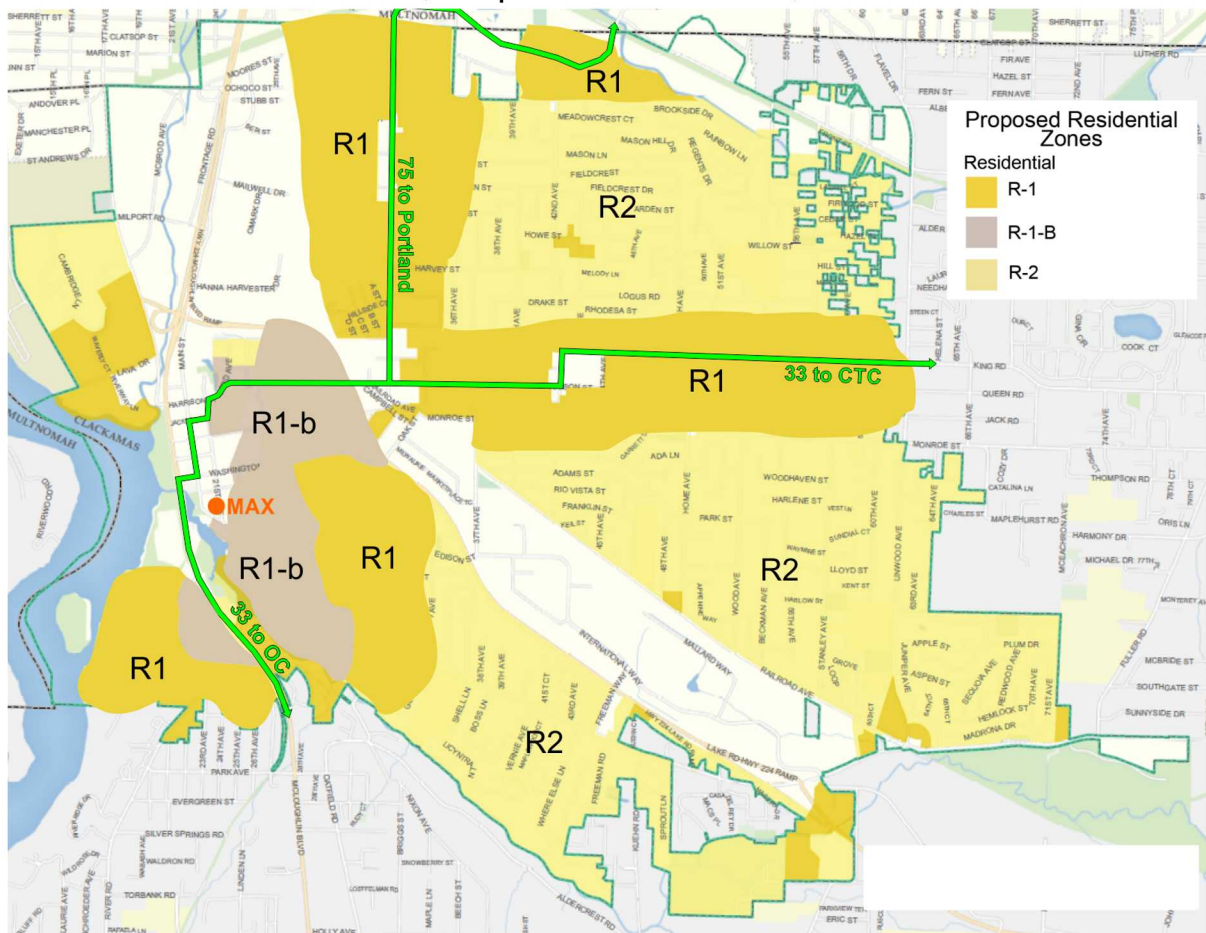
To the members of the Planning Commission,

The draft code amendments are pretty good! I really like the lot coverage bonus for middle housing, and the consolidation of zones down to 3. Thanks for all your work so far!

I would like to suggest a few further changes that I believe would make the code update even better, helping to move us closer to the vision outlined in the comp plan.

1) Rezone properties in close proximity to downtown or frequent service bus lines to the new R-1 zone, and those within a 10 minute walk to Downtown or MAX to the new R-1-b. Below is a hastily edited zoning map showing the idea.

Conceptual zoning map that allows for more housing in close proximity to Downtown Milwaukie, frequent service lines, and the MAX station



2) Eliminate parking minimums in the R1-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. Please drop parking minimums here.

3) 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 underutilized, and in the super unlikely case that we ever start to run out of on-street parking spaces we could consider starting a parking permit program. Limited on-street parking is not an issue.

4) Modify the R1-b zone to allow 4-plexes on 5,000 sqft lots. They fit in with central Milwaukie's vibe just fine. It should be allowed on a typical 50' x 100' lot in central Milwaukie; don't even need to adjust the set back or lot coverage rules to allow enough building space for 4 family sized homes.



5) Allow Single Room Occupancies (SROs) within the R1-b zone. Just a few years ago a friend of mine lived in a SRO in central milwaukie for almost a year after turning 18. She had moved out of an abusive home as soon as she could, and at the time was not in a financial situation where she could have been able to afford an apartment on her own. The SRO offered her cheap housing that allowed her time to save up some money and search for longer term housing. Please legalize them, they really do help a lot of folks.

Thanks for your consideration,
Bradley Bondy
bradleybondy@bradleybondy.com