CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

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

November 9, 2021

Present:	Lauren Loosveldt, Chair Joseph Edge, Vice Chair Amy Erdt Greg Hemer Adam Khosroabadi Robert Massey Jacob Sherman	**Staff:**	Justin Gericke, City Attorney Vera Kolias, Senior Planner Peter Pasarelli, Public Works Director Natalie Rogers, Climate and Natural Resources Manager Laura Weigel, Planning Manager
Absent:			

(00:14:29)
1.0 Call to Order — Procedural Matters*

Chair Loosveldt called the meeting to order at 6:30 p.m. 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.*

(00:15:00)
2.0 Meeting Minutes

The September 14, 2021 minutes were approved with a 7-0 vote.

(00:15:50)
3.0 Information Items

No information was presented for this portion of the meeting.

(00:16:01)
4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:17:00)
5.0 Community Involvement Advisory Committee (CIAC)

Commissioner Sherman noted the resources provided by the International

Association of Public Participation (IAPP) could be useful for staff to consult throughout engagement efforts. **Laura Weigel, Planning Manager,** responded staff does frequently consult IAPP resources and will continue to.

Commissioner Erdt noted use of the Milwaukie Chit Chat Facebook page to poll residents about their awareness of which NDA represents them.

(00:22:25)
6.0 Hearing Items

(00:22:25)
6.1 VR-2021-015, 3521 SE Filbert St

Vera Kolias, Senior Planner, shared the staff report, the applicant's proposal is to convert an existing 850 square foot accessory structure to an accessory dwelling unit (ADU). The proposed variance is necessary to permit the conversion of an accessory structure with a building footprint larger than 800 square feet. Staff found the application to have no negative impacts, it meets all minimum setback requirements, and the request is both reasonable and appropriate. Staff recommended approval of the variance with the recommended findings and conditions of approval included in the staff report.

Commissioner Hemer asked for clarification on the location of the recommended sidewalk improvements.

VR-2021-015, 3521 SE Filbert St, was approved by a 7-0 vote.

(00:38:33)
6.2 ZA-2021-002, Middle Housing and Tree Code, Hearing #3

Natalie Rogers, Climate and Natural Resources Manager, and Kolias shared the code review schedule, summary of recommended revisions from the October 12 and 26 Planning Commission meetings, and staff report. The recommended revisions from previous meetings include:

- Allow flag lots and back lots in subdivisions
- Reduce minimum off-street parking for middle housing to 0 spaces per dwelling unit, except cottage clusters.
    - Reduce minimum off-street parking for cottage clusters in the R-MD zone to 0.5 spaces per cottage
- Reduce the minimum lot size for all middle housing types, except cottage clusters and townhouses, to 3,000 square feet
- Reduce minimum setbacks for income-restricted housing

Commissioner Massey asked if the Comprehensive Plan Implementation Committee (CPIC) was involved in reducing the proposed required minimum parking spaces from 1 to 0. **Kolias** responded that CPIC was not involved in lowering the required minimum parking spaces. **Chair Loosveldt** noted that CPIC

did not formally vote to recommend 1 required off-street parking space.

Commissioner Sherman asked why the City contracted parking consultant recommended 1 parking space per unit. **Kolias** responded that the consultant's recommendation was to conform to state house bill 2001 (HB 2001).

Rogers shared the background and goal of the draft private tree code. A 40% canopy goal, informed by the American Forests' recommendation, was created to balance urbanization and natural systems. Rogers noted a significant portion of the City's current canopy is located on private property.

Commissioner Khosroabadi asked what change in tree canopy is expected since the 2014 lidar data used in aerial image shown the staff report. **Rogers** responded that the change in canopy is difficult to measure accurately without lidar technology. **Commissioner Hemer** asked how many trees the City needs to reach the 40% tree canopy goal. **Rogers** responded that the number of trees needed to reach the City goal depends on what species are planted. **Passarelli** stressed the importance of diversifying tree species rather than solely planting trees with the large mature canopies.

Commissioner Sherman asked what differences experts reported between forested and non-forested lands during the heat dome event in summer 2021. **Rogers** responded that Portland State's Dr. Vivek Shandas wrote about the disproportionate effect of urban heat islands on non-forested urban areas in the Portland metro during the heat dome event. Dr. Shandas' noted that vegetated spaces provided critical shading and cooling benefits.

Commissioner Erdt asked what mechanisms will be used to support low-income residents burdened by tree maintenance costs. **Rogers** responded noting the low-income assistance fund which will provide financial aid for tree maintenance and care to low-income residents.

Commissioner Erdt raised concerns around residents looking to add solar panels to their homes. **Rogers** responded that residents could choose tree species which are shorter to not preclude the use of solar panels. Additionally, staff is working with utility companies to offer a sustainable energy source which does not require use of solar panels. **Peter Passarelli, Public Works Director,** responded to Commissioner Erdt stressing the importance of the right tree in the right location to mitigate negative implications whether solar panel shading, utility line interference, ice damage, or otherwise.

Commissioner Erdt expressed concern for wildfires when expanding tree canopy coverage within the city. **Rogers** responded that proactive maintenance would prevent any unnecessary increase in wildfire risk when expanding the tree canopy.

Commissioner Sherman asked whether programmatic permits are targeted at

utility companies. **Rogers** responded that programmatic permits are targeted at utility companies to ensure they are compliant with City guidelines and priorities.

Rogers noted the economic, environmental, and health differences between how an owner or tenant may view trees and tree canopy versus a developer. Rogers noted the process of developing the draft tree code and involvement of the Tree Board, arborist consultants, the Comprehensive Plan Implementation Committee (CPIC), and staff. The draft tree code is only applicable in residential zones. The residential non-development standards apply to tree removals not related to development. A permit is required for tree removal if the tree is larger than 6 inches diameter at breast height (DBH). There are two permit types, Type I permits require only a permit application, are streamlined, and approval standards for these removals include trees that are invasive species, dead, dying, diseased, or pose unmitigable infrastructure impacts, public safety risks, or a fire hazard. Additionally, needed removal for public transportation right of way (ROW) projects, utility infrastructure or building permits, and one healthy tree less than 18 inches DBH per year is included in Type I permit approval standards. Type II permits apply to multiple tree removals or removals which do not meet Type I approval standards. For Type II removals larger than 18 inches DBH public notice is required. For all removals there are replanting requirements or a fee in lieu of replanting. The draft code does not regulate private tree maintenance, it does not require property owners to plant new trees unless fulfilling removal permit requirements, or a permit to prune trees.

Commissioner Sherman asked what fees are associated with Type I removal permits and whether a replanting is required for the one healthy tree removal allowed per year. **Rogers** responded that the only fee associated with Type I removals is the application fee and replanting is necessary for the one allowed healthy tree removal per year.

Vice Chair Edge asked why one healthy tree removal was allowed under the Type I permit process. **Rogers** responded it was added to provide flexibility for homeowners. **Passarelli** added that every municipality in the region with a private tree code allows at least one healthy tree removal per calendar year.

Commissioner Hemer asked what the International Society of Arboriculture is and are the standards laid out by the organization laid out in our code. **Rogers** responded that the International Society of Arboriculture (ISA) is the certifying authority for arborists, they release best management practices which inform our proposed code.

Commissioner Erdt noted support for requiring new tree plantings on new developments but expressed concern in creating a non-development private tree code.

Commissioner Sherman asked whether consulting with an ISA certified arborist is necessary when removing the one healthy tree allowed per year. **Rogers**

responded that it is not necessary when removing the one healthy tree permitted per year, consulting an ISA certified arborist is necessary only when removing a tree using an approval criterion which requires a certified arborist's assessment.

Rogers presented the proposed private tree code for residential development which applies to land divisions and construction of new residential dwelling units. Key standards established in the residential development tree code include:

- Preservation standards to protect existing trees on site.
- Canopy standards to ensure intentional preservation and planting on development sites.
- Protection standards to ensure preserved trees are protected from development impacts.
- Soil volume standards require appropriate soil volume for new plantings to improve the tree's chance of long-term success.

Preservation standards require payment of mitigation fees if new canopy coverage after development is less than 30% at maturity. The mitigation fees are tiered and increase as total lot canopy coverage after development decreases.

Canopy standards require 40% tree canopy coverage on completed development sites through existing tree canopy and future mature canopy of new plantings. Existing trees receive 100% canopy credit while new plantings receive 75% canopy credit for their predicted mature canopy. New and existing ROW trees receive 50% canopy credit.

Protection standards prevent construction practices which fail to consider trees. The protection standards must be followed to obtain preservation and canopy credits. Protection standards include the development of a tree protection plan, establishment of root protection zones, management of encroachment into root protection zones, and protection fencing requirements. If the prescriptive path is not practicable, the applicant may propose alternative measures and follow a performance path under guidance of an ISA certified arborist.

Soil volume standards require a minimum of 1,000 cubic feet of soil volume per tree planted. A soil volume plan created by an arborist is required and soil volume methods must be consistent with ISA best management practices. The project arborist must verify the soil volume plan was successfully implemented prior to tree planting.

Mitigation standards are established when preservation and canopy standards cannot be met. Mitigation fees are assessed based on the percent of canopy removed and the total canopy percentage needed to meet 40% lot coverage. Applicants may apply for a Type III variance in lieu of a mitigation fee for alternative construction designs and techniques that provide additional sustainability benefits to the site.

Rogers shared an overview of potential fees for the proposed private tree code. Non-development fees may include the permit application fee, removal fee, and fee in lieu of planting. The development plan review fees may include minor and major permit review and tree site inspections. The development mitigation fees may include fees in lieu of preservation and canopy standards, threatened or rare tree removal, and enforcement and restoration fees. Rogers added the proposed private tree code includes low-income assistance which may exempt property owners from permit, removal, or replanting fees when the owner demonstrates household income at or below 80% area median income for the Portland-Vancouver-Hillsboro metropolitan statistical area.

Commissioner Hemer asked if the 33% vegetation code requirement conflicted with the proposed 40% canopy coverage requirement. **Rogers** responded the two do not conflict as vegetation is a ground level landscaping requirement and the canopy coverage is a separate grade.

Commissioner Hemer asked whether canopy coverage from trees located on adjacent properties count towards the proposed canopy requirements and whether trees planted on the property line count towards the proposed canopy coverage requirements. **Rogers** responded that only on-site trees count towards the proposed canopy requirements. If a tree's trunk is partially or wholly within the property, the tree is considered an on-site tree and the tree's canopy fully counts towards the proposed canopy coverage requirements. **Commissioner Khosroabadi** noted property owners' responsibility for trimming tree limbs which overhang their property and asked why the overhanging canopy coverage would not count towards the canopy coverage requirement. **Rogers** responded trees whose trunks are wholly on adjacent properties can be removed without the property owner's permission and therefore the coverage provided by those trees are outside of the property owner's control and cannot count towards canopy coverage requirements. **Commissioner Sherman** asked if developers could plant trees along the property line of two adjacent lots being developed simultaneously and have the trees' canopy count for both lots. **Rogers** responded tree canopies from trees partially on a property are only considered when assessing existing tree canopy for preservation standards and cannot be used for new plantings. New plantings must be wholly on-site to count towards proposed canopy coverage requirements.

Commissioner Hemer asked whether the soil volume standards apply to every tree. **Passarelli** responded soil volume standards only apply to residential development.

Commissioner Massey asked whether the proposed code would include language which establishes standards to ensure new plantings survive. **Rogers** responded bond issuance could be included as a mechanism to ensure new plantings survive although it is not currently in the proposed code. **Chair Loosveldt** recommended that staff include the ability to issue bonds in the proposed code as a mechanism to ensure new plantings survive. **Commissioner**

Sherman added that the meeting packet notes outline staff's authority to require a bond issuance for trees to ensure survival.

Commissioner Sherman asked whether the required tree root protection fencing signs will include a staff contact for reporting violations. **Rogers** responded the sign language is still in development and staff will consider adding the proposed language.

Commissioner Hemer asked how the mitigation fees are used by the City. **Rogers** responded mitigation fees are paid into the City's tree fund which is used for a variety of urban forest preservation, promotion, and maintenance purposes.

Commissioner Sherman asked whether the language in the draft code, stating that an applicant must show how the alternative plan provides greater environmental benefits serves as the approval criteria for the preservation and canopy variance. **Justin Gericke, City Attorney,** responded that the language provided in the draft code does serve as the approval criteria for the variance. **Vice Chair Edge** asked whether the proposed approval criteria prevent an applicant from using the hardship criteria to receive variance approval. **Kolias** responded the proposed approval criteria would be added to the existing approval criteria for a Type III variance. **Vice Chair Edge** recommended adding clarity to the code language, so the commission is clear on the variance approval criteria. **Kolias** responded staff will review the proposed code language to reconcile any ambiguities.

Kolias noted written testimony received after the meeting packet posted.

Stephen Lashbrook, a Milwaukie resident, expressed support for the proposed private tree code and recommended adding clarifying language for how the city manager would review appealed decisions from the City's Urban Forester.

Neil Schulman, representing the **North Clackamas Watershed Council,** expressed support for the City's 40% canopy goal and the parking requirements for cottage clusters. Schulman encouraged building ongoing relationships with developers to protect existing trees and raising mitigation fees. Schulman requested the variance process be made more rigorous and that the one allowed healthy tree removal per year be more rigorous to not include trees with 18-inch DBH. **Chair Loosveldt** asked what Schulman would recommend as an alternative to the proposed 18-inch DBH allowed for one healthy tree removal per year. **Schulman** recommended using a 12-inch maximum DBH for the one allowed healthy tree removal per year.

Micah Meskel, a Milwaukie resident, noted support for no required off-street parking for middle housing, recommended lowering the allowed maximum DBH for the one allowed healthy tree removal per year, and recommended raising the proposed mitigation fees. **Passarelli** responded that only the types of fees are proposed, no fee amounts have been decided. **Commissioner Sherman** asked

whether the mitigation fee amounts will be decided through staff and budget committee meetings. **Passarelli** responded that the mitigation fees will be established through meetings with staff and the budget committee.

Renee Moog, a Milwaukie resident, recommended requiring one off-street parking space per unit. Moog asked whether the middle housing growth predictions from the October 26 Planning Commission predict the city will receive 24 new middle housing units or 24 new lots with middle housing. Additionally, Moog asked whether predictions were 24 units/lots each year or over the 20-year timeframe. Moog asked whether the impact of street improvements on the capacity of on-street parking was considered in the proposed code amendments. **Vice Chair Edge** responded that the predictions were based on the buildable lands inventory number provided by staff, which identified 765 new buildable lots. The market absorption rate of middle housing in low density areas was identified as 3% by the Oregon Department of Land Conservation and Development (DLCD). The absorption rate resulted from the greenfield modeling which is not applicable to the City but was used in the October 26 hearing to demonstrate that even with a higher absorption rate than applicable to the City, there is still ample capacity for on-street parking. Edge noted with 765 new buildable lots and a 3% absorption rate for middle housing, the City can expect an additional 24 new middle housing units in the next 20 years. **Kolias** responded that street improvements can add, take away, or not effect on-street parking depending on a variety of factors.

Ted Labbe, representing **The Urban Greenspace Institute,** expressed support for the proposed code amendments. Labbe recommended removing the language allowing the removal of one healthy tree per year and added support for further restricting the ability if removing it is not possible. Labbe recommended that lower preservation standards for affordable housing be removed from the proposed code amendments.

Anthony Allen, a Milwaukie resident, expressed concern for mailbox access with increased on-street parking.

Chris Ortolano, a Milwaukie resident, asked whether the cumulative effects of the proposed middle housing amendments and middle housing projects on parking availability has been considered.

Ronelle Coburn, a Milwaukie resident, noted a petition with 84 signatories in opposition to the proposed code amendments. Coburn expressed concern with the proposed parking code amendments.

Elvis Clark, a Milwaukie resident, expressed concern for the restrictions on trees larger than 6-inch DBH in the proposed tree code. Additionally, Clark expressed opposition for the proposed parking amendments.

Steve Klingman, a Milwaukie resident, asked how ample street parking can be

known and expressed opposition to the proposed tree code.

Michael Anderson, a Portland resident, noted support for reducing the minimum required parking and added that developers will build parking when necessary. **Commissioner Sherman** asked for clarification about a chart depicting housing development feasibility which Anderson submitted via written testimony. **Anderson** responded that the chart shows that in most cases the current building would provide larger profits than redeveloping a lot with middle housing although when prices are high there is a greater demand for housing units such that middle housing may be more profitable. Anderson noted off-street parking requirements for middle housing make development less likely for smaller lots. **Commissioner Sherman** asked whether the elimination of parking requirements in Tigard had an effect on the on-street parking availability. **Anderson** responded that few middle housing units have been built in Tigard since the elimination of parking requirements and therefore it has had almost no effect on their on-street parking availability. **Vice Chair Edge** asked about the 3% projected market absorption rate of middle housing and whether the City can rely on the figure as an accurate rate. **Anderson** noted 3% was reached during DLCD rulemaking as a plausible upper boundary for market absorption and in the state legislature the rate was used as a mechanism to ensure the urban growth boundary could be expanded if there was a higher market absorption than expected.

Kolias reviewed the recommended revisions from the October 12 and 26 Planning Commission meetings. Revisions included:

- Allowing flag lots and back lots in subdivisions
- Reducing minimum off-street parking for middle housing to 0 spaces per dwelling unit for middle housing, except cottage clusters
    - Reduce minimum off-street parking for cottage clusters in the R-MD zone to 0.5 spaces per cottage
- Reduce the minimum lot size for all middle housing types except cottage clusters and townhouses to 3,000 square feet
- Reduce minimum setbacks for income-restricted housing

Vice Chair Edge asked to include a recommendation to encourage incentivizing income-restricted affordable housing production in the Planning Commission recommendation to City Council.

Commissioner Hemer and **Chair Loosveldt** recommended removing the proposed setback reductions for income-restricted housing noting concerns for stigmatization of tenants in buildings which vary in form from the surrounding built environment. **Vice Chair Edge** noted support for the proposed setback reductions. **Commissioner Khosroabadi** noted support for the proposed setback reductions and noted that the proposed reductions may go unnoticed. **Vice Chair Edge** suggested removing the proposed setback reductions and creating a Type II variance process to allow reduced setbacks for affordable middle housing developments. **Chair Loosveldt, Commissioner Sherman,** and **Commissioner Khosroabadi** expressed support for creating a Type II variance

process for setback reductions for affordable middle housing developments.

Commissioner Hemer noted public testimony from Milwaukie residents was against the proposed minimum off -street parking reductions for middle housing and recommended revisiting reducing the minimum off-street parking in ten years. **Vice Chair Edge** reiterated the predicted 3% market absorption rate of middle housing and noted the low likelihood of any effect of the proposed amendments on the City's on-street parking availability. **Commissioner Sherman** noted a difference between two tables in the 2021 Residential Parking Study, the table referenced at the October 26 Planning Commission Hearing does not account for the additional parking spaces provided by garage space, the table located in the executive summary of the 2021 Residential Parking Study found that when considering each garage's capacity there is an additional parking space for each property, for a total of 5.4 spaces per property.

Chair Loosveldt polled the commission on the proposed code amendments from the October 12 and 26 Planning Commission meetings with the revisions stated. Commissioners Loosveldt, Edge, Khosroabadi, Sherman, and Erdt were in support and Commissioners Massey and Hemer were in opposition.

Commissioner Sherman noted a need to work with the city manager to determine if the appeal process as recommended in the proposed tree code is feasible. Sherman also revisited the variance process for tree removal and requested the economic hardship approval criterion be removed. **Commissioner Hemer** and **Commissioner Khosroabadi** asked why economic hardship should be removed as an approval criterion. **Commissioner Sherman** stated the proposed approval criteria from staff were based on environmental benefits rather than economic hardship but requested that approval criteria be further clarified. **Vice Chair Edge** noted support for clarifying the approval criteria and removing the economic hardship criterion.

Chair Loosveldt polled the commission to recommend a reduced maximum DBH for the one healthy tree removal permitted under the Type I review process per year from 18 inches to 12. Commissioners Loosveldt, Edge, Massey, Sherman, and Khosroabadi were in support and Commissioners Hemer and Erdt were in opposition.

Chair Loosveldt revisited the discussion of bond issuance to ensure new plantings grow to maturity. **Commissioner Hemer** requested that staff further explore adding language which permits the City to require bond issuance for new plantings and clarify the process before presenting to City Council.

Commissioner Hemer expressed support for the proposed development tree code but opposition to the proposed private non-development tree code.

Commissioner Erdt expressed support for the proposed development code and opposition to the proposed non-development code. Erdt asked staff to provide

the cost of the fees which property owners who wish to remove a tree larger than the permitted one 18-inch DBH healthy tree allowed per year will incur in the proposed code. **Rogers** responded that fees have not been set for type II removal. **Commissioner Hemer** stated that property owners would need to hire a certified arborist to assess the tree before removal. **Rogers** clarified that an arborist would not be necessary for type II tree removal of a healthy tree. **Commissioner Erdt** asked what other jurisdictions charge for similar removals. **Rogers** responded that the charges in other jurisdictions range in price from $35 to $50 for the permit charge.

Commissioner Sherman asked who will be setting the fees and whether community members will have opportunities to participate in the process. **Rogers** responded the fees will be set during the City Council public hearings.

ZA-2021-002, Proposed Code Amendments: Middle Housing, Residential Parking, and Tree Preservation, was recommended to City Council for approval by a 5-2 vote.

(05:04:50)

7.0 Planning Department Other Business/Updates

No information was presented for this portion of the meeting.

(05:04:50)

8.0 Planning Commission Committee Updates and Discussion Items

Vice Chair Edge announced an upcoming presentation on November 13 by Dr. David G. Lewis and The Oak Lodge Governance Project on the history of the Oak Lodge area before the arrival of European settlers.

(05:08:05)

9.0 Forecast for Future Meetings

November 23, 2021	Canceled
December 14, 2021	Canceled

Meeting adjourned at approximately 11:27 p.m.

Respectfully submitted,

Will First, Administrative Specialist II

CITY OF MILWAUKIE

AGENDA

November 9, 2021

PLANNING COMMISSION

milwaukieoregon.gov

Zoom Video Meeting: due to high rates of community COVID-19 transmission, 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-84) and follow the Zoom webinar login instructions.

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

2.0 **Planning Commission Minutes – Motion Needed**

2.1 September 14, 2021

3.0 **Information Items**

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

5.0 **Community Involvement Advisory Committee (CIAC)**

6.0 **Hearing Items**

6.1 3521 SE Filbert St

Summary:	Conversion of an existing 850 square foot garage into an Accessory Dwelling Unit (ADU)
Applicant:	John Sena
Address:	3521 SE Filbert St
File:	VR-2021-015
Staff:	Senior Planner Vera Kolias

6.2 Middle Housing Code – Continued Hearing (#3)

Summary:	Proposed code and map amendments for the first phase of implementing the Comprehensive Plan – middle housing, tree preservation, and residential parking.
File:	ZA-2021-002
Staff:	Senior Planner Vera Kolias

7.0 **Planning Department Other Business/Updates**

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

9.0 **Forecast for Future Meetings**

November 23, 2021	Canceled
December 14, 2021	Hearing: CSU-2021-005, MHS Sign (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 Kelver, Senior Planner
Adam Heroux, Associate Planner
Will First, Administrative Specialist II

CITY OF MILWAUKIE

PLANNING COMMISSION MINUTES

City Hall Council Chambers
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September 14, 2021

Present:	Lauren Loosveldt, Chair Joseph Edge, Vice Chair Greg Hemer Adam Khosroabadi Robert Massey Jacob Sherman	**Staff:**	Brett Kelver, Senior Planner Justin Gericke, City Attorney
Absent:	Amy Erdt		

(00:14:36)
1.0 Call to Order — Procedural Matters*
Chair Loosveldt called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

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2.0 Information Items

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(00:15:29)
3.0 Audience Participation

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(00:16:00)
4.0 Hearing Items

(00:16:00)
4.1 VR-2021-013, Bonaventure Senior Housing Walkways

Brett Kelver, Senior Planner, shared the staff report. The applicant's proposed senior housing facility was approved by land use application CU-2018-003 in 2019. After beginning construction on the project in 2019 it was put on hold due to COVID-19. The applicant had applied for a variance to waive the requirement of MMC 19.504.9 and allow the on-site walkways to be constructed with impervious materials. The applicant noted poor infiltration, user safety, durability, and maintenance as the rationale for requesting the variance. The staff report recommended approval of the variance with the condition that tree plantings be used as mitigation.

Commissioner Khosroabadi asked whether the number of mitigation plantings necessary would change if the tree credit worksheet presented in the staff report was used for planting calculations instead of the numbers noted in the watershed council's recommendations presented in the meeting packet. **Kelver** responded that the calculations used in the tree credit worksheet provide a range between 69 and 137 plantings. For example, the number of tree plantings necessary varies based on the composition of species planted, as evergreen tree species are awarded more square footage credit for impervious surface mitigation than broadleaf/deciduous species. **Commissioner Sherman** reiterated Commissioner Khosroabadi's question about planting calculations, asking whether the proposed mitigation plantings were depicted in the images shown in the staff report and what survival rate of plantings would be considered. **Kelver** responded that the images did not depict the proposed mitigation plantings. The survival rate was informed by the natural resource code, which requires a survival rate of 80% of the mitigation plantings after two years. The watershed council recommendations included a five-year survival period to better ensure success of the new plantings. The 100% survival rate at two years was recommended by staff since each individual planting correlates to some square footage of impervious surface allowed. **Vice Chair Edge** asked if there were legal concerns requiring a 100% survival rate. **City Attorney Justin Gericke** responded that there are no legal concerns around the requirement.

Commissioner Edge asked what concerns for proportionality were considered. **Kelver** responded that the tree credit worksheet was used to partially address the proportionality issue. **Gericke** noted that the calculated impact the proposed impervious surface will have on stormwater runoff was used to ensure proper mitigation of the impact. He added that mitigating the effects of the increased runoff is the primary goal of plantings, rather than ensuring proportionality between the increased stormwater runoff and new plantings.

The applicants shared that the primary reason for the requested variance was for resident safety. The walkways will serve as the residents' primary form of exercise and given the high proportion of limited mobility residents, traditional concrete sidewalks are necessary to ensure safety during use.

Commissioner Massey asked why the variance was requested after the original application had been approved, noting the 2019 application did not request traditional concrete sidewalks even though the resident demographic and other factors were known at that time. **The applicants** responded that the permeability requirement was not known at the time of the original application and the delay in the variance request was due to extenuating circumstances caused by the COVID-19 pandemic. **Chair Loosveldt** asked whether a pervious parking lot was considered to offset the lost pervious surface caused by the traditional concrete walkways. **The applicants** responded that the soil conditions on the site prevent adequate infiltration, which would inhibit the pervious parking lot's ability to realize its potential.

Chair Loosveldt called for any public testimony on the application. **Kelver** confirmed that there were no attendees indicating an interest in testifying. **Chair**

Loosveldt closed the public testimony portion of the hearing and proceeded with the commissioner discussion.

Commissioner Khosroabadi expressed concern about ensuring the survival of the plantings used for mitigation. **Commissioner Hemer** asked whether the City's water quality resource regulations were intended to address walkways on the exterior of parking lots or more interior walkways. Hemer stated that, if the intent was to address exterior walkways, the proposed mitigation may go beyond what is necessary since the project was already reviewed for water quality resource impacts. **Commissioner Sherman** requested that the condition of approval for the survival rate be changed to 80% at five years. **Commissioner Edge and Khosroabadi** agreed. **Commissioner Hemer** stated his opinion that the survival rate should not go beyond the proposed condition of approval, a survival rate of 100% at two years.

Commissioner Sherman introduced a motion to approve VR-2021-013, Bonaventure Senior Housing Walkways, as recommended by staff, with an amendment to page 5 of the recommended findings in support of approval that "Given that each new tree is mitigation for a specific amount of impervious walkway, the condition requires a 100% survival rate at two years for the number of trees planted" be changed to "Given that each new tree is mitigation for a specific amount of impervious walkway, the condition requires an 80% survival rate at five years for the number of trees planted." The motion was approved with a 5-1 vote.

(01:25:07)

5.0 Planning Department Other Business/Updates

No information was presented for this portion of the meeting.

(01:25:07)

6.0 Planning Commission Committee Updates and Discussion Items

No information was presented for this portion of the meeting.

(01:28:28)

7.0 Forecast for Future Meetings:

September 28, 2021	1. Public Hearing: DR-2021-001, Coho Point Redevelopment (tentative)
October 12, 2021	1. Public Hearing: Middle Housing Code – Hearing #1

Meeting adjourned at approximately 7:49 p.m.

Respectfully submitted,

Will First, Administrative Specialist II

CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager and Steve Adams, City Engineer

From: Vera Kolias, Senior Planner and Jennifer Backhaus, Engineering Technician III

Date: November 2, 2021, for November 9, 2021, Public Hearing

Subject: **File:** VR-2021-015, ADU-2021-003

Applicant: John Sena

Address: 3521 SE Filbert St

Legal Description (Map & Tax Lot): 11E25AC08600

NDA: Ardenwald

ACTION REQUESTED

Approve application VR-2021-005, ADU-2021-001 and adopt the recommended Findings and Conditions of Approval found in Attachments 1 and 2. This action would allow the conversion of an existing one-story accessory building into an accessory dwelling unit (ADU). The accessory building has a footprint of 850 sq ft where a maximum of 800 sq ft is permitted.

BACKGROUND INFORMATION

The property is located on the north side of Filbert St (see Figure 1). The applicant proposes to convert the existing 850 sq ft garage into an accessory dwelling unit (ADU). A variance is requested because the existing accessory building has a footprint of 850 sq ft where the maximum building footprint allowed for a structure with an ADU is 800 sq ft.



Figure 1. Site and vicinity



Figure 2. Street view of subject property

A. Site and Vicinity

The site is located at 3521 SE Filbert St. The 0.36-acre (15,580 sq ft) site contains a single-family residence. The one-story accessory building proposed conversion into an accessory dwelling unit is on the north side of the property and behind the residence. The surrounding area consists of single-family homes on all sides on lots similarly sized as the subject property.

B. Zoning Designation

R-7 Residential Zone

C. Comprehensive Plan Designation

LD- Low Density

D. Land Use History

City records indicate the following relevant permit activity:

- Building permit from 2003 for the existing accessory structure as permitted in MMC 19.502.

E. Proposal

The applicant is seeking land use approvals for the following:

1. A variance to allow the creation of an accessory dwelling unit with a building footprint of 850 sq ft where a maximum footprint of 800 sq ft is permitted. This request is subject to a Type III review.
2. An 850-sq ft accessory dwelling in a converted existing garage. The dimensions and building footprint of the existing building are proposed to be maintained.

The project requires approval of the following applications:

1. Type III Variance
2. Type II Accessory Dwelling Unit

KEY ISSUES

Summary

Staff has identified the following key issues for the Planning Commission's deliberation. Aspects of the proposal not listed below are addressed in the Findings (see Attachment 1) and generally require less analysis and discretion by the Commission.

A. Is the proposed variance reasonable and appropriate?

B. Does the proposed ADU meet relevant requirements?

Analysis

A. Is the proposed variance reasonable and appropriate?

As noted in the application summary, the applicant proposes to convert an existing detached accessory building, which is currently used as a garage/shop into a detached ADU. The existing building has an 850 sq ft footprint and the MMC allows a maximum of 800 sq ft.

The approval criteria for the variance are listed below and how the application meets the criteria.

- Provides an alternative analysis

  The existing detached accessory building has an 850 sq ft footprint. The applicant has submitted a narrative explaining that reducing the size of the existing building to meet the 800 sq ft standard would be difficult and costly. A variance would enable the creation of a new ADU at a reasonable cost and would allow for additional space for an accessible shower and laundry area for the applicant's mother. Because of the low profile of the existing building, which has been on the property for many years, its conversion to an ADU is expected to be compatible with surrounding development. This criterion is met.

- Avoids or minimizes impacts to surrounding properties

The proposed variance avoids creating adverse impacts for surrounding properties. The proposed ADU meets the building height, setback, and lot coverage requirements of the R-7 Zone. The conversion of the existing building ft into an ADU will have no appreciable change in the character of activity on the property. This criterion is met.

- Has desirable public benefits

  The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone. This criterion is met.

- Responds to the existing built or natural environment in a creative and sensitive manner

  The existing built and natural environment will not be affected by this proposal because the building, driveway, and parking will not be changed and all landscaped areas will be unaffected. This criterion is met.

- Impacts from the proposed variance will be mitigated to the extent practicable

  As noted herein, the building and site improvements are already in place. In addition, the use of the building will be minor in terms of activities on the property and traffic. The applicant has proposed to use it as a short-term rental, which is allowed in the R-7 zone. This criterion is met.

The applicant and the circumstances of this case have demonstrated that the effort and cost of reducing the size of the existing building would not have a corresponding benefit for the neighborhood. Therefore, staff believes granting a variance to exceed the maximum building footprint by 6% is reasonable and appropriate.

B. Does the proposed ADU meet relevant requirements?

Other than the building footprint standard, the proposal exceeds all other applicable standards pertaining to building height and setback, lot coverage, minimum vegetation, and the specific criteria for ADUs in MMC 19.910.1.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

1. Approve the variance. This will result in and accessory dwelling unit that exceeds the maximum building footprint standard by 50 sq ft.
2. Approve the accessory dwelling unit. This results in the continued use of the existing accessory building by maintaining its current dimensions.
3. Adopt the attached Findings and Conditions of Approval.

B. Staff recommends the following key conditions of approval (see Attachment 2 for the full list of Conditions of Approval):

- No expansion of the building footprint beyond 850 sq ft.
- Pay a Fee In Lieu of Construction (FILOC) of $4,135.06 or construct a 6-ft curb-tight sidewalk along the entire 78.02-ft frontage of Filbert Street.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

MMC 19.301 Low Density Residential
MMC 19.700 Public Facilities Improvements
MMC 19.910.1 Accessory Dwelling Units (ADUs)
MMC 19.911 Variances
MMC 12 Streets, Sidewalks, and Public Places
MMC 19.1006 Type III Review

This application is subject to Type III review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In Type III reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The Commission has 4 decision-making options as follows:

A. Approve the application subject to the recommended Findings and Conditions of Approval.

B. Approve the application with modified Findings and Conditions of Approval. Such modifications need to be read into the record.

C. Deny the application upon finding that it does not meet approval criteria.

D. Continue the hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by January 22, 2022, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie, Engineering Department, Building Official, Ardenwald Neighborhood District Association (NDA), and the Clackamas Fire District #1. The following is a summary of the comments received by the City.

- **Milwaukie Engineering Department** – Engineering comments have been incorporated in the findings under 19.700 and Chapter 12.

A public notice was sent on October 20, 2021 to all property owners within 300 ft of the site. A summary of comments are provided below.

ATTACHMENTS

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

		Early PC Mailing	PC Packet	Public Copies	Packet
1.	Recommended Findings in Support of Approval	☐	☒	☒	☒
2.	Recommended Conditions of Approval	☐	☒	☒	☒
3.	Applicant's Narrative and Supporting Documentation dated August 31, 2021.				
	a. Narrative	☒	☒	☒	☒
	b. Site Plan	☒	☒	☒	☒

Key:
Early PC Mailing = paper materials provided to Planning Commission at the time of public notice 20 days prior to the hearing.
PC Packet = paper materials provided to Planning Commission 7 days prior to the hearing.
Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.
Packet = packet materials available online at https://www.milwaukieoregon.gov/bc-pc/planning-commission-84.

ATTACHMENT 1
Recommended Findings in Support of Approval
File #VR-2021-015, ADU-2021-003, Filbert St ADU

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

1. The applicant, John Sena, has applied for approval to establish an Accessory Dwelling Unit (ADU) at 3521 SE Filbert St. This site is in the R-7 Zone. The land use application file numbers are VR-2021-015, ADU-2021-003.

2. The applicant proposes conversion of an existing accessory building into an accessory dwelling unit (ADU). The accessory building has a footprint of 850 sq ft where a maximum of 800 sq ft is permitted.

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

   - MMC 19.301 Low Density Residential
   - MMC 19.700 Public Facilities Improvements
   - MMC 19.910.1 Accessory Dwelling Units (ADUs)
   - MMC 19.911 Variances
   - MMC 12 Streets, Sidewalks, and Public Places
   - MMC 19.1006 Type III Review

   The application has been processed and public notice provided in accordance with MMC Section 19.1006 Type III Review. A public hearing was held on November 9, 2021, as required by law.

4. MMC 19.301 Low Density Residential

   a. MMC 19.301 establishes the development standards that are applicable to this site. Table 1 summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

      The existing house is situated toward the street and is set back approximately 20 feet from Filbert St. The lot is rectilinear in nature. The existing accessory building on the site is an 850 sq ft detached garage/shop located in the rear yard approximately 155 ft from Filbert St. The lot size is 15,580 sq ft, typical of the surrounding properties.

      The applicant has proposed to convert the existing 850 sq ft accessory building, built in 2003, into an ADU. The existing structure is single-story.

Table 1: Overview of Compliance with Development Standards

Residential Zone R-7 Development Standards			
Standard	Required	Proposed	Staff Comment
1. Lot Coverage	30% max.	Approx. 17 %	Complies with standard.
2. Minimum Vegetation	35% min.	Approx. 44%	Complies with standard.
3. Front Yard Setback	20 ft	155 ft (accessory structure) 20 ft (primary structure)	Complies with standard

The Planning Commission finds that the proposal complies with the applicable standards of the R-7 zone.

5. MMC 19.700 Public Facility Improvements

   See Public Facilities Improvement findings below in Finding 9.

6. MMC 19.910.1 Accessory Dwelling Units

   a. MMC 19.910.1 Accessory Dwelling Units

   MMC 19.910.1 establishes the design and development standards that are applicable to ADUs. Table MMC 19.910.1.E.4.b summarizes the existing and proposed conditions on the subject property with respect to the standards relevant to this proposal.

   The applicant has proposed to convert an existing 850 sq ft accessory building located in the rear yard into an ADU.

Table 2: Detached ADU Development and Design Standards

Development and Design Standards for Detached Accessory Dwelling Units			
ADU	**Type I**	**Type II**	**Proposed**
Maximum Structure Footprint	600 sq ft	800 sq ft or 75% of the primary structure	850 sq ft *The applicant has requested a variance*
Maximum ADU Floor Area	800 sq ft or 75% of the floor area of the primary structure	800 sq ft or 75% of the floor area of the primary structure	850 sq ft *The applicant has requested a variance*
Maximum Structure Height	15 ft, limited to 1 story	25 ft, limited to 2 stories	15 ft, 1 story
ADU Front Yard Setback	10 ft behind front yard (10' behind front façade of the primary dwelling) unless		>10 ft behind front yard and ~ 155 ft from front lot line

Development and Design Standards for Detached Accessory Dwelling Units			
ADU	**Type I**	**Type II**	**Proposed**
	located at least 40' from the front lot line		
Required Side and Rear Yard Setback	Base zone requirement	5 ft	Side: 15 ft/29 ft Rear: 20 ft
Design Standards	(1) A detached accessory structure shall include at least 2 of the design details listed below. An architectural feature may be used to comply with more than 1 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.		n/a
	(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.		n/a
	(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.		Yes, roof eaves meet standard
	(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.		Yes, trim meets minimum of 3 in wide and 5/8 in deep
Privacy Standards	(1) 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.		Walls are 15 ft from side lot line
	(b) The wall is at an angle of 45 degrees or less to the lot line.		The wall is parallel to the rear property lines
	(c) The wall faces an adjacent residential property.		The wall is adjacent to residential
	All the conditions apply and the ADU must meet the privacy standards listed below.		

Development and Design Standards for Detached Accessory Dwelling Units			
ADU	**Type I**	**Type II**	**Proposed**
	(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 be placed in the upper third of the distance between a floor and ceiling.		n/a
	(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 be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall be no less than 5 ft above grade at time of planting, and they shall reach 6 ft high within 1 year. Existing features on the site can be used to comply with this standard.		An existing 6 ft fence and vegetation screening surrounds the proposed ADU

Upon approval of the variance request, the Planning Commission finds that the proposal complies with the applicable standards for a detached ADU in the R-7 zone.

b. MMC 19.910.1.D.2 Approval Standards and Criteria for a Type II ADU

MMC 19.910.1.D.2 establishes the criteria for approving a Type II accessory dwelling unit.
An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.

(1) The criteria in Subsection 19.910.1.D.1 are met as followed.

(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.

ADUs are permitted in the R-7 zone. This criterion is met.

(b) The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.

The primary use of the subject property is a single-family dwelling. This criterion is met.

(c) One accessory dwelling unit per lot is allowed.

This is the only ADU proposed on the subject property. This criterion is met.

(d) The development standards of Subsection 19.910.1.E are met.

Table 2 identifies all of the development standards in Subsection 19.910.E and upon approval of the variance request the proposed ADU complies with them. This criterion is met.

(2) 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.

The existing accessory structure has been constructed in a manner that mirrors the features of single-family residences in the area, with window trim and siding which are design standards for single-family residences. The design is not incompatible with homes on adjacent lots.

The Planning Commission finds that this criterion is met.

(3) The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.

The ADU is proposed in an existing single-story structure which will provide privacy for adjacent properties. Windows will not be facing into nearby single-family residences.

The Planning Commission finds that this criterion is met.

(4) 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.

The lot is currently landscaped and vegetated. There is an existing, 6 ft fence and opaque, vegetated screening that surrounds the area of the proposed ADU and extends along the entire side and rear yard property lines.

The Planning Commission finds that this criterion is met.

Upon approval of the variance request, the Planning Commission finds that the standards of MMC 19.910.1 for Accessory Dwelling Units are met.

7. MMC Chapter 19.911 Variances

a. MMC 19.911.3 establishes the appropriate review process for variance applications.

The applicant proposes to increase the maximum allowable building footprint for an ADU of 800 sq ft to 850 sq ft. This MMC section requires a Type III Variance review for this kind of modification to the standards.

The Planning Commission finds that the request is subject to a Type III Variance review.

b. MMC 19.911.4 establishes criteria for approving a variance request.

The applicant has chosen to address the discretionary relief criteria of MMC 19.911.4.B.1.

(1) Discretionary relief criteria

(a) The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.

The existing detached accessory building proposed to be converted into an ADU has a footprint of 850 sq ft. The applicant has shown that reducing the size of the existing building to meet the 800 sq ft standard would be difficult and costly. A variance would enable the creation of a new ADU at a reasonable cost. Because of the low profile of the existing building, which has been on the property for many years, its conversion to an ADU is expected to be compatible with surrounding development. This criterion is met.

(b) The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:

(i) The proposed variance avoids or minimizes impacts to surrounding properties.

The proposed variance avoids creating adverse impacts for surrounding properties. The proposed ADU meets the building height, setback, and lot coverage requirements of the R-7 Zone. The change in use of the existing building to an ADU will have no appreciable change in the character of activity on the property. This criterion is met.

(ii) The proposed variance has desirable public benefits.

The proposal will create a modest public benefit by providing additional housing opportunity and by meeting the current density requirements of the R-7 Zone. This criterion is met.

(iii) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

The existing built and natural environment will not be affected by this proposal because the building, driveway, and parking will not be changed and all landscaped areas will be unaffected. This criterion is met.

(c) Impacts from the proposed variance will be mitigated to the extent practicable.

As noted herein, the building and site improvements are already in place. In addition, the use of the building will be minor in terms of activities on the property and traffic. The applicant has proposed to use it as a short-term rental, which is allowed in the R-7 zone. This criterion is met.

The Planning Commission finds that these criteria are met.

8. MMC 12 Streets, Sidewalks, and Public Place

a. MMC 12.08 – Street & Sidewalk Excavations, Construction, and Repair

MMC 12.08.020 establishes constructions standards for new sidewalks and alterations to existing sidewalks.

The applicant must not engage in any work in the right-of-way without first obtaining City permit, including any activity resulting in alteration of the surface of the right-of-way or their access to the right-of-way.

As conditioned, the standards are met.

b. MMC 12.16.040 – Access Requirements and Standards

MMC 12.16.040 establishes standards for access (driveway) requirements. As conditioned, the standards are met as summarized below.

(1) MMC 12.16.040.A – Access

MMC 12.16.040.A requires that all properties provide street access with the use of an accessway as set forth in the Public Works Standards.

The proposed development is consistent with the standards and provides street access with an existing driveway.

The standards are met.

(2) MMC 12.16.040.E – Accessway Design

MMC 12.16.040.E requires that all driveway approaches meet Americans with Disabilities Act (ADA) standards and Milwaukie Public Work Standards.

The proposed development has an existing nonconforming driveway approach design. Should the applicant wish to modify or update any portion of the driveway approach or apron in the right-of-way. Any modifications will require compliance with current code and Public Works Standards.

As conditioned, the standards are met.

(3) MMC 12.16.040.F – Accessway Size

MMC 12.16.040.F requires that single-family and detached residential uses shall have a minimum driveway apron width of 9 ft by 20 ft.

The applicant has an existing driveway apron width in conformance with this standard.

The standard is met.

c. MMC 12.24 – Clear Vision at Intersections

MMC 12.24 establishes standards to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of City streets. The clear vision area for all street and driveway or accessway intersections is the area within 20 ft radius from where the lot line and the edge of a driveway intersect. The

provisions of this chapter relate to safety. They shall not be modified through variance and are not subject to appeal.

The applicant must remove all trees, shrubs, hedges or other vegetation in excess of three feet in height, measured from the street center grade from the clear vision area. Trees exceeding this height may remain in this area; provided, all branches and foliage are removed to the height of eight feet above the grade.

As conditioned, this standard is met.

As conditioned, the Planning Commission finds the standards in MMC 12 are met.

9. MMC 19.700 Public Facility Improvements

a. MMC 19.702 Applicability

MMC 19.702.E establishes the applicability of the provisions of MMC 19.700, including a new dwelling unit, any increase in gross floor area, land divisions, new construction, and modification or expansion of an existing structure or a change or intensification in use that result in any projected increase in vehicle trips or any increase in gross floor area on the site.

The applicant is proposing to convert 850 sq ft of an existing accessory building into an ADU, increasing the number of dwelling units on the property. MMC 19.700 applies to the proposed development.

b. MMC Section 19.705 Rough Proportionality

MMC 19.705 requires that transportation improvements be in proportion to impacts of a proposed development. Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, must be provided in rough proportion. Guidelines require consideration of a ½ mile radius, existing use within the area, applicable TSP goals, and the benefit of improvements to the development property.

Based on proportionality guidelines found in MMC 19.705.2, the applicant is found responsible for constructing sidewalk improvements along SE Filbert Street. Curb repair and/or replacement is not required. Fee In Lieu of Construction (FILOC) may be applied for.

As conditioned, this standard is met.

c. MMC Section 19.708 Transportation Facility Requirements

MMC 19.708 establishes the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. The City's street design standards are based on the street classification system described in the City's Transportation System Plan (TSP).

As conditioned, the proposal meets the standards of MMC 19.708, as summarized below.

(1) MMC 19.708.1.A – Access Management

All development subject to 19.700 shall comply with the access management standards contained in Chapter 12.16.

As mentioned in 8.b above, the applicant has an existing nonconforming driveway approach. Improvements or modifications made to the approach or apron within the right-of-way will require full compliance with the access management standards contained in Chapter 12.16 and the Public Works Standards.

(2) MMC 19.708.1.B – Clear Vision

All development subject to 19.700 shall comply with Clear vision requirements in Chapter 12.24.

As mentioned in 8.c, the proposed development is required to remove all obstructions within the clear vision area. This includes vegetation within the clear vision area along the north, east and south property lines adjacent to driveways and property corners.

(3) MMC 19.708.1.D – Development in Non-Downtown Zones

Transportation improvements must be constructed in accordance with the Milwaukie Transportation System Plan and Transportation Design Manual street classification. The development fronts a portion of SE Filbert Street with local street classification.

As conditioned, the standards are met.

d. MMC 19.708.2 Street Design Standards

MMC 19.708.2 establishes standards for street design and improvements.

Development standards for SE Filbert Street require the construction of a 6-ft sidewalk. The applicant has 78.02-ft of frontage along adjacent right-of-way (Filbert St). Limiting improvements to the adjacent stretch of right-of-way will maximize benefits to the property and was not found to be disproportionate to impacts.

The applicant must construct 78.02 lineal ft of transportation facility improvements or pay a Fee In Lieu of Construction (FILOC).

As conditioned, this standard is met.

e. MMC 19.708.3 – Sidewalk Requirements and Standards

MMC 19.708.3.A.2 requires that sidewalks be provided on the public street frontage of all development in conformance to ADA standards.

The applicant must construct and maintain ADA compliant 6'ft wide sidewalks or pay FILOC.

As conditioned, this standard is met.

As conditioned, the Planning Commission finds the standards in MMC 19.700 are met.

10. The application was referred to the following departments and agencies on October 1, 2021:
    - Milwaukie Building Division

- Milwaukie Engineering Department
- Clackamas County Fire District #1
- Ardenwald Neighborhood District Association Chairperson and Land Use Committee

Notice of the application was also sent to surrounding property owners and residents within 300 ft of the site on October 20, 2021, and a sign was posted on the property on October 19, 2021.

No comments were received.

EXHIBIT 2
Conditions of Approval
File #VR-2021-015, ADU-2021-003, Filbert St ADU

Conditions

1. The site shall be used in a manner as proposed and approved through this land use action and as submitted in materials date stamped by the City on August 31, 2021. This includes:
    a. The conversion of the existing detached accessory building into an accessory dwelling unit.
    b. Not expanding the building footprint of the accessory dwelling unit to be larger than 850 sq ft.
2. Prior to the certificate of occupancy, the following shall be resolved:
    a. Construct a 6-ft curb-tight sidewalk fronting the proposed development property along SE Filbert Street. An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
        (1) In place of item (a) above, a fee-in-lieu of construction (FILOC) may be applied for; payment must be made prior to issuance of development permits. The FILOC rate for this development is $53 per linear foot. The total FILOC for 78.02 linear feet of frontage is $4,135.06.
    b. Construct a driveway approach to meet all guidelines of the Americans with Disabilities Act (ADA). An issued Right-of-Way permit is required prior to the start of any work within the public right-of-way.
        (1) In place of item (b) above, applicant may leave the existing non-conforming accessway as is. Any modifications or improvements to the approach or apron within the right-of-way will require a fully compliant accessway to be constructed.
    c. Clear vision areas shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection. All signs, structures, or vegetation in excess of 3 – 8 ft in height located in "vision clearance areas" at intersections of streets, driveways, and alleys fronting the proposed development must be removed. Prior to the removal of any vegetation, applicant shall confirm with the Engineering Department the location of clear vision areas and if the vegetation removal is required to comply with clear vision standards.

Additional Requirements

1. Prior to issuance of building permits, the following shall be resolved:
    a. Provide an erosion control plan and obtain an erosion control permit, if needed. Consult with the Engineering Department to determine if an erosion control permit is needed for the driveway improvements.

RECEIVED

AUG 31 2021

CITY OF MILWAUKIE
PLANNING DEPARTMENT

MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503-786-7630
planning@milwaukieoregon.gov

Application for Land Use Action

Master File #: VR-2021-015; ADU-2021-001

Review type*: ☐ I ☒ II ☒ III ☐ IV ☐ V

CHECK ALL APPLICATION TYPES THAT APPLY:

- ☐ Amendment to Maps and/or Ordinances:
  - ☐ Comprehensive Plan Text Amendment
  - ☐ Comprehensive Plan Map Amendment
  - ☐ Zoning Text Amendment
  - ☐ Zoning Map Amendment
- ☐ Code Interpretation
- ☐ Community Service Use
- ☐ Conditional Use
- ☐ Development Review
- ☐ Director Determination
- ☐ Downtown Design Review
- ☐ Extension to Expiring Approval
- ☐ Historic Resource:
  - ☐ Alteration
  - ☐ Demolition
  - ☐ Status Designation
  - ☐ Status Deletion
- ☐ Land Division:
  - ☐ Final Plat
  - ☐ Lot Consolidation
  - ☐ Partition
  - ☐ Property Line Adjustment
  - ☐ Replat
  - ☐ Subdivision
- ☐ Miscellaneous:
  - ☐ Barbed Wire Fencing
- ☐ Mixed Use Overlay Review
- ☐ Modification to Existing Approval
- ☐ Natural Resource Review**
- ☐ Nonconforming Use Alteration
- ☐ Parking:
  - ☐ Quantity Determination
  - ☐ Quantity Modification
  - ☐ Shared Parking
  - ☐ Structured Parking
  - ☐ Planned Development
- ☐ Residential Dwelling:
  - ☒ Accessory Dwelling Unit
  - ☐ Duplex
  - ☐ Manufactured Dwelling Park
  - ☐ Temporary Dwelling Unit
- ☐ Sign Review
- ☐ Transportation Facilities Review
- ☒ Variance:
  - ☐ Use Exception
  - ☐ Variance
  - ☐ Willamette Greenway Review
- ☐ Other: _____
- ☐ **Use separate application forms for:**
  - Annexation and/or Boundary Change
  - Compensation for Reduction in Property Value (Measure 37)
  - Daily Display Sign
  - Appeal
  - Appeal

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant—see reverse): John Senq

Mailing address: 3521 SE FILBERT ST MILWAUKIE OR State/Zip: 97222

Phone(s): 503 319 2810 Email: HYBRED1965@GMAIL.COM

Please note: The information submitted in this application may be subject to public records law.

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: State/Zip:

Phone(s): Email:

SITE INFORMATION:

Address: 3521 SE FILBERT ST Map & Tax Lot(s): ~~# 8600~~ 11E25AC08600

Comprehensive Plan Designation: LD Zoning: R-7 Size of property: 78 x 200

PROPOSAL (describe briefly): CONVERT EXISTING GARAGE INTO AN ADU

EXISTING GARAGE 850 SQFT 2 BEDROOM STUDIO

SIGNATURE: JLRL

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. If required, I have attached written authorization to submit this application. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: JLRL Date:

IMPORTANT INFORMATION ON REVERSE SIDE

*For multiple applications, this is based on the highest required review type. See MMC Subsection 19.1001.6.B.1.

WHO IS ELIGIBLE TO SUBMIT A LAND USE APPLICATION (excerpted from MMC Subsection 19.1001.6.A):

Type I, II, III, and IV applications may be initiated by the property owner or contract purchaser of the subject property, any person authorized in writing to represent the property owner or contract purchaser, and any agency that has statutory rights of eminent domain for projects they have the authority to construct.

Type V applications may be initiated by any individual.

PREAPPLICATION CONFERENCE:

A preapplication conference may be required or desirable prior to submitting this application. Please discuss with Planning staff.

REVIEW TYPES:

This application will be processed per the assigned review type, as described in the following sections of the Milwaukie Municipal Code:

- Type I: Section 19.1004
- Type II: Section 19.1005
- Type III: Section 19.1006
- Type IV: Section 19.1007
- Type V: Section 19.1008

****Note**: Natural Resource Review applications **may require a refundable deposit.** Deposits require completion of a Deposit Authorization Form, found at www.milwaukieoregon.gov/building/deposit-authorization-form.

THIS SECTION FOR OFFICE USE ONLY:

FILE TYPE	FILE NUMBER	AMOUNT (after discount, if any)	PERCENT DISCOUNT	DISCOUNT TYPE	DATE STAMP
Master file	VR-2021-015	$ 2,000			
Concurrent application files	ADU-2021-001	$ 750	25%		
		$			
		$			
	Total	$ 2,750			
Deposit (NR only)				☐ Deposit Authorization Form received	

TOTAL AMOUNT RECEIVED: $	**RECEIPT #:**	**RCD BY:**

Associated application file #s (appeals, modifications, previous approvals, etc.):

Neighborhood District Association(s): Ardenwald

Notes:

MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503.786.7630
planning@milwaukieoregon.gov

Accessory Dwelling Units: Detached

This handout summarizes the accessory dwelling unit (ADU) regulations for residential properties in the city of Milwaukie. Please refer to Milwaukie Municipal Code (MMC) Subsection 19.910.1. ADUs are allowed in all residential zones. ADUs must follow all of the zoning requirements of the residential zone they are located in, as well as the additional requirements in MMC Subsection 19.910.1.

Definition of Accessory Dwelling Unit

1. An "accessory dwelling unit" is a second dwelling unit on a lot with a single-family detached dwelling. An ADU is incidental to, and smaller than, the main dwelling unit. An ADU can either be part of the main structure, attached to the main structure, or detached.
2. The City has different regulations based on whether it is attached or not.
3. An ADU includes areas and equipment for sleeping, cooking, and sanitation (bathrooms and toilets). A structure without these areas and equipment is an "accessory structure," not an ADU, and is subject to the provisions of MMC Section 19.502 Accessory Structures.

Standards for All ADUs

1. The primary use on the property must be a single-family detached house, and it must be used as a dwelling.
2. One ADU is allowed per lot.
3. An ADU is limited to the lesser of 800 sq ft or 75% of the floor area of the main structure.
4. A new ADU requires a preapplication conference with City staff.

Review and Approval of Detached ADUs

There are two review processes for ADUs, depending on the size of the unit.

Footprint, Height, and Required Yards for Detached Accessory Dwelling Units		
Level of Review	**Type I**	**Type II**
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15 feet, limited to 1 story	25 feet, limited to 2 stories
Required Side and Rear Yard	Base zone requirement for side and rear yard	5 feet
Required Front Yard	10 feet behind front yard as defined in Section 19.201, unless located at least 40 feet from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

Type I review is a staff-level review to ensure that the proposal meets all applicable codes and requirements. This is often called an "as-of-right" or "permitted outright" type of review. The review time and cost are less than what is required for a Type II review.

ADUs greater than the Type I review thresholds will be reviewed through a Type II review process. In addition to a staff-level review, to ensure that the proposal meets all relevant codes and requirements, this type of application requires a public posting on the site and notification to all properties within 300 ft of the subject property and a comment period. The final decision on the application is made by the Planning Director.

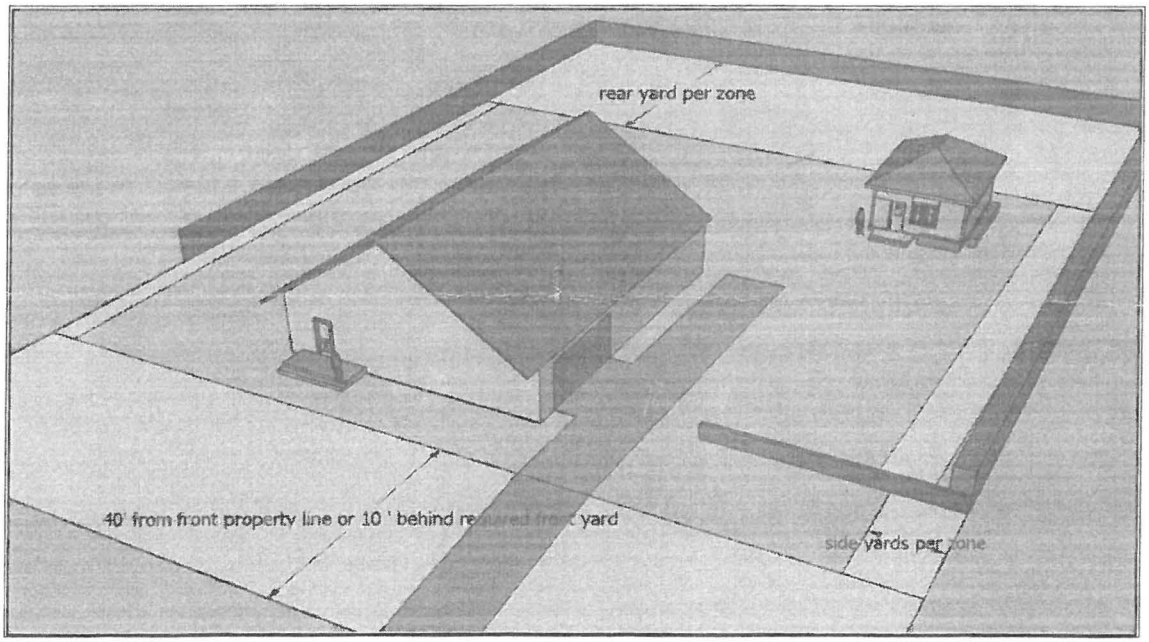
Development Standards for Detached ADUs

ADUs that are detached (a separate structure) from the primary residence must meet the development standards outlined in Table 1, below.

TABLE 1. DEVELOPMENT STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS

Requirement	Allowed by Code		Subject Property Requirements	Proposed	Comments Staff Use Only
	Type I	Type II			
Maximum Structure Footprint	600 sq ft	800 sq ft	850		
Maximum Allowed Floor Area	800 sq ft or 75% of main dwelling, whichever is less				
Building Height of detached ADU[1]	15 ft 1-story max.	25 ft 2-story max.	1 Story		
Setbacks: Front Property Line	10 ft behind required front yard or 40 ft from front lot line		X		
Setbacks: Street Side Property Line	Same as base zone				
Setbacks: Rear and Side Property Lines	Same as base zone	5 ft min.			
Maximum Lot Coverage[2]	Same as base zone (plus 5 percentage points)				
Minimum Landscaped Area[2]					

1. See page 4 of this handout for how to measure building height.
2. See Zoning Worksheets for requirements.



Required Design Elements for Detached ADUs

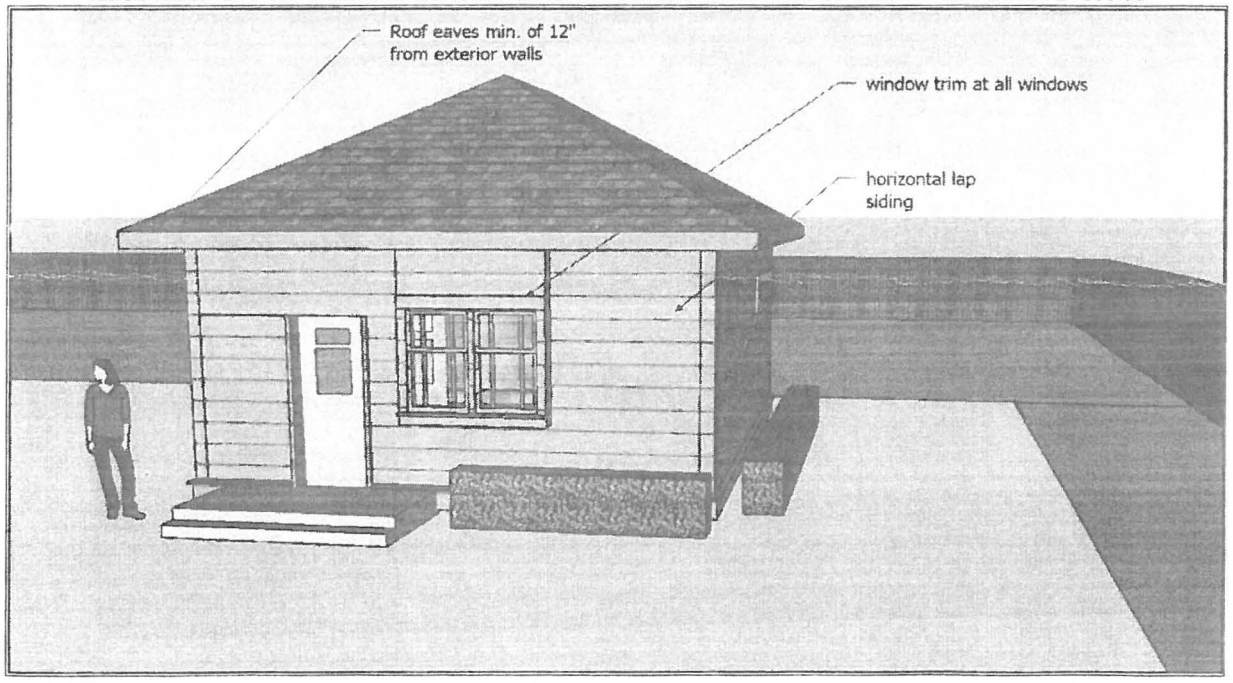
Detached ADUs must include at least 2 of the design details from Table 2, below. Yurts are allowed as detached ADUs and are exempt from this requirement, but they must meet all other ADU regulations and building codes (see MMC Subsection 19.910.4.b).

TABLE 2. DESIGN STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS

Requirement	Required by Code	Existing	Proposed	Comments Staff Use Only
Minimum roof pitch if floor-to-ceiling height is 9 ft or more[1]	**4" rise for every 12" of run (4/12 pitch)**	✓		
Privacy standard (for walls within 20 ft of adjacent residential property line)[2]	**All windows placed on upper 1/3 of wall, OR 6 ft visual screening**	✓		
All detached ADUs shall include at least 2 of the following (check at least 2):				
Covered porch	**5 ft min. depth**			
Recessed entry	**2 ft min. from exterior wall to door**			
Roof eaves	**12" min. projection**	✓		
Horizontal lap siding	**Siding between 3-7" wide**			
Window trim at all windows	**3" wide and 5/8" deep**	✓		

1. A minimum 4/12 roof pitch is required for an accessory structure greater than 10 ft and for ADUs with a floor-to-ceiling height greater than 9 ft.
2. Privacy standards must be met for Type I ADUs and may be required for Type II ADUs.

ILLUSTRATION OF DESIGN STANDARDS FOR DETACHED ACCESSORY DWELLING UNITS



Drywell Re
(See Attached)

BUILDING DEPARTMENT APPROVED
Tom Larsen 8-12-03

APPROVED
CITY OF MILWAUKIE
BY [signature] DATE 8/12/03
COMMUNITY DEVELOPMENT DEPARTMENT

Patio = 30' x 11' = 330 SQFT

SIDEWALK = 37' x 6 = 222 SQFT

HOUSE = 30' x 26' = 780 SQFT

SET BACK
From Curb. To REAR OF
House 61'

FRONT YARD =
40' x 31' = 1240 SQFT

LAND SCAPING

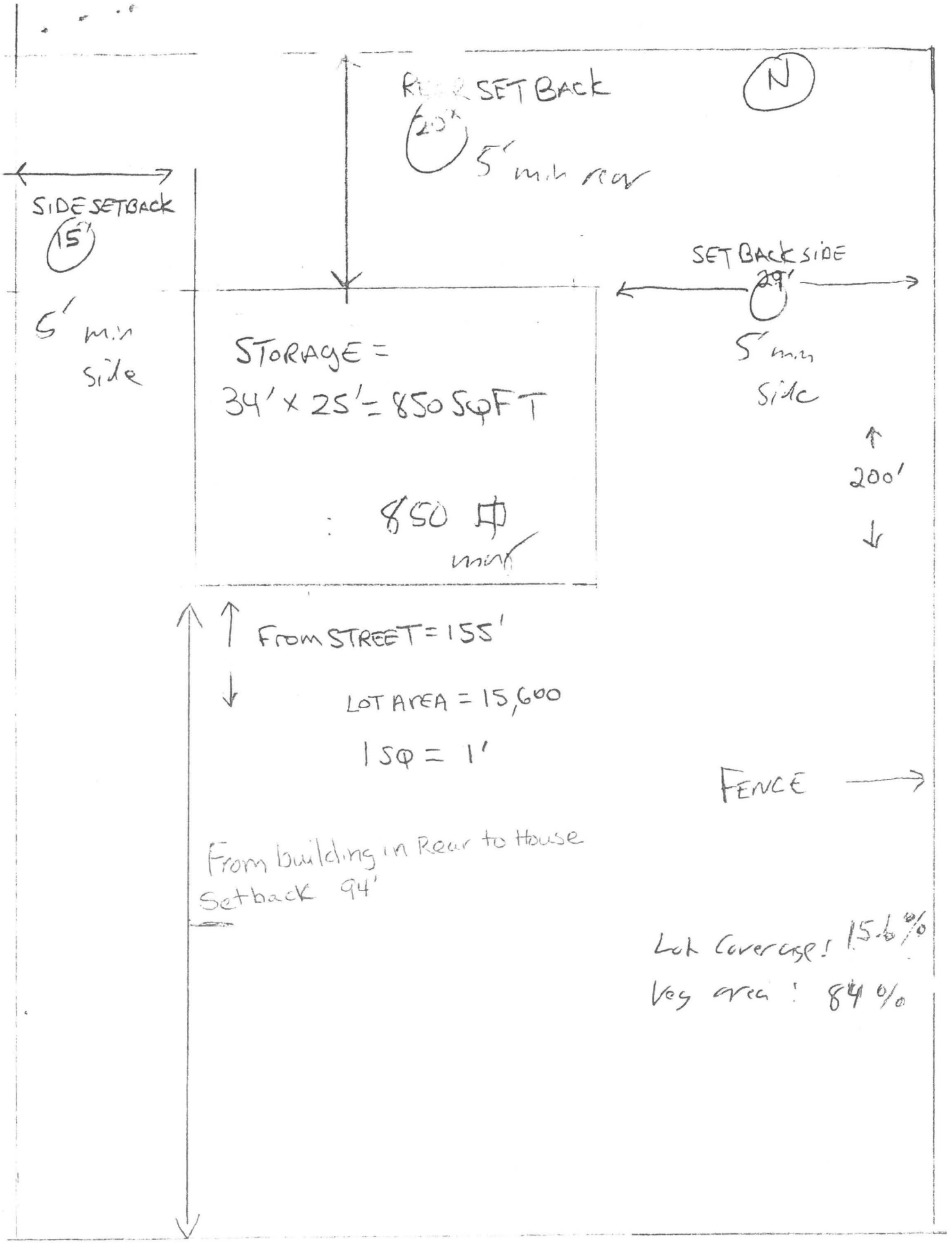
GRASS

03-317-

SITE COPY

DRIVE WAY

← 78 →


REAR SETBACK
20'
5' min rear
N
SIDE SETBACK
15'
5' min side
SET BACK SIDE
29'
5' min side
STORAGE =
34' x 25' = 850 SQFT
: 850 SQ FT
200'
FROM STREET = 155'
LOT AREA = 15,600
1 SQ = 1'
FENCE
From building in Rear to House Setback 94'
Lot Coverage: 15.6%
Veg area: 84%

Narrative

I, John Sena Requesting an Type III Variance for an 850 SqFT Existing Building at 3521 S.E. Filbert St in Milwaukie OR 97222.

The extra Space is needed for Walk-in Wheelchair Accessible Shower and Laundry Room For my Mother.

Thank you

/s/ John Sena @8.31.21

Alternatives:

Existing Building Built 2004 Type III

Variance avoids ~~no~~ impact Surrounding properties Alternatives would to Reduce Size of Building or Tear Down Existing Building and Built New 800 SQFT Building.

Space is Needed for Walk-in Wheelchair Accessible Shower & Laundry Room for Mother That is Why 50 SQFT is Essential.

Pubic Benefits Provides housing existing Building has ~~no~~ impact on Environment

City of Milwaukie



9/1/2021, 8:00:32 AM

1:564

0 0.00475 0.0095 0.019 mi

0 0.0075 0.015 0.03 km

Milwaukie City Limits

Addresses

Taxlots

Outside Milwaukie

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community
City of Milwaukie Oregon
City of Milwaukie GIS

The information depicted on this map is for general reference only. This product is for informational purposes and may not have been prepared for, or suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Contact the Milwaukie GIS for more information _gis@milwaukieoregon.gov

CITY OF MILWAUKIE
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503.786.7600
planning@milwaukieoregon.gov
building@milwaukieoregon.gov
engineering@milwaukieoregon.gov

Preapplication Conference Report

Project ID: 21-005PA

This report is provided as a follow-up to the meeting that was held on 2/25/2021 at 10:00 AM

The Milwaukie Municipal Code is available here: www.qcode.us/codes/milwaukie/

APPLICANT AND PROJECT INFORMATION

Applicant: John Sena		**Applicant Role:** Property Owner
Applicant Address:	3521 SE Filbert ST	
Company:		
Project Name:	3521 SE Filbert ST ADU	
Project Address:	3521 SE Filbert ST	**Zone:** R-7
Project Description:	Convert garage into an ADU	
Current Use:	Single-unit dwelling with detached shop/garage	
Applicants Present:	John Sena	
Staff Present:	Steve Adams, Jennifer Backhaus, Janine Gates, Stephanie Marcinkiewicz,	

PLANNING COMMENTS

Zoning Compliance (MMC Title 19)

☒	**Use Standards (e.g., residential, commercial, accessory)**	ADU's are permitted by right on residential properties, per MMC 19.910. A detached accessory structure worksheet will be required with the application materials: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/41871/adu_detached_form.pdf. The applicant proposal included converting their 850 sf garage into an ADU. proposed ADU is 850, which is over Type III variance is required to allow the proposed ADU.
☒	**Dimensional Standards**	The property is zoned R-7. Please provide a completed R-7 zoning worksheet with the land use application materials: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/38351/residentialaccessorystructures_form0.pdf. Accessory structures are subject to the dimensional standards outlined in this worksheet, which should be included with the land use application materials: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/38351/residentialaccessorystructures_form0.pdf.

Land Use Review Process		
☒	**Applications Needed**	The proposed ADU requires a Type III Variance and Type II ADU review
☒	**Fees**	Type III Variance: up to 3 requests permitted under 1 application = $2,000 Type II ADU review: $750 (25% discount for concurrent applications)
☒	**Review Type: Type III** **Review Type: Type II**	The proposed detached ADU exceeds 600 sq ft, so is subject to Type II ADU review. A Type III variance is required to allow the ADU to exceed 800 sq ft.
Overlay Zones (MMC 19.400)		
☐	**Willamette Greenway**	
☐	**Natural Resources**	
☐	**Historic Preservation**	
☐	**Flex Space Overlay**	
Site Improvements/Site Context		
☒	**Landscaping Requirements**	The R-7 zone requires that a minimum of 30% of the lot is vegetated.
☐	**Onsite Pedestrian/Bike Improvements (MMC 19.504, 19.606, and 19.609)**	
☐	**Connectivity to surrounding properties**	
☐	**Circulation**	
☒	**Building Design Standards (MMC 19.910.1.E.4.c)**	If the garage was established on or after December 1, 2012 it is required to meet all applicable standards for a new detached accessory dwelling unit. The standards can be found at MMC 19.910.1.E.4.c: https://www.qcode.us/codes/milwaukie/view.php?topic=19-19_900-19_910&frames=on.
☐	**Downtown Design Standards (MMC 19.508)**	
Parking Standards (MMC 19.600)		
☐	**Residential Off-Street Parking Requirements**	
☐	**Multi-Family/Commercial Parking Requirements**	
Approval Criteria (MMC 19.900)		
☐	**Community Service Use (CSU) (MMC 19.904)**	
☐	**Conditional Use (MMC 19.905)**	

☐	**Development Review (MMC 19.906)**	
☒	**Variance (MMC 19.911)**	Applications for a Type III variance are subject to the approval criteria in MMC 19.911.4.B. The submitted application must provide a detailed narrative explaining how each variance request meets the approval criteria: Discretionary Relief Criteria a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements. b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria: (1) The proposed variance avoids or minimizes impacts to surrounding properties. (2) The proposed variance has desirable public benefits. (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner. c. Impacts from the proposed variance will be mitigated to the extent practicable. http://www.qcode.us/codes/milwaukie/view.php?topic=19-19_900-19_911&frames=on
Land Division (MMC Title 17)		
☐	**Design Standards**	
☐	**Preliminary Plat Requirements**	
☐	**Final Plat Requirements (See Engineering Section of this Report)**	
Sign Code Compliance (MMC Title 14)		
☐	**Sign Requirements**	
Noise (MMC Title 16)		
☐	**Noise Mitigation (MMC 16.24)**	
Neighborhood District Associations		
☒	**Ardenwald-Johnson Creek**	
	Choose an item.	
Other Permits/Registration		

☐	**Business Registration**	
☐	**Home Occupation Compliance (MMC 19.507)**	
Additional Planning Notes		
ENGINEERING & PUBLIC WORKS COMMENTS		
Public Facility Improvements (MMC 19.700)		
☒	**Applicability (MMC 19.702)**	MMC 19.702 establishes the applicability of MMC 19.700, including to new construction and modification and/or expansion of an existing structure or a change or intensification in use that results in a new dwelling unit, any new increase in gross floor area, and/or in any projected increase in vehicle trips. The development proposes establishing a new detached ADU, increasing the intensity of use on the subject property. MMC 19.700 applies to the proposed development.
☐	**Transportation Facilities Review (MMC 19.703)**	No transportation impact study is required.
☐	**Transportation Impact Study (MMC 19.704)**	
☐	**Agency Notification (MMC 19.707)**	
☒	**Transportation Requirements (MMC 19.708)**	See MMC 13.32 for FILOC See MMC 12.16 for Access Management See MMC 12.24 for Clear Vision The applicant has the option of FILOC but may choose to construct sidewalk improvements instead. Sidewalk installation will not require curb improvements and must adhere to requirements outlined in the Public Works Standards.
☒	**Utility Requirements (MMC 19.709)**	Engineering will evaluate the adequacy of existing public utilities to serve the proposed development and determine whether new public utilities are warranted to ensure compliance with the City's public utility requirements and standards.
Flood Hazard Area (MMC 18)		
☐	**Development Permit (MMC 18.04.100)**	
☐	**General Standards (MMC 18.04.150)**	
☐	**Specific Standards (MMC 18.04.160)**	
☐	**Floodways (MMC 18.04.170)**	
Environmental Protection (MMC 16)		

☐	**Weak Foundation Soils (MMC 16.16)**	The proposed development is not within the regulatory City-mapped soil hazard area.
☐	**Erosion Control (MMC 16.28)**	An erosion control permit will be required for disturbances of 500 sq ft.
☐	**Tree Cutting (MMC 16.32)**	Any tree removal within the public right-of-way or on City-owned land requires a permit.
	Public Services (MMC 13)	
☒	**Water System (MMC 13.04)**	While a new water connection is not required, an 8" diameter cast iron main is available. Connection to water mains for service lines 2" and less shall be made by City crews. Excavation and paving shall be the responsibility of the applicant. A utility billing form must be submitted, and fees paid prior to the connection. An SDC estimate has been provided showing fees for a ¾" meter.
☒	**Sewer System (MMC 13.12)**	While a new connection is not required, a 15" diameter concrete main is available. All structures with sanitary facilities are required to be connected to the City sanitary sewer system. The sewer system user at all times shall, at their expense, operate and maintain the service lateral and building sewer in a sanitary manner to the collection trunk or interceptor sewer at no expense to the City. An SDC estimate has been provided.
☒	**Stormwater Management (MMC 13.14)**	For any new impervious surface, all stormwater shall be managed on site with mitigation facilities designed in accordance with the 2016 Portland Stormwater Management Manual.
☒	**System Development Charge (MMC 13.28.040)**	Development is subject to system development charges (SDCs). SDCs for sewer, county sewer, transportation, water, and county parks must be paid prior to permit issuance. See SDC Estimate for fees and charges. Note that some fees (water SDC, water meter set fee, water connection fee, and street opening) are optional based on final site design choices.
☒	**Fee in Lieu of Construction (MMC 13.32)**	Per the City Engineer, the Fee in Lieu of Construction (FILOC) rate will be $53 per Linear Foot. At a lot width of 78.02 Linear Feet, the FILOC will be $4,135.06.
	Public Places (MMC 12)	
☒	**Right of Way Permit (MMC 12.08.020)**	A Right-of-Way Permit will be required to complete any sidewalk, driveway approach, and/or utility service upgrades in the Right-of-Way.
☒	**Access Requirements (MMC 12.16.040)**	The existing driveway approach can remain as-is unless the applicant wishes to modify or update any portion of the driveway approach or apron in the right-of-way. Any modifications will require compliance with current code and Public Works Standards including, but not limited to, a 7.5-ft distance from the driveway to the side property line, adherence to widening standards, and use of an approved approach design.
☒	**Clear Vision (MMC 12.24)**	Clear vision areas must be maintained around driveway approaches. Coordinate with city staff prior to removing any vegetation in the right-of-way.
	Additional Engineering & Public Works Notes	
	See SDC Estimate for fees and charges. Please note that the fees highlighted in green are related to an optional water connection. FILOC will not be collected if the applicant chooses to instead install sidewalk under the right-of-way permit.	

BUILDING COMMENTS

All drawings must be submitted electronically through www.buildingpermits.oregon.gov

New buildings or remodels shall meet all the provisions of the current applicable Oregon Building Codes. All State adopted building codes can be found online at: https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx.

All building permit applications are electronic and can be applied for online with a valid CCB license number or engineer/architect license at www.buildingpermits.oregon.gov . Each permit type and subpermit type are separate permits and will need to be applied for individually. Plans need to be uploaded to their specific permits in PDF format as a total plan set (not individual pages) if size allows.

If you have any building related questions, please email us at building@milwaukieoregon.gov.

Additional Building Notes

As discussed, the new ADU will need to meet current energy codes in the current Oregon Residential Specialty Code (ORSC) along with any other applicable code sections that may apply.

OTHER FEES

☐	**Construction Excise Tax** Affordable Housing CET – Applies to any project with a construction value of over 100,000.	**Calculation:** Valuation *12% (.12)
☐	**Metro Excise Tax** Metro – Applies to any project with a construction value of over $100,000.	**Calculation:** Valuation *.12% (.0012)
☐	**School Excise Tax** School CET – Applies to any new square footage.	**Calculation:** Commercial = $0.67 a square foot, Residential = $1.35 a square foot (not including garages)

FIRE DISTRICT COMMENTS

Please see the attached memorandum for fire district comments.

COORDINATION WITH OTHER AGENCIES

Applicant must communicate directly with outside agencies. These may include the following:

- Metro
- Trimet
- North Clackamas School District
- North Clackamas Parks and Recreation District (NCPRD)
- Oregon Parks and Recreation
- ODOT/ODOT Rail
- Department of State Lands
- Oregon Marine Board
- Oregon Department of Fish and Wildlife (ODOT)
- State Historic Preservation Office
- Clackamas County Transportation and Development

MISCELLANEOUS

State or County Approvals Needed		
☐	**Boiler Approval (State)**	
☐	**Elevator Approval (State)**	
☐	**Health Department Approval (County)**	
Arts Tax		
☐	**Neighborhood Office Permit**	
Other Right-of-Way Permits		
☐	**Major:**	
☐	**Minor:**	
☐	**Painted Intersection Program Permits:**	
	☐ **artMOB Application**	
	☐ **Traffic Control Plan (Engineering)**	
☐	**Parklet:**	
	☐ **Parklet Application/ Planning Approval**	
	☐ **Engineering Approval**	
	☐ **Building Approval**	
☐	**Sidewalk Café:**	
☐	**Tree Removal Permit:**	
Infrastructure/Utilities		
Applicant must communicate directly with utility providers. These may include the following: • PGE • NW Natural • Clackamas River Water (CRW) • Telecomm (Comcast, Century Link) • Water Environmental Services (WES) • Garbage Collection (Waste Management, Hoodview Disposal and Recycling)		
Economic Development/Incentives		
☐	**Enterprise Zone:**	
☐	**Vertical Housing Tax Credit:**	

☐	**New Market Tax Credits:**	
☐	**Housing Resources:**	

PLEASE SEE NOTE AND CONTACT INFORMATION ON THE FOLLOWING PAGE

Permit Record: 21-005PA SDCs

Street Address: 3521 SE Filbert St

Prepared By: JMB Date: 8/4/2021

SDC	Reimbursement	Improvement	Administration	Total
Parks	$ 1,992.50	$ -	$ -	$ **1,992.50**
Transportation	$ 70.20	$ 1,397.50	$ -	$ **1,467.70**
Storm Drainage	$ -	$ -	$ -	$ -
Water	$ *1,066.00*	$ *885.00*	$ *149.00*	$ ***2,100.00***
Sewer	$ 304.20	$ 520.65	$ -	$ **824.85**
Water Meter Set Fee	$ *250.00*	$ -	$ -	$ ***250.00***
Review Fee	$ -	$ -	$ 75.00	$ **75.00**
Wastewater Treatment	$ 6,496.00	$ -	$ -	$ **6,496.00**
Short Side Service Connection Fee			$ *897.00*	$ ***897.00***
Street Opening Deposit			$ *1,500.00*	$ ***1,500.00***
			Total	$ **15,603.05**

Fees subject to change until final plans and permit issuance
Optional Fees in green added for sewer and water connection and are not required.

ESTIMATE

Pre-Application Meeting Comments:

To: Janine Gates, City of Milwaukie

From: **Alex McGladrey**, Deputy Fire Marshal, Clackamas Fire District #1

Date: **03/08/2021**

Re: **21-005PA, Shop Conversion to ADU at 3521 SE Filbert St**

This review is based upon the current version of the Oregon Fire Code (OFC), as adopted by the Oregon State Fire Marshal's Office. The scope of review is typically limited to fire apparatus access and water supply, although the applicant must comply with all applicable OFC requirements. When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access and water supply may be modified as approved by the Fire and Building Code Officials. The following items should be addressed by the applicant:

Fire Department Apparatus Access

1) Provide address numbering that is clearly visible from the street
2) No part of a building may be more than 150 feet from an approved fire department access road.
3) Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to fire hydrants) and an unobstructed vertical clearance of not less than 13 feet 6 inches.
4) Driveways serving up to three, single-family dwellings or duplexes may be reduced to 12 feet in width, but shall provide 20 feet of clear width.
5) Fire apparatus access roads must support a 75,000 lb. fire apparatus.

Water Supply

1) Fire Hydrants, One and Two-Family Dwellings & Accessory Structures: Where a portion of a structure is more than 600 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the structure(s), additional fire hydrants and mains shall be provided.
2) For one and two family dwellings located in areas with reliable municipal fire fighting water supply the following shall apply:
    a. <3,600 square feet (including attached garage)
        i. 1,100 gpm @ 20 psi with hydrant within 600 feet of furthest portion of new residential construction, (OFC Section B105.2)
    b. >3,600 square feet (including attached garage)
        i. Shall meet fire flow requirements specified in Appendix B of the current Oregon Fire Code, (OFC, Table B105.1)
        ii. Shall meet hydrant coverage as specified in appendix C of the current Oregon Fire Code, (OFC , Table C105.1)

Note: In lieu of the above fire flow requirements, residential fire sprinklers may be considered as an alternate when approved by the Fire Marshal.

3) The applicant must obtain a stamp of approval from Clackamas Fire District #1 that demonstrates fire apparatus access and water supply requirements will be satisfied.

Please see our design guide at:
http://www.clackamasfire.com/wp-content/uploads/2020/07/2020-07-08-Fire-Code-Applications-Guide.pdf

*Call or email with any questions. alex.mcgladrey@clackamasfire.com

Thank you,

Alex McGladrey
Deputy Fire Marshal
Clackamas Fire District #1
503-742-2662

This is only preliminary preapplication conference information based on the applicant's proposal, and does not cover all possible development scenarios. Other requirements may be added after an applicant submits land use applications or building permits. City policies and code requirements are subject to change. If a note in this report contradicts the Milwaukie Municipal Code, the MMC supersedes the note. If you have any questions, please contact the City staff that attended the conference (listed on Page 1). Contact numbers for these staff are City staff listed at the end of the report.

Sincerely,

City of Milwaukie Development Review Team

BUILDING DEPARTMENT		
Samantha Vandagriff	**Building Official**	**503-786-7611**
Harmony Drake	**Permit Specialist**	**503-786-7623**
Stephanie Marcinkiewicz	**Inspector/Plans Examiner**	**503-786-7636**
ENGINEERING DEPARTMENT		
Steve Adams	**City Engineer**	**503-786-7605**
Dalton Vodden	**Associate Engineer**	**503-786-7617**
PLANNING DEPARTMENT		
Dennis Egner	**Planning Director**	**503-786-7654**
Vera Kolias	**Senior Planner**	**503-786-7653**
Brett Kelver	**Associate Planner**	**503-786-7657**
Mary Heberling	**Assistant Planner**	**503-786-7658**
COMMUNITY DEVELOPMENT DEPARTMENT		
Leila Aman	**Community Development Director**	**503-786-7616**
Alison Wicks	**Development Programs Manager**	**503-786-7661**
Alicia Martin	**Administrative Specialist II**	**503-786-7600**
Tempest Blanchard	**Administrative Specialist II**	**503-786-7600**
Dan Harris	**Administrative Specialist II**	**503-786-7600**
CLACKAMAS FIRE DISTRICT		
Mike Boumann	**Lieutenant Deputy Fire Marshal**	**503-742-2673**
Izak Hamilton	**Fire Inspector**	**503-742-2660**

CITY OF MILWAUKIE

To: Planning Commission

Through: Laura Weigel, Planning Manager and Peter Passarelli, Public Works Director

From: Vera Kolias, Senior Planner and Natalie Rogers, Climate and Natural Resources Manager

Date: November 2, 2021, for November 9, 2021, Public hearing

Subject: File #ZA-2021-002 – Proposed Code Amendments: Middle Housing, Residential Parking, and Tree Preservation – Hearing #3

ACTION REQUESTED

Open the public hearing for land use file #ZA-2021-002. Discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 17 (Land Division), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map, take public testimony, and provide direction to staff regarding any desired revisions to the proposed amendments.

Discussion about the proposed revisions to Title 16 (Tree Code) are the focus of this hearing.

The requested action this evening is that the Planning Commission recommend City Council approval of file #ZA-2021-002 and adoption of the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

BACKGROUND INFORMATION

Please review the staff reports from the October 12, 2021 and the October 26, 2021 public hearings for background information on this project.

Through these updates to the City's zoning code, the following policy mandates are addressed:

- Increasing the supply of middle and attainable housing, and providing equitable access and housing choice for all
- Increasing the tree canopy and preserving existing trees to support the City's goal of a 40% tree canopy
- Managing parking to enable middle housing and protect trees

ANALYSIS

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees *(the focus of the November 9 hearing)*

It is clear that trees are very important to Milwaukians, are a major contributor to the quality of life in Milwaukie and could be considered a signature feature of the city to be nurtured and protected. Trees are important to reducing stormwater runoff and associated utility costs, improving residents' health outcomes, helping the city meet its climate goals, reducing the urban heat island effect, and can increase property values.

Many of the magnificent trees in Milwaukie are on private property, therefore it is appropriate that these trees be considered for additional protections to achieve the community's goals. As a result, trees on private property will be regulated differently than they have been in the past. These protections will help preserve the existing canopy and contribute to the future canopy of the city.

A culture shift will be required on the part of Milwaukians, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. Staff and community members will begin to have tree specific conversations early in the development application process, as a result there will be a much better understanding of the community's goals regarding trees.

The city Tree Board, established in 2017, and the Public Works department now view trees as a form of citywide green infrastructure that needs to be managed just like other forms of built infrastructure. Unlike hard infrastructure, trees are the only urban infrastructure that exponentially increase in community benefits and value over time. Urban trees offer an important opportunity to mitigate climate change induced high temperatures and air quality impacts faced by Milwaukie residents. The potential of trees to regulate temperature is widely acknowledged in scientific literature and daytime temperatures can be significantly reduced at the city block scale when canopy exceeds 40%.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, Urban Forestry Management Plan, and Community Vision. In Goal 3 of the Comprehensive Plan a target is established to have 40% tree canopy throughout the City using a combination of development code and other strategies. Comp Plan goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

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

- Title 16 – Environment, 16.32 – Tree Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone

Summary of Key Changes

Amendments related to Trees *(to be discussed in detail on November 9)*
Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forest Management Plan.

The existing tree code addresses only trees in the public right of way or on public property, like park or street trees. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forest Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In this package of code amendments, private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume, and protection standards for development situations, and a simplified permitting process for non-development residential tree removal. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removal on private property, a permit will be required as well as tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees, trees posing safety hazards, invasive species, and trees significantly impacting infrastructure without practical mitigation.

The proposed amendments to the City's municipal code Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet City policy goals for greater forest diversity, more native and climate-resilient species, improving the ecological function and creating multi-level, uneven-aged canopy.

Key amendments include:

- Regulate preservation and protection of trees on private property in residential zones, including:
    - Define standards for preserving and protecting trees
    - Create a process for application and development review
    - Define rare or threatened trees
    - Establish minimum tree canopy of 40% per lot in development situations
- Amend "Vegetation Buffer Requirements" in MMC 19.401 Willamette Greenway overlay zone to be consistent with updated tree code
- Update "Native Plant List" referenced in Natural Resource Overlay Zone to include other vegetation types and nuisance/prohibited plants

- Update native vegetation and native plant definitions to be consistent with new tree code.

Proposed revisions to posted code package – Tree Code

The following is a summary of proposed revisions to the posted code amendment package based on comments from the Planning Commission, public and additional staff review (See Attachment 2):

- 16.32.010 Revisions to definitions section to align with current job titles
- 16.32.042 Tree Preservation in Residential Zones: development scenarios
    - 16.32.042.B: tree preservation requirements were modified to better meet land use approval requirements. Changes include switching from a 33% maximum removal of existing canopy before mitigation (66% existing canopy preservation) to a 30% minimum total site canopy preservation before mitigation requirement. Provides lower mitigation requirements for affordable housing developments. Mitigation fees are based on thresholds of onsite canopy removal below 30% (20% for affordable housing). Invasive species are removed from canopy percent calculations.
    - 16.32.042.C: invasive species are removed from canopy percent calculations. Code language is revised for clarity.
    - 16.32.042.E: code is revised to establish a variance procedure through planning commission for the use of sustainable site development alternatives instead of paying mitigation fees.
    - 16.32.042.H removed reference to priority tree species and instead reference Milwaukie Rare or Threatened Tree List.
- 16.32.042 Tree Preservation in Residential Zones: non-development scenarios
    - 16.32.042.I.2: one healthy tree removal (less than 18" in diameter) per year per property is included in the Type 1 approval standards. This inclusion aligns with other jurisdiction's tree codes.
    - 16.32.042.I.5 and 6: code is expanded to include application procedures for Type 1 and 2 permits, and the appeals process is modified such that appeals go directly to the City Manager.
- 16.32.042.J: enforcement code was changed to remove land use permit and business license revocation and suspension penalties.

Summary of comments and proposed revisions discussed on October 12 and October 26

The following is a summary of proposed revisions to the posted code amendment package based on direction from the Planning Commission regarding middle housing and parking (See Attachment 3):

- Allow flag lots and back lots in subdivisions

- Reduce minimum off-street parking for middle housing to 0 spaces per dwelling unit for middle housing, except cottage clusters.
    - Reduce minimum off-street parking for cottage clusters in the R-MD zone to 0.5 spaces per cottage.
- Reduce the minimum lot size for all middle housing types, except cottage clusters and townhouses, to 3,000 sq ft
- Reduce minimum setbacks for income-restricted housing

CONCLUSIONS

Staff recommendation to the Planning Commission

The final recommendation is:

1. Recommend that the City Council approve the proposed amendments to MMC Title 19 (Zoning) and Title 17 (Land Division), the Zoning Map, the Comprehensive Plan Land Use Map, and to the Comprehensive Plan presented in Attachments 1-b and 1-c.
2. Recommend that the City Council adopt the proposed ordinance and attached Findings in Support of Approval presented in Attachments 1 and 1-a, respectively.

The proposed amendments implement a number of comprehensive plan goals and policies related to housing, tree preservation, and residential parking. The amendments are intended to increase the supply of middle and attainable housing, and provide equitable access and housing choice for all, both as a response to the comprehensive plan and also to comply with the requirements of HB 2001. The proposed code amendments are the result of an evaluation of the existing zoning ordinance to reduce barriers to and encourage development of smaller, potentially more affordable housing types. Accessory dwelling units, cottage cluster housing, townhouses, and other middle housing types are now proposed to be permitted by right in all residential zones in the city. Residential off-street parking amendments are in line with HB 2001 and acknowledge that construction of off-street parking increases the cost of housing.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forest Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

CODE AUTHORITY AND DECISION-MAKING PROCESS

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

- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Section 19.1008 Type V Review

This application is subject to Type V review, which requires the Planning Commission to hold an initial evidentiary hearing to and then forward a recommendation to the City Council for a final decision. Type V applications are legislative in nature and involve the creation, revision, or large-scale implementation of public policy.

The Commission has 4 decision-making options as follows:

A. Recommend that Council approve the proposed amendments as per to the recommended Findings in Support of Approval.

B. Recommend that Council approve the proposed amendments with revisions, including modifications to the recommended Findings in Support of Approval. Such modifications need to be read into the record.

C. Recommend that Council deny the proposed amendments.

D. Continue the hearing.

There is no deadline for a final decision on Type V applications, as they are legislative in nature.

COMMENTS

Notice of the proposed amendments was mailed to the owners of all residential properties within the city limits.

Notice was also provided to the following agencies and departments: City of Milwaukie Building, Engineering, and Public Works Departments; Milwaukie City Attorney; Chairpersons & Land Use Committees (LUCs) for all Neighborhood District Associations (NDAs), Metro, and Department of Land and Conservation Development. Notice was also posted at City Hall, the Johnson Creek Facility, the Milwaukie Police Department, and the Ledding Library. A postcard notice in both English and Spanish was mailed to all addresses in the city that receive the Pilot newsletter. A Measure 56 notice was mailed to all residential addresses on October 15, 2021 related to the proposed tree code. Additional outreach was done via city social media outlets, Engage Milwaukie, and the project email subscription list.

See Attachments 4 and 5 for complete public comment details since the proposed code was posted on August 31, 2021.

ATTACHMENTS

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

	PC Packet	Public Copies	EPacket
1. Ordinance	☒	☒	☒
a. Recommended Findings in Support of Approval (including Metro and State Findings)	☒	☒	☒

	PC Packet	Public Copies	EPacket
b. Draft code amendment language (underline/strikeout)	☒	☒	☒
c. Draft code amendment language (clean)	☒	☒	☒
2. Proposed revisions to posted Tree Code	☒	☒	☒
3. Proposed Revisions to code amendments – Titles 12, 17, and 19	☒	☒	☒
4. Public comment spreadsheet tracker	☒	☒	☒
5. Public comments received	☒	☒	☒

Key:
PC Packet = materials provided to Planning Commission 7 days prior to the meeting.
E-Packet = packet materials posted online at https://www.milwaukieoregon.gov/bc-pc/planning-commission-84, available 7 days prior to the meeting.

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

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

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

WHEREAS, the proposed code amendments implement several of the goals and policies of the city' comprehensive plan related to housing and tree preservation and comply with Oregon House Bill 2001; and

WHEREAS, legal and public notices have been provided as required by law, and that all residential addresses in the city were notified of the amendments and multiple opportunities for public review and input has been provided over the past 15 months; and

WHEREAS, on October 12 and October 26, 2021, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

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

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

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

Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

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

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark F. Gamba, Mayor

ATTEST:

Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

Justin D. Gericke, City Attorney

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

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

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

2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing, tree preservation, and parking. Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city. The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land.

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

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

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

- Chapter 19.700 PUBLIC FACIILTY IMPROVEMENTS
  - Section 19.702.1 General
  - Section 19.702.2 Single Unit Residential Expansions
  - Section 19.702.4 Exemptions
  - Section 19.703.4 Determinations
  - Section 19.704.4 Mitigation
  - Section 19.708.2 Street Design Standards
- Chapter 19.900 LAND USE APPLICATIONS
  - Section 19.901 Introduction
  - Section 19.906 Development Review
  - Section 19.910.1 Accessory Dwelling Units
  - Section 19.901.2 Duplexes
  - Section 19.911 Variances
- Municipal Code - Title 17 Land Division
  - Chapter 17.28 DESIGN STANDARDS
    - Section 17.28.050 Flag Lot Development and Future Access
    - Section 17.28.060 Flag Lot Design Standards
    - Section 17.28.070 Flag Lot Limitation
- Municipal Code - Title 12 Streets, Sidewalks, and Public Places
  - Chapter 12.16 ACCESS MANAGEMENT
    - Section 12.16.030 Access Permitting
    - Section 12.16.040 Access Requirements and Standards
- Municipal Code - Title 13 Public Services
  - Chapter 13.30 REIMBURSEMENT DISTRICTS
    - Section 13.30.010 Definitions
- Municipal Code - Title 16 Environment
  - Chapter 16.32 TREE CODE
    - Section 16.32.010 Definitions
    - Section 16.32.030 Permit and Fee Exemptions
    - NEW: Section 16.32.042 Tree Preservation and Planting in Residential Zones

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

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

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

6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on October 12, 2021, October 26, 2021, December 7, 2021, December 21, 2021, and January 18, 2022 as required by law.

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

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

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

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

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

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

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

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

of the draft amendments have been posted on the application webpage since August 31, 2021. On September 1, 2021 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's October 12, 2021, hearing was posted as required on September 1, 2021. A notice of the City Council's December 7, 2021, hearing was posted as required on November 4, 2021.

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

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

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

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

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

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

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

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

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

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances

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

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

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

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

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

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

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

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

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

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

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

(a) Title 1 Housing Capacity

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

(b) Title 7 Housing Choice

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

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Grown Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

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

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

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

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

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

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

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

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

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

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

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

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

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

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

The goals and policies of the Comprehensive Plan support the amendments to allow middle housing opportunities in all residential zones in the city and the development of a new tree code:

(c) Section 3 – Natural Resources and Environmental Quality:

Protect, conserve, and enhance the quality, diversity, quantity and resiliency of Milwaukie's natural resources and ecosystems, and maintain the quality of its air, land, and water. Utilize a combination of development regulations, incentives, education and outreach programs, and partnerships with other public agencies and community stakeholders.

(a) Policy 3.4.2:

Pursue the City's goal of creating a 40% tree canopy through a combination of development code and other strategies that lead to preservation of existing trees and planting of new trees and prioritize native and climate-adapted species, while also considering future solar access.

(b) Policy 3.4.3:

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

(d) Section 6 – Climate Change and Energy Goals and Policies:

Promote energy efficiency and mitigate the anticipated impacts of climate change in Milwaukie through the use of efficient land use patterns, multimodal transportation options, wise infrastructure investments, and increased community outreach and education as outlined in the City's Climate Action Plan.

(a) Policy 6.1.4:

Develop standards and guidelines that contribute to a 40% citywide tree canopy.

(b) Policy 6.16:

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

(e) Section 7 – Housing:

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

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

(a) Goal 7.1 – Equity:

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

(i) Policy 7.1.1:

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

(ii) Policy 7.1.2:

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

(iii) Policy 7.1.3:

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

(b) Goal 7.2 – Affordability:

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

(i) Policy 7.2.2:

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

(ii) Policy 7.2.4:

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

(c) Goal 7.3 – Sustainability:

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

(i) Policy 7.3.1:

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

(ii) Policy 7.3.8:

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

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

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

(a) Goal 8.3 – Process:

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

(i) Policy 8.3.2:

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

The proposed amendments implement sections of the comprehensive plan related to middle housing, residential parking, and tree preservation and are in compliance with Oregon House Bill 2001. Zoning code and map amendments to allow middle housing options in all residential zones will move the city closer to realizing its goal of providing "safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability".

Through these updates to the City's zoning code, the following policy mandates are addressed:

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

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

(g) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

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

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

(i) Title 1 Housing Capacity

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

(ii) Title 7 Housing Choice

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

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

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Grown Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

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

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

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

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

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

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

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

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

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

i. Site location and character of the area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachment 1.a.1

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

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

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

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

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

Title 1: Housing Capacity

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

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

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

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

Title 7: Housing Choice

Finding:

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

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

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

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

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

Title 8: Compliance Procedures

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

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

Title 13: Nature in Neighborhoods

Finding: The purpose of Title 13 is twofold: (1) to conserve, protect, and restore a continuous ecologically viable streamside corridor system in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality and prevent water pollution. The City is required to comply with Title 13 for all mapped resources located within the City. By meeting the requirements of Title 13, the City also complies with Statewide Planning Goal 5 for riparian areas and wildlife habitat. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance with Title 13.

The proposed code amendments do not propose any changes to the City's habitat protection program or inventory of habitat resources. Further the amendments strengthen the City's approach to habitat conservation with a new tree code that applies to residential properties. The new tree code applies to both new development and non-development activities.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan.

The current tree code addresses only trees in the public right of way or on public property, like park or street trees. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forestry Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In the proposed code amendments, private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume and

protection standards. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removal on private property, a permit will be required as well as tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees, trees posing safety hazards, invasive species, and trees significantly impacting infrastructure without practical mitigation.

The proposed amendments to the City's municipal code Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet City policy goals for greater forest diversity, more native and climate-resilient species, improving the ecological function and creating multi-level, uneven-aged canopy.

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

Statewide Findings for Milwaukie Plan and Code Amendments – Middle Housing

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

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

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

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

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

Goal 1: Citizen Involvement

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

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

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

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

Project Community Engagement Goals

At the beginning of the project, community engagement goals for the project were established. The goals included:

- Creating opportunities for as wide a reach of engagement as possible given the schedule and budget limitations.
- Making a concerted effort to engage historically under-represented communities. To quantify this goal, the project targeted having participation in the community surveys being approximately equivalent to the overall demographics in the city of Milwaukie.
- Focusing communications and seeking input in no-contact techniques while reaching out to multiple groups in smaller venues (via Zoom), rather than holding large city-wide open house events due to Covid.
- Communicating information in a way that people can provide meaningful input on the complex issues, such as by breaking down topics into understandable pieces and using visual images and examples to illustrate different policy concepts.
- Having a transparent and inclusive process that seeks both to educate and provide opportunities for input.
- Providing an open and welcoming process, with emphasis placed on using inclusive language in conversations, materials and plan and policy recommendations.
- Documenting public input and responding to individual comments.

Project Webpages

Information about the project was available on both the City of Milwaukie's website and at Engage Milwaukie, the City of Milwaukie's online engagement platform.

General project information was available on the City's website

(https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation), including project background, CPIC meeting information, summaries of the open houses, and contact information.

Engage Milwaukie (https://engage.milwaukieoregon.gov/comprehensive-plan-implementation) was utilized for the virtual open houses, community surveys, and to provide a forum for ongoing feedback. When the community surveys were closed, Engage Milwaukie also maintained the information from the open houses to be accessed by the public as desired. After registering, the public could comment on the project at any time during the process. Comments provided on Engage Milwaukie were included in the open house and community survey summaries.

Pilot Newsletter

Articles about the project were included monthly in the Pilot Newsletter, distributed to all residents within the City of Milwaukie. Articles provided background information about the project, informed people of upcoming opportunities for public input and provided updates of key project milestones.

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

Stakeholder Interviews

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The stakeholders included Milwaukie residents, housing advocates, housing developers, NDA chairs, City Councilors, and members of the Milwaukie community with ties to those who are historically under-represented in public processes.

Advisory Committee

The City appointed a Comprehensive Plan Implementation Committee (CPIC) in the spring of 2020 to provide feedback on the zoning code and map amendments. The 15-member committee (13 community members and two planning commissioners/City Councilors) offered feedback on code concepts and ensured that the diverse interests of the Milwaukie community are reflected in the code and map amendments, while also adhering to the state's requirements. The CPIC met 10 times from June 2020 through July 2021. Their input was incorporated into the draft code amendments that were brought before the Planning Commission and City Council for review. All meetings of the CPIC were held virtually over Zoom due to Covid restrictions, but were open to the public and time was reserved at each meeting for non-committee members to comment.

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

Virtual Open Houses, with Accompanying Community Surveys

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

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

- Open house #1: Fall 2020

  The first virtual open house and corresponding community survey was available from November 12 through November 29, 2020. The purpose of the first open house was to educate the public about the project, including the policy mandates guiding the project, and to seek input on the community's preferences. As part of the open house, participants could provide open-ended comments on each topic and/or could participate in the community survey. The survey sought input on the priorities of the Milwaukie community related to housing, trees and parking.

  Ninety-three people provided feedback through the community survey. Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

  Feedback from the first open house, in conjunction with CPIC input, was used to identify priorities and preferences for the code concepts regarding housing, parking and tree preservation.

- Open house #2: Spring 2021

  The virtual open house and corresponding survey was available from March 22 through April 15, 2021. The second open house provided code concepts for public review and comment. Concepts explored included parking locations, tree requirements and priorities related to the design of middle housing. The corresponding survey asked for feedback on specific scenarios for parking location and the number of parking spaces, and building form. Questions also sought to gain insight on preferences for site design and code flexibility.

  There were 121 completed surveys and 149 people either provided comments and/or completed the survey. Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

  Feedback from the second open house, in conjunction with CPIC input, was used to refine the code concepts and create draft code amendments.

- Open house #3: Spring 2021

  A third open house, available starting June 25, 2021 and staying open throughout the adoption process, presented the draft code amendments for public review and comment. Open house participants could either provide feedback through comments on Engage Milwaukie or by emailing the City's project manager. The open house also laid out the code amendment adoption process and identified how the public can provide public testimony during the process.

Neighborhood District Association (NDA) Presentations

Throughout the process, City planning staff provided project updates at Neighborhood District Association (NDA) meetings. In an effort to encourage as many people as possible to participate in the second open house and take the survey, city staff facilitated virtual discussions with each NDA at their regular monthly meetings in March and April 2021.

Small Group Discussions

In an effort to increase participation from a diverse cross-section of the Milwaukie community, City planning staff held virtual meetings advertised to target audiences.

- Spanish language small group meeting

  On April 14, 2021, city staff and a professional Spanish language interpreter facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and processes, and the entire discussion was held in Spanish, with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC.

- Black, Indigenous, people of color (BIPOC) small group meeting

  On April, 2021 city staff, including the City's Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and processes as part of a larger open discussion. Three people participated in the meeting.

In addition, City planning staff facilitated an open meeting via Zoom advertised on Nextdoor and the city's Facebook and Instagram sites.

Feedback from these small group discussions were incorporated into the draft code amendments.

Planning Commission and City Council Updates

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

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

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

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

Goal 2: Land Use Planning

Goal 2. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Goal 2 requires the City to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

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

Goal 2 does not apply to the proposed amendments.

Goal 5: Natural and Historic Resources

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

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

The proposed code amendments do not propose any changes to the City's habitat protection program or inventory of habitat resources. Further the amendments strengthen the City's approach to habitat conservation with a new tree code that applies to residential properties.

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

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

Goal 6: Air, Water, and Land Resources Quality

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

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

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

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

Goal 7: Natural Hazards

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

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

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

Goal 7 does not apply to the proposed code amendments.

Goal 9: Economic Development

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

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

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

Goal 9 does not apply to the proposed code amendments.

Goal 10: Housing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- System Development Charges (SDCs)

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

- Construction Excise Tax (CET)

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

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

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

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

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

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

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

Goal 11: Public Facilities

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

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

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

Goal 12: Transportation

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

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

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

Goal 13: Energy

Goal 13: To conserve energy.

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

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

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

Goal 14: Growth Management

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

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

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

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

Goal 15: Willamette Greenway

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

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

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

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

Underline/Strikeout Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

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

Comprehensive Plan Residential Land Use Designations

~~Low Density Residential: Zones R-10 (3.5-4.4 units/acre) & R-7 (5.0-6.2 units/acre) - 50% of City~~

- ~~a. Permitted housing types include single-unit detached, accessory dwelling units, and duplexes on large lots.~~
- ~~b. Transportation routes are limited primarily to collectors and local streets.~~
- ~~c. Sites with natural resource or natural hazard overlays may require a reduction in density.~~

Moderate Density Residential: ~~Zones R-5 (7.0-8.7 units/acre)~~ Zone R-MD (5.0 – 34.8 units/acre)

a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, ~~and~~ duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
b. Transportation routes are limited primarily to collectors and local streets.
c. Sites with natural resource or natural hazard overlays may require a reduction in density.
~~b. Convenient walking distance to a transit stop or close proximity to commercial and employment areas distinguish moderate density residential from low density residential.~~

~~Medium Density Residential: Zones R-3 (11.6-14.5 units/acre) & R-2.5, R-2 (11.6-17.4 units/acre)~~

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

High Density: ~~High Density: Zones R-1 & R-1-B (25.0-32.0 units/acre)~~ Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)

a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
c. Access to High Density areas should be primarily by major or minor arterials.
d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

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

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

19.107.2 Zoning Map

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

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

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

As used in this title:

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

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

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

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

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

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

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

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

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

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

"Owner" means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's written consent ~~includes an authorized agent of the owner~~.

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

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

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity ~~a woody plant characterized by one main stem or trunk of at least 6-in diameter, according to the measurement standards established in Subsection 19.202.3~~.

Residential Uses and Structures

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

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

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

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

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

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

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

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

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

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

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

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

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

19.202 MEASUREMENTS

19.202.4 Density Calculations

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

C. Discrepancy between Minimum Required and Maximum Allowed Density

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

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

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

19.301.1 Purpose

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

19.301.2 Allowed Uses in Moderate Density Residential Zones

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

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

Table 19.301.2
Moderate Density Residential Uses Allowed

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

P = Permitted/allowed by right

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

19.301 LOW DENSITY RESIDENTIAL ZONES

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

19.301.1 Purpose

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

19.301.2 Allowed Uses in Low Density Residential Zones

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

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

Table 19.301.2
Low Density Residential Uses Allowed

Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes **Subsection 19.910.2** Duplexes
Residential home	P	P	P	**Subsection 19.505.1** Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	N	III	III	**Subsection 19.910.3** Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	**Subsection 19.905.9.G** Senior and Retirement Housing
Commercial Uses				
Bed and breakfast or Vacation rental	CU	CU	CU	**Section 19.905** Conditional Uses

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

~~P = Permitted.~~

~~N = Not permitted.~~

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

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

~~II = Type II review required.~~

~~III = Type III review required.~~

19.301.3 Use Limitations and Restrictions

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

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

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

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

19.301.4 Development Standards

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

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

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage[1]	Single Detached Dwelling, Single Detached Dwelling, with 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. Minimum yard requirements for primary structures (ft)					**Subsection 19.301.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions **Subsection**
a .Front yard	20 [3]	20	20	20	
b. Side yard	5 [3]	5	5	5/10	

[1] For a Cottage within a Cottage Cluster only

[2] Townhouses are not permitted on flag lots

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

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
c. Street side yard	15 [3]	15	15	20	**19.504.8** Flag Lot and Back Lot Design and Development Standards **Subsection 19.505.4** Cottage Cluster Housing **Subsection 19.505.5** Townhouses
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				
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
a. Minimum	25	7.0	7.0	5.0	

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
b. Maximum	34.8 [4]	8.7 [5]	8.7 [5]	6.2 [5]	**Subsection 19.501.4** Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4

19.301.5 Additional Development Standards

A. Side Yards

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

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

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

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

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

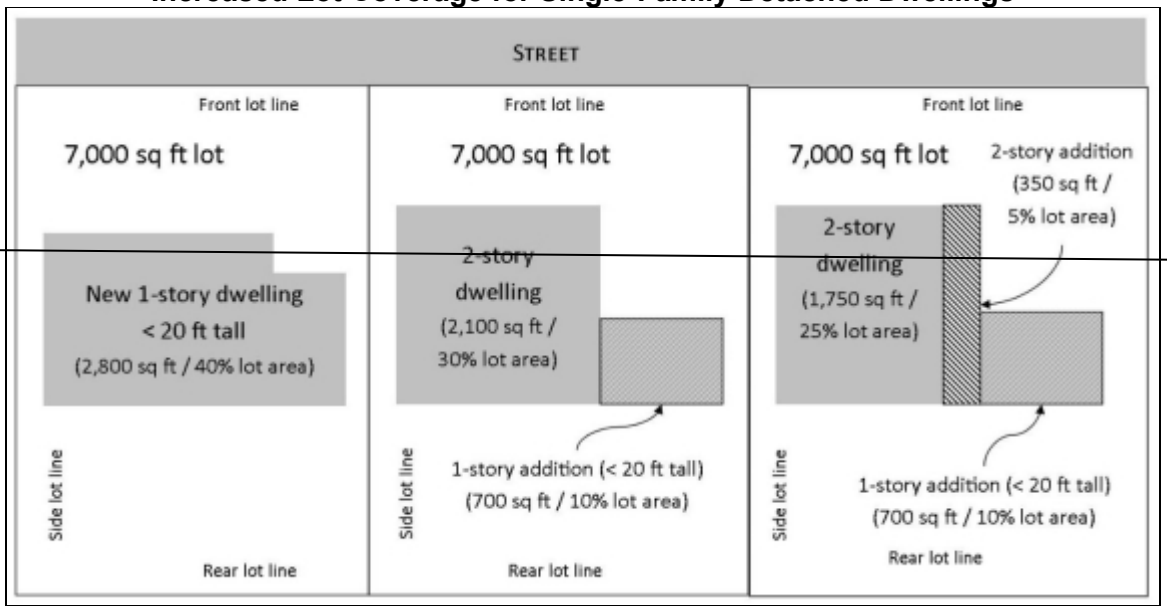
[4] Represents the maximum density of townhouses permitted on this lot size. Cottage clusters are exempt from this density maximum.

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

the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

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



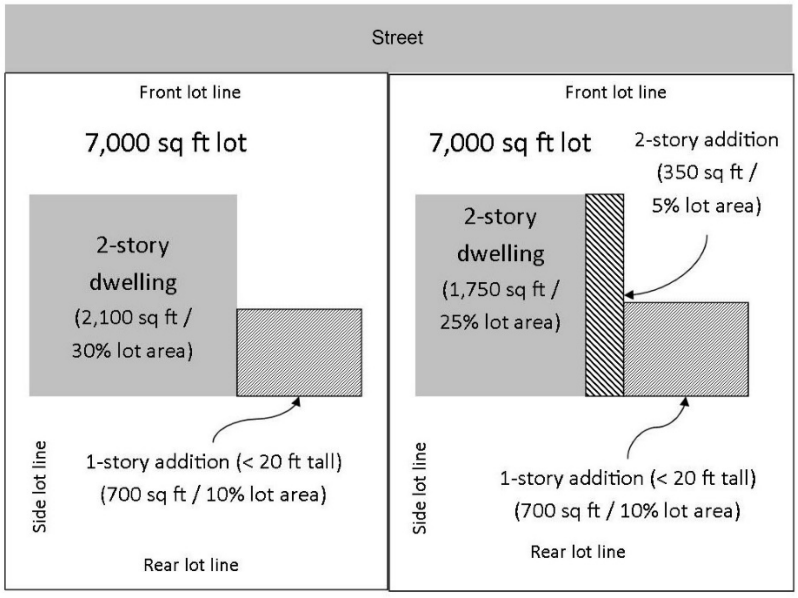


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD. ~~R-7 based on 7,000-sq-ft lot area.~~

3. Increased Lot Coverage for ~~Duplexes~~ Middle Housing

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by ~~20~~10 percentage points for ~~a duplex~~ One to Four Dwelling Units, provided that the portions of the structure(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.

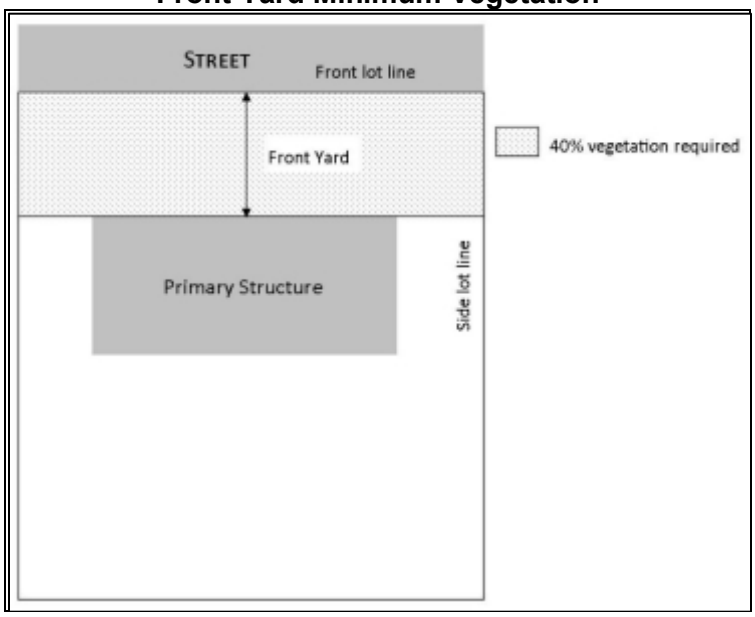
4. Increased Lot Coverage for Detached Accessory Dwelling Units

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

C. Front Yard Minimum Vegetation

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

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

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

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The

inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

~~F. Number of Dwelling Structures~~

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

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

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

G. ~~H.~~Public Facility Improvements

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

H. ~~I.~~ Additional Standards

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

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

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

~~19.301.4 Development Standards~~

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

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

~~Table 19.301.4~~ **~~Low Density Residential Development Standards~~**				
~~Standard~~	**~~R-10~~**	**~~R-7~~**	**~~R-5~~**	**~~Standards/~~** **~~Additional Provisions~~**

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

Table 19.301.4 CONTINUED
Low Density Residential Development Standards

Standard	R-10	R-7	R-5	Standards/ Additional Provisions
A. Lot Standards CONTINUED				
b. Flag lot			25	
c. Double flag lot			35	
B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				**Subsection 19.301.5.A** Side Yards
a. Front yard	20	20	20	**Subsection 19.501.2** Yard Exceptions
b. Side yard	10	5/10	5	**Subsection 19.504.8** Flag Lot Design and Development Standards
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	

Table 19.301.4 CONTINUED
Low Density Residential Development Standards

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

~~C. Other Standards~~				
~~1. Density requirements(dwelling units per acre)~~				~~**Subsection 19.301.5.D** Residential Densities~~
~~a. Minimum~~	~~3.5~~	~~5.0~~	~~7.0~~	~~**Subsection 19.501.4** Density Exceptions~~
~~b. Maximum~~	~~4.4~~	~~6.2~~	~~8.7~~	

19.302 HIGH DENSITY RESIDENTIAL ZONES

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

19.302.1 Purpose

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

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

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

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

Table 19.302.2
Medium and High Density Residential Uses Allowed

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

						~~Duplexes~~
Triplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~
Accessory dwelling 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~~ Townhouse	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **~~Subsection 19.505.1~~** ~~Single-Family Dwellings and Duplexes~~ **Subsection 19.505.5** Standards for ~~Rowhouses~~ Townhouses
Cottage cluster ~~housing~~	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing ~~Cottage cluster land division requires Type III review~~

Table 19.302.2 CONTINUED
Medium and High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
~~Multifamily~~ Multi-unit	CU	CU	P	P	P	**Subsection 19.505.3** ~~Multifamily Housing~~ Multi Unit Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations

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

19.302.3 Use Limitations and Restrictions

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

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

B. Office uses allowed in the ~~medium and~~ high density zone~~s~~ are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated

with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

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

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

19.302.4 Development Standards

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

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

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

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

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

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

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

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

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

Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					**Subsection 19.501.1** Lot Size Exceptions **Subsection 19.505.4** Cottage Cluster Housing

			Subsection **19.505.5** Rowhouses
2. Minimum lot width (ft)	20		
3. Minimum lot depth (ft)	70		
4. Minimum street frontage requirements (ft)			
a. Rowhouse	20		
b. Standard lot	35		
c. Flag lot	25		
d. Double flag lot	35		
B. Development Standards			
1. Minimum yard requirements for primary structures (ft)			**Subsection** **19.302.5.A** Side Yards **Subsection** **19.501.2** Yard Exceptions **Subsection** **19.504.8** Flag Lot and Back Lot Design and Development Standards
a. Front yard	20		
b. Side yard	See Subsection 19.302.5.A		
c. Street side yard	15		
d. Rear yard	15		
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less	3 stories or 45 ft,whichever is less	**Subsection** **19.302.5.E** Height Exceptions **Subsection** **19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection** **19.302.5.I** Transition Measures
3. Side yard height plane limit			**Subsection** **19.501.3** Building Height and Side Yard
a. Height above ground at			

minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45	25 45		Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (percent of total lot area)	35%	15%		**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation **Subsection 19.302.5.C** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum[5]	11.6 14.5	11.6 17.4	25.0 32.0	**Subsection 19.202.4** Density Calculations **Subsection 19.302.5.F** Residential Densities **Subsection 19.501.4** Density Exceptions

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

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

~~Standard~~	~~R-3~~	~~R-2.5~~	~~R-2~~	~~R-1~~	~~R-1-B~~	~~Standards/ Additional Provisions~~
~~**A. Lot Standards**~~						
~~1. Minimum lot size (sq ft)~~ ~~a. Rowhouse~~	~~3,000~~ ~~6,000~~	~~2,500~~ ~~5,000~~	~~2,500~~ ~~7,000~~	~~1,400~~ ~~6,400~~		~~**Subsection 19.501.1** Lot Size Exceptions~~ ~~**Subsection 19.505.4** Cottage Cluster~~

b. Duplex c. All other lots	5,000	5,000	5,000	5,000	Housing **Subsection 19.505.5** Rowhouses
2. Minimum lot width (ft) a. Rowhouse b. All other lots	- 30 50		- 25 50	- 20 50	-
3. Minimum lot depth (ft) a. Rowhouse b. All other lots	- 80 80	- 75 75	- 80 80	- 70 80	-
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	- 30 35 25 35		- 25 35 25 35	- 20 35 25 35	-
B. Development Standards					
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard			- 15 See Subsection 19.302.5.A 15 15		**Subsection 19.302.5.A** Side Yards **Subsection 19.501.2** Yard Exceptions **Subsection 19.504.8** Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less		3 stories or 45 ft,whichever is less		**Subsection 19.302.5.E** Height Exceptions **Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection 19.302.5.I** Transition Measures
3. Side yard height	-		-		**Subsection**

plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	- 20 - 45		- 25 - 45	**19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (percent of total lot area)	35%		15%	**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation **Subsection 19.302.5.C** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum	- 11.6 14.5	- 11.6 17.4	- 25.0 32.0	**Subsection 19.202.4** Density Calculations **Subsection 19.302.5.F** Residential Densities **Subsection 19.501.4** Density Exceptions

19.302.5 Additional Development Standards

A. Side Yards

In the medium and high density 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 rowtownhouses shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior rowtownhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior rowtownhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

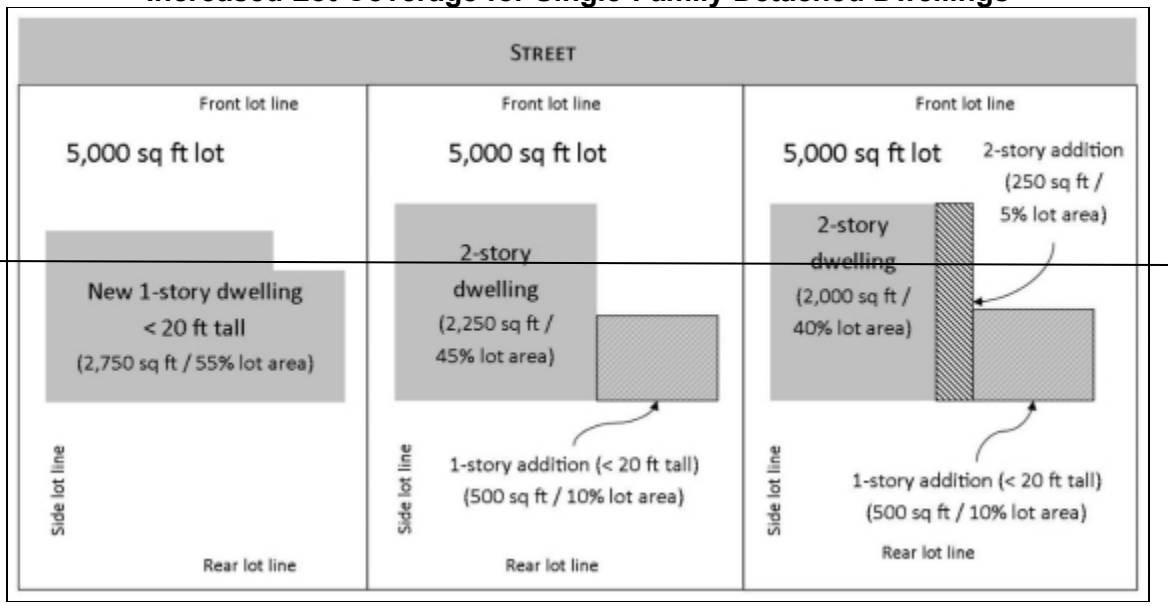
The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

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

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

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

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



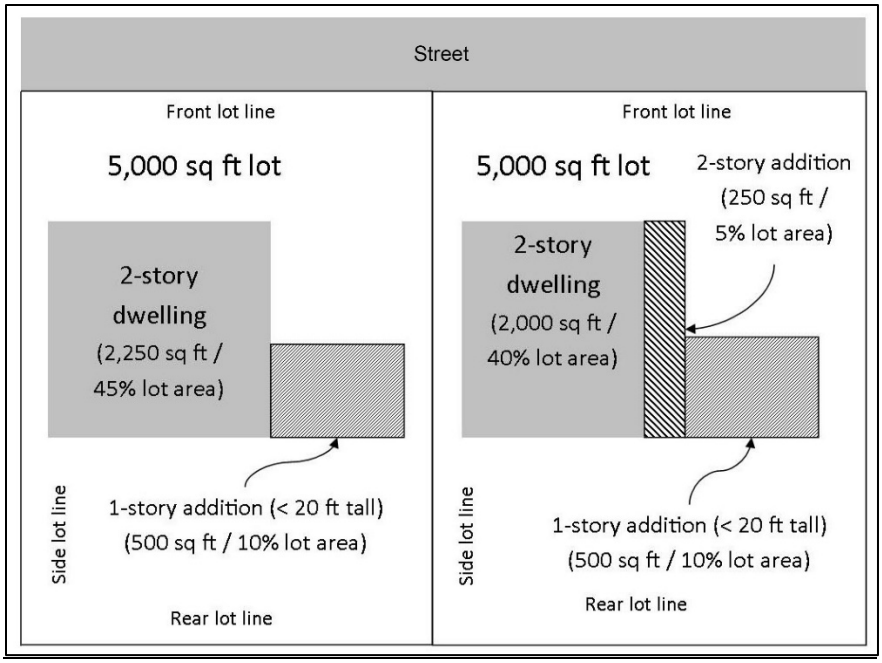


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units ~~Duplexes~~ and Townhouses. ~~Rowhouses.~~

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by ~~20~~ 10 percentage points for One to Four Dwelling Units ~~a duplex~~ or Townhouse ~~rowhouse~~.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

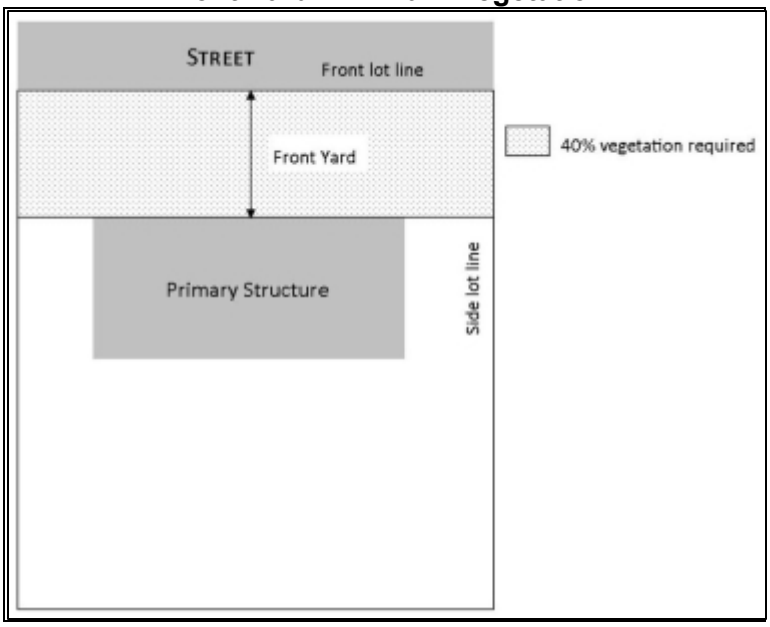
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

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

Figure 19.302.5.D
Front Yard Minimum Vegetation



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For the ~~each~~ additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of ~~a~~ One to Four Dwelling Units, Cottage Clusters, ~~single-family detached dwelling~~ or an accessory dwelling ~~is~~ are exempt from the minimum and maximum density requirements.

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

   2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2
Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones

Units	R-2 Zone	R-1 and R-1-B Zone

First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	~~2,500~~ 1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

~~1. In the R-3 Zone, 1 single-family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.~~

~~2. Multifamily~~ Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

~~I. Transition Measures~~

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

~~1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.~~

~~2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.~~

~~J~~I. Off-Street Parking and Loading

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

~~K~~J. Public Facility Improvements

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

~~L~~K. Additional Standards

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

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multi~~family~~ Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses

10. Subsection 19.505.8 Building Orientation to Transit

11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

~~19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES~~

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

~~19.302.1 Purpose~~

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

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

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

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

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

~~Use~~	~~R-3~~	~~R-2.5~~	~~R-2~~	~~R-1~~	~~R-1-B~~	~~Standards/ Additional Provisions~~
~~**Residential Uses**~~						
~~Single-family detached dwelling~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~
~~Duplex~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~
~~Residential home~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~
~~Accessory dwelling unit~~	~~P/II~~	~~P/II~~	~~P/II~~	~~P/II~~	~~P/II~~	~~**Subsection 19.910.1** Accessory Dwelling Units~~
~~Manufactured dwelling park~~	~~III~~	~~N~~	~~N~~	~~N~~	~~N~~	~~**Subsection 19.910.3** Manufactured Dwelling Parks~~
~~Rowhouse~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.1** Single-Family Dwellings and Duplexes~~ ~~**Subsection 19.505.5** Standards for Rowhouses~~
~~Cottage cluster housing~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~**Subsection 19.505.4** Cottage Cluster Housing~~ ~~Cottage cluster land division requires Type III review~~

Table 19.302.2 CONTINUED Medium and High Density Residential Uses Allowed						
Use	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**	**Standards/ Additional Provisions**
Residential Uses CONTINUED						
Multifamily	CU	CU	P	P	P	**Subsection 19.505.3** Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Congregate housing facility	CU	CU	P	P	P	**Subsection 19.505.3** Multifamily Housing **Subsection 19.302.5.F** Residential Densities **Subsection 19.302.5.H** Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	**Subsection 19.905.9.G** Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	**Subsection 19.302.3** Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	**Section 19.905** Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	**Subsection 19.302.3** Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	**Section 19.904** Community Service Uses
Home occupation	P	P	P	P	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	P	P	P	P	**Section 19.507** Home Occupation Standards

P = Permitted.

N = Not permitted.

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

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

II = Type II review required.

~~III = Type III review required.~~

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

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

"Large trees" means trees with at least a 6-in diameter at breast height (DBH) ~~caliper at 5 ft of height~~.

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

   The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

   The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

   The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.

b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.

c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. Restore Native Vegetation

   The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. Enhance Vegetation Buffer Area

   The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan will be Carried Out

   The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming

solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.

2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.

3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.

4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

6. Removal of trees under any of the following circumstances:

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period,

the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

a. Trails shall be confined to a single ownership or within a public trail easement.

b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.

c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.

d. Trails shall be located at least 15 ft from the top of bank of all water bodies.

e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.

f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning Manager ~~Director~~ may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager ~~Director~~. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

3. The Planning Manager ~~Director~~ shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.

2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.

3. Location of site access and egress that construction equipment will use.

4. Equipment and material staging and stockpile areas.

5. Erosion and sediment control measures.

6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F. ~~A root protection zone shall be established around each tree in the WQR or HCA that is adjacent to any approved work area. The root protection zone shall extend from the trunk to the outer edge of the tree's canopy, or as close to the outer edge of the canopy as is practicable for the approved project. The perimeter of the root protection zone shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Material storage and construction access is prohibited within the perimeter. The root protection zone shall be maintained until construction is complete.~~

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. ~~Detached and Attached Single-Family~~ Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for ~~detached and attached single-family~~ residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA
for ~~Detached and Attached Single-Family~~ Single-unit and Middle Housing Residential Uses

X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

Y = The area of the lot or parcel outside the total resource area (WQR and HCA).

Z = The net amount of disturbance area allowed within the HCA (Z = X - Y)

If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within ~~low and~~ moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the ~~low and~~ moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, ~~with the following limitations:~~ provided the

~~A. The~~ development ~~must~~ conforms ~~to~~ with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

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

19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.

~~2. The gable end of a roof, provided that the encroachment is not more than 8 ft high above the side yard height plane or more than 40 ft wide.~~

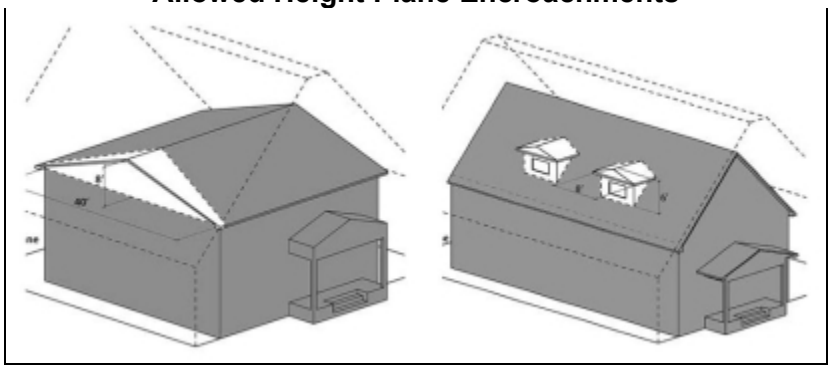
~~3. Dormers, with the following limitations:~~

~~a. The highest point of any dormer is at or below the height of the primary roof ridge.~~

~~b. The encroachment is not more than 6 ft high above the side yard height plane or more than 8 ft wide.~~

~~c. The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.~~

~~Figure 19.501.3.B~~
~~Allowed Height Plane Encroachments~~



~~19.504.4 Buildings on the Same Lot~~

~~A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.~~

~~B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.~~

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

~~C.~~ 3. Variances ~~Prohibited~~

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911. ~~are prohibited for flag lots.~~

~~D.~~ 4. Frontage, Accessway, and Driveway Design

~~1.~~ a. Flag lots shall have frontage ~~and~~ or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

~~2.~~ b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

~~3.~~ c. Driveway Design and Emergency Vehicle Access

(1) ~~a.~~ Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

~~(2) b. Driveways serving single flag lots shall have a minimum paved width of 12 ft.~~

(2) ~~c.~~ Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

(3) ~~d.~~ A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

~~e. Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.~~

(4) ~~f.~~ The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) ~~g.~~ Design standards for shared driveways serving ~~more than~~ 3 or more lots shall be specified by the ~~Engineering Director~~ City Engineer after consultation with the Fire Marshal.

(6) ~~h.~~ Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

~~E~~D. ~~Protection~~ Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. ~~to minimize potential adverse impacts to abutting properties.~~ Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain

required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. ~~Impacts to neighboring lots due to use of the flag lot, or back lot, driveway shall be mitigated to the greatest extent practicable through screening and planting.~~ Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

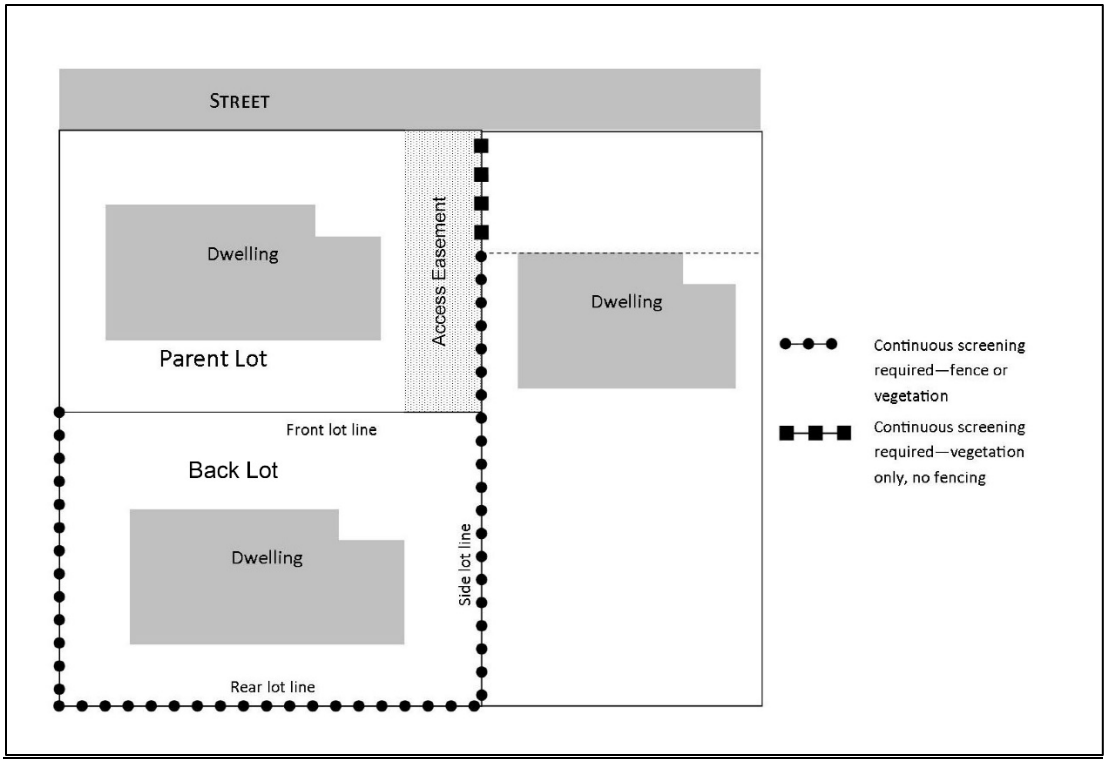
a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.

b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.F

Back Lot Screening



~~F~~E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

~~F. Tree Mitigation~~

~~All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed~~

~~for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.~~

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single~~-family~~ detached and multi-unit~~family~~ residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

route.

19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development

A. Purpose

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

Dwellings must address the following design objectives:

- Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
- Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design must meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

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

1. ~~New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots.~~ Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	
Privacy and screening	[1]	[1]	[1]

Recycling areas	[4]	[4]	[4]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4
5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
   a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
   b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
   c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
      (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
      (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
      (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
   d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
   e. ~~Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit.~~ Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

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

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

1. Articulation

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

a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements ~~shall~~ must be provided along the street-facing façades.

(1) A porch at least 5 ft deep.

(2) A balcony that is at least 2 ft deep and is accessible from an interior room.

(3) A bay window that extends at least 2 ft wide.

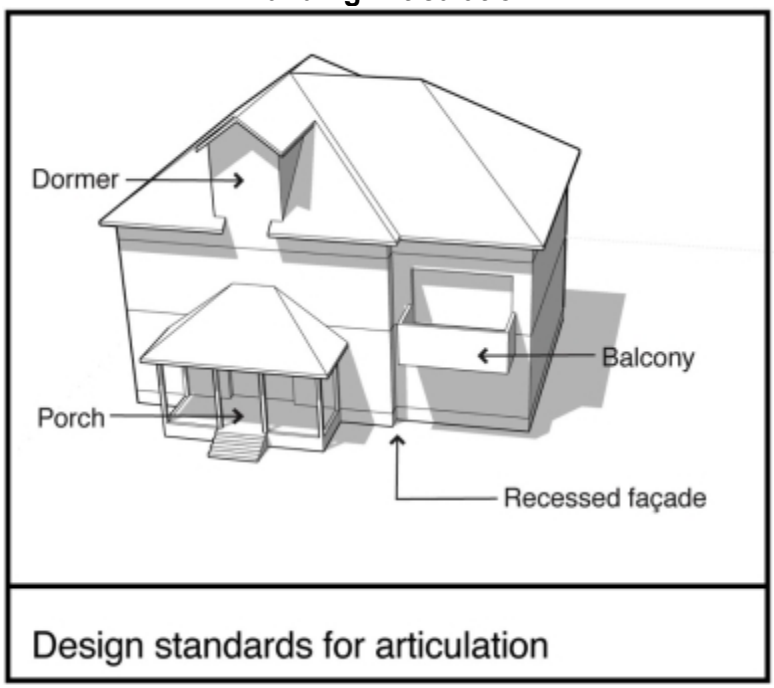
(4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.

(5) A gabled dormer.

b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above ~~shall~~ must be provided for every 30 ft of street frontage. Elements ~~shall~~ must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.

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

Figure 19.505.1.C.1
Building Articulation



2. Eyes on the Street

   At least ~~12%~~ 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

   a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.

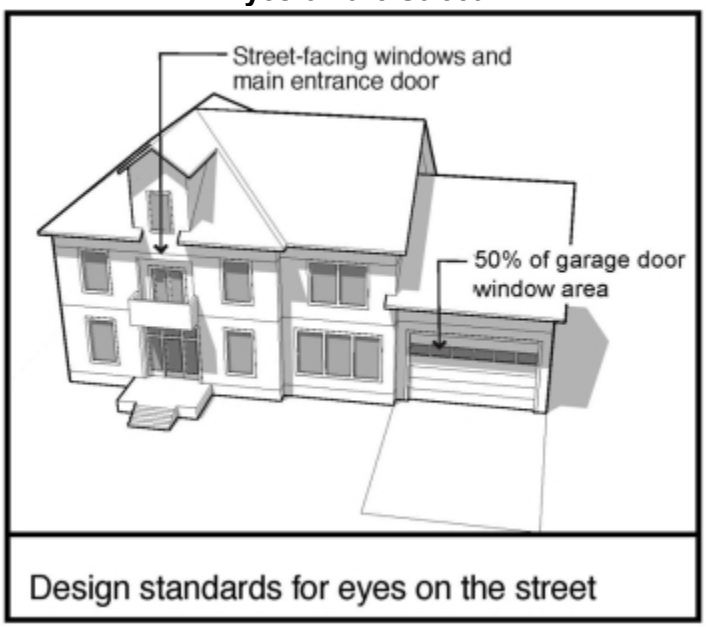
   b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.

   c. Window area is considered the entire area within the outer window frame, including any interior window grid.

   d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

   e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

Figure 19.505.1.C.2
Eyes on the Street



3. Main Entrance

   At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

   a. Be no further than 8 ft behind the longest street-facing wall of the building.

   b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.

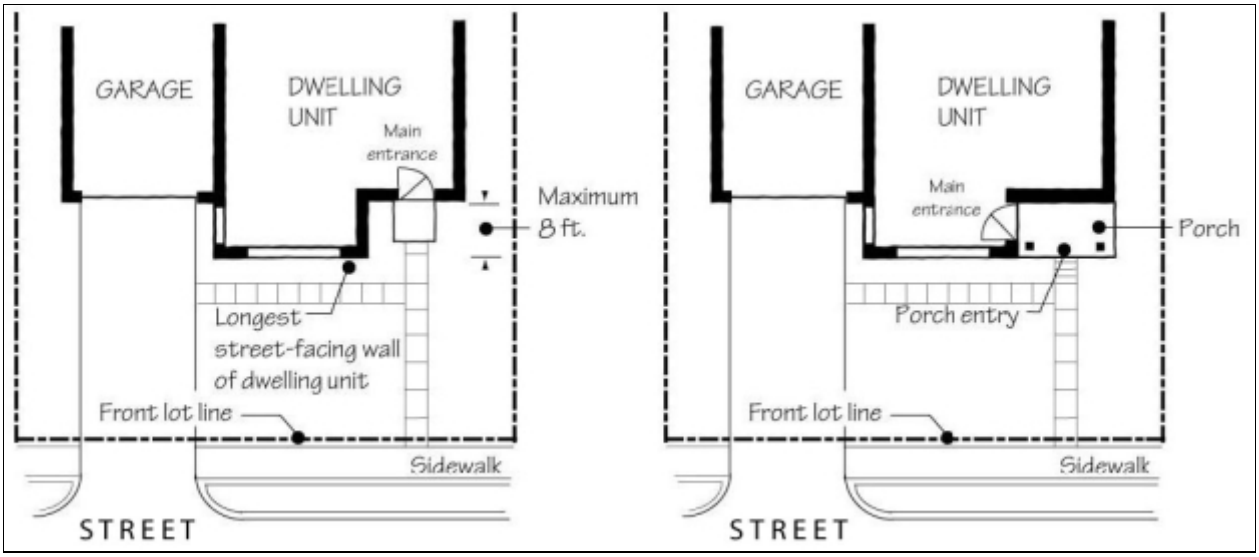
      (1) Be at least 25 sq ft in area with a minimum 4-ft depth.

      (2) Have at least 1 porch entry facing the street.

      (3) Have a roof that is no more than 12 ft above the floor of the porch.

      (4) Have a roof that covers at least 30% of the porch area.

Figure 19.505.1.C.3
Main Entrances



4. Detailed Design

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

   a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

   b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

   c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.

   d. Dormer that is at least 4 ft wide and integrated into the roof form.

   e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

   f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.

   g. Tile or wood shingle roofs.

   h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

   i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.

   j. Gable roof, hip roof, or gambrel roof design.

   k. Window trim around all windows at least 3 in wide and 5/8 in deep.

   l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

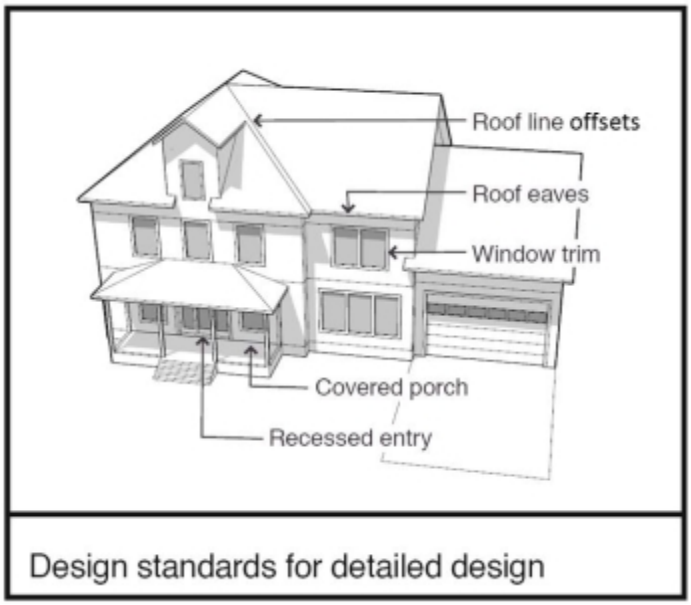
   m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft deep and 5 ft long.

p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

Figure 19.505.1.C.4
Detailed Design Elements



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

a. The common courtyard must be a single, contiguous piece.

b. Cottages must abut the common courtyard on at least two sides of the courtyard.

c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).

d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.

b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.

c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.

d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

a. Off-street parking may be arranged in clusters, subject to the following standards:
   i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
   ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
   iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
   iv. Clustered parking areas may be covered.

b. Off-street parking spaces and vehicle maneuvering areas must not be located:
   i. Within of 20 feet from any street property line, except alley property lines;
   ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
   iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

d. Garages and carports (whether shared or individual) must not abut common courtyards.

e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

f. Individual detached garages must not exceed 400 square feet in floor area.

g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.

b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must be not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.

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

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.

5. Windows that are operable by building occupants.

6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

~~5. Standards for Duplexes~~

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

~~a. The exterior finish of the structure must be the same for both units.~~

~~b. The eaves must be uniform for the entire structure.~~

~~c. The window and door trim must be the same in type, size, and location for the entire structure.~~

~~d. Windows must match in proportion and orientation for the entire structure.~~

~~e. For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.~~

~~f. For duplexes facing 1 frontage, the following standards apply.~~

~~(1) Only 1 entrance is required to face the frontage.~~

~~(2) Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.C.3.~~

~~(3) A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.~~

19.505.3 Multi~~family~~-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit ~~family~~ housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit ~~family~~ development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit ~~family~~ development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit ~~family~~ and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3.

Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit ~~family~~ or congregate housing development is subject to the design elements in this subsection.

2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.

a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.

b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.

c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.

d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.

e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.

f. Subsection 19.505.3.D.8 Landscaping, for the entire site.

g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.

h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.

j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.

3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit ~~family~~ or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.

2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit ~~family~~ and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D
Multi-unit ~~family~~ Design Guidelines and Standards

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	Landscaping of multi-unit ~~family~~ developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management	a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List. b. Trees shall be planted to provide, within 5 years, canopy coverage for at least ⅓ of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees. c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting. d. For projects with more than 20 units: (1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (2) To reduce the “heat island” effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.

10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.	A recycling area or recycling areas within a multi-unit ~~family~~ development shall meet the following standards. a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum. b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area. c. Recycling containers must be covered by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.
11. Sustainability	Multi-unit ~~family~~ development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the context, buildings should be	In order to promote more sustainable development, multi-unit ~~family~~ developments shall incorporate the following elements. a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch

	placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	greater than 3/12. (3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface. (4) An integrated solar panel system for a minimum of 30% of the total roof or building surface. (5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof. (6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.
12. Privacy Considerations	Multi-unit ~~family~~ development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	In order to protect the privacy of adjacent properties, multi-unit ~~family~~ developments shall incorporate the following elements: a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties. b. Where windows on a multi-unit ~~family~~ development are within 30 ft of windows on adjacent residences, windows on the multi-unit ~~family~~ development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit ~~family~~ unit.
13. Safety	Multi-unit ~~family~~ development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design:	a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill. b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street. c. Uses on the site shall be illuminated as follows: (1) Parking and loading areas: 0.5 footcandle

	• Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way. e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

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

~~C. Land Division~~

~~1. A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.~~

~~2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.~~

~~3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.~~

~~4. Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.~~

~~5. Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.~~

~~D~~C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.~~The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.~~

~~Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.~~

Table 19.505.4.C.1

Cottage Cluster Development Standards

Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
A. Home Types		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 8 maximum dwelling units
B. Home Size		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	
C. Height		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot line	15 ft	

3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum)[6]	6 ft[7]	
b. Side and rear site setbacks	5 ft[8]	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
E. Impervious Area, Vegetated Area		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
F. Community and Common Space		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	1	0.5
2. Dry, secure bicycle parking spaces per home (minimum)	1.5	

[6] If the structure has eaves, the 6-foot minimum separation applies between eaves.
[7] For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.
[8] Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

3. Guest bicycle parking spaces perhome (minimum)	0.5

~~1.~~ D. Cottage Standards

1. Size

The total footprint of a cottage unit ~~shall~~ must not exceed ~~700~~ 900 sq ft, and the ~~the total floor area of each cottage unit shall not exceed 1,000 sq ft.~~ maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures ~~shall~~ must not exceed 25 feet or two (2) stories, whichever is greater. ~~18 ft. Cottages or amenity buildings having pitched roofs with a minimum slope of 6/12 may extend up to 25 ft at the ridge of the roof.~~

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

(1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.

(2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

(a) Have a main entrance facing the common courtyard;

(b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

(c) Be connected to the common courtyard by a pedestrian path.

(3) Cottages within 20 feet of a street property line may have their entrances facing the street.

(4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

~~The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.~~

~~(2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.~~

~~d. Required Yards~~

~~(1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path~~

shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.

(2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.

(3) The required yard depth for all yards other than a front or rear yard is 5 ft.

(4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections—such as eaves, overhangs, or chimneys—may project into this required separation by 18 in.

(5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.

e. Cottage Design Standards

The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.

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

(a) Changes in exterior siding material.

(b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.

(c) Wall offsets of at least 1 ft deep.

(2) Trim around windows and doors shall be at least 3 in wide and ⅝ in deep.

(3) All roofs shall have a minimum roof pitch of 4/12.

(4) Windows and doors shall account for at least 15% of the façade area for façades oriented toward a public street or common open space.

(5) At least 60% of the siding material on each wall shall be either horizontal lap siding, between 3 to 7 in wide once installed, or shake siding.

f. Front Porches

Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semipublic area between the cottage and the open space.

(1) The minimum porch depth shall be 6.5 ft.

(2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.

(3) The front door of the dwelling must open onto the porch.

~~(4) The entire area of the front porch must be covered.~~

~~(5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.~~

~~2.~~E. Site Design and Other Standards

~~a.~~ 1. Number of Cottages Allowed

~~The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4.~~ A cottage cluster ~~development~~ ~~shall~~ must include a minimum of ~~4~~ 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

~~b. Common Open Space~~

~~An adequately sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards.~~

~~(1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.~~

~~(2) The minimum dimension for the common open space is 20 ft on 1 side.~~

~~c. Private Open Space~~

~~Each cottage shall have a private open space on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on 1 side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.~~

~~d. Maximum Lot Coverage and Impervious Area~~

~~The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.~~

~~e. Internal Pedestrian Circulation~~

~~The cottage cluster development shall include continuous pedestrian paths for internal circulation on site. The minimum width for pedestrian paths shall be 3~~ 6 ft. ~~Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within the development.~~

~~f. Perimeter Setback Areas~~

~~All structures within a cottage cluster development shall be located at least 15 ft from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed,~~

~~g~~ 2. Off-Street Parking

a. There shall be at least 1 off-street parking space per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.

b. A cottage cluster parking area ~~shall~~ must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.

c. If there are more than 8 units in a cottage cluster, there ~~shall~~ must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.

d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.

e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

~~h.~~ 3. Fences

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

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;

b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;

c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;

d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

~~Figure 19.505.4~~
~~Cottage Cluster Development~~

19.505.5 ~~Rowhouses~~ Townhouses

A. Purpose

Townhouses ~~Rowhouses~~ provide a type of housing that includes the benefits of a single~~-family~~ detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. ~~The purpose of these standards is to allow rowhouses in medium to high density residential zones.~~ Townhouses ~~Rowhouses~~ are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, ~~the same density as single-family detached and multifamily dwellings~~, and the general design requirements are very similar to the design requirements for single~~-family~~ detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses ~~Rowhouses~~.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single~~-family~~ dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse ~~rowhouse~~ lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse ~~Rowhouse~~ development may take place on existing lots that meet the lot standards for townhouse ~~rowhouse~~ lots or on land that has been divided to create new townhouse ~~rowhouse~~ lots.
2. Development standards for townhouses ~~rowhouses~~ are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single~~-family~~ detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses ~~rowhouses~~.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units ~~duplexes~~ or multi~~family~~ unit housing.

C. Townhouse ~~Rowhouse~~ Design Standards

1. Townhouses ~~Rowhouses~~ are subject to the design standards for single detached dwelling ~~-family~~ housing in Subsection 19.505.1.
2. Townhouses ~~Rowhouses~~ ~~shall~~ must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
    a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft ~~5 ft~~ from the front lot line.
    b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it ~~shall~~ must be at least 4 ft ~~7 ft~~ from the front lot line.

D. Number of Townhouses ~~Rowhouses~~ Allowed

In the High Density Zones , no more than 4 consecutive townhouses ~~rowhouses~~ that share a common wall(s) are allowed. A set of 4 townhouses ~~rowhouses~~ with common walls is allowed to be adjacent to a separate set of 4 townhouses ~~rowhouses~~ with common walls.

In the R-MD zone, the maximum width of attached townhouse frontage may not exceed 40 feet. ~~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.~~

1. ~~2.~~Townhouse ~~Rowhouse~~ development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

2. ~~3.~~Townhouse ~~Rowhouse~~ development ~~in the R-3 and R-2.5 Zones~~ must meet the minimum lot size of 1,500 sq ft. ~~standards in Subsection 19.302.4.A.1.~~

~~4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.4.~~

~~Table 19.505.5.E.4~~
~~Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones~~

~~Number of Rowhouses~~	~~R-2 Zone~~	~~R-1 and R-1-B Zone~~
~~2~~	~~7,500 sq ft~~	~~6,400 sq ft~~
~~3~~	~~10,000 sq ft~~	~~7,800 sq ft~~
~~4~~	~~12,500 sq ft~~	~~9,200 sq ft~~

F. Driveway Access and Parking

1. Garages on the front façade of a townhouse ~~rowhouse~~, off-street parking areas in the front yard, and driveway accesses in front of a townhouse ~~rowhouse~~ are prohibited unless the following standards are met. See Figure 19.505.5.F.1.

   ~~a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.~~

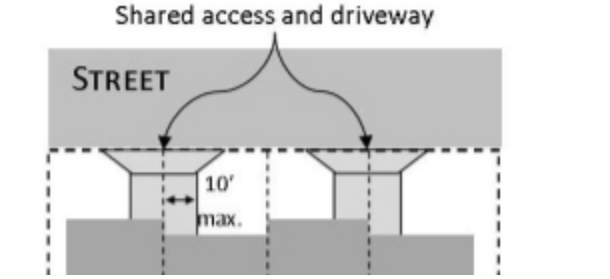
   b. Development of 2 or 3 townhouses ~~rowhouses~~ has at least 1 shared access between the lots, and development of 4 townhouses ~~rowhouses~~ has 2 shared accesses.

   c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.

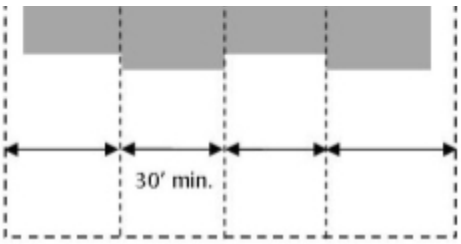
   d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

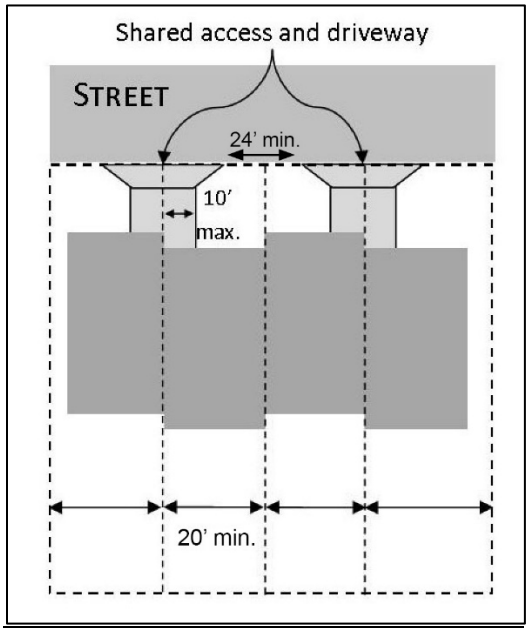
   e. Shared accesses are spaced a minimum of 24 feet apart.

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



Replace figure with figure below



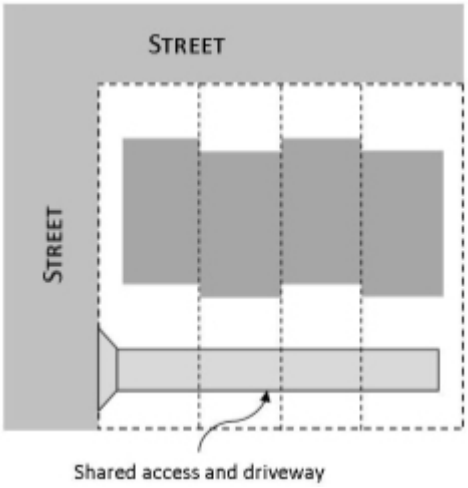


2. The following rules apply to driveways and parking areas for townhouse ~~rowhouse~~ developments that do not meet all of the standards in Subsection 19.505.5.F.1.

   a. Off-street parking areas ~~shall~~ must be accessed on the back façade or located in the rear yard. ~~No off-street parking shall be allowed in the front yard or side yard of a rowhouse.~~

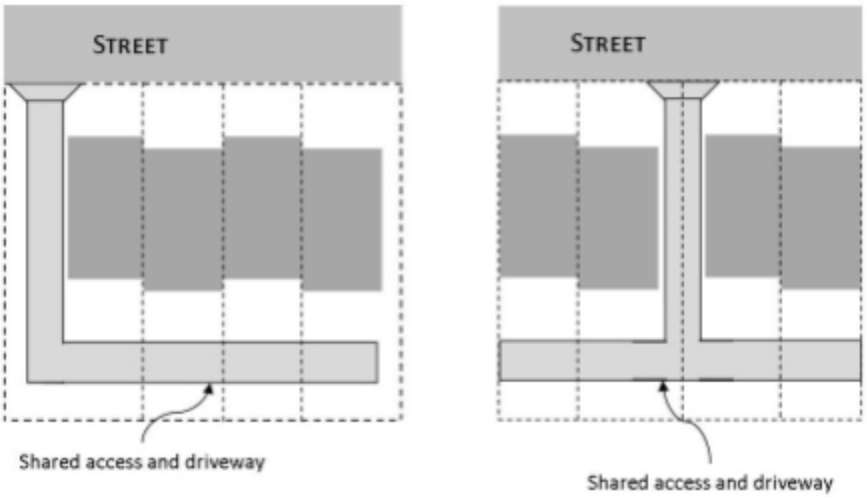
   b. Townhouse ~~Rowhouse~~ development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The ~~Engineering Director~~ City Engineer may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

Figure 19.505.5.F.2.b
Townhouse ~~Rowhouse~~ Development with Corner Lot Access



c. Townhouse ~~Rowhouse~~ development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse ~~rowhouses.~~ See Figure 19.505.5.F.2.c.

Figure 19.505.5.F.2.c
Townhouse ~~Rowhouse~~ Development with Consolidated Access



d. A townhouse ~~rowhouse~~ development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse ~~rowhouse~~ lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse ~~rowhouse~~ lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

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

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

A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; ~~avoid parking-related congestion~~ support efficient ~~on the~~ streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

A. On the same site as the primary use for which the parking is accessory.

B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.

C. Where parking is approved in conformance with Subsection 19.605.2

~~C.~~ D. Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	**Minimum Required**	**Maximum Allowed**
A. Residential Uses		
1. Single~~-family~~ detached dwellings, including ~~rowhouses and~~ manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings ~~a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone.~~ ~~b. Dwelling units with more than 800 sq ft of floor area.~~	1 space per dwelling unit. ~~1.25 spaces per dwelling unit.~~	 2 spaces per dwelling unit. ~~2 spaces per dwelling unit.~~
3. Middle Housing a. Duplexes b. Triplexes c. Quadplexes d. Town Houses e. Cottage Clusters	 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 by right in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
~~4.~~ 5. Accessory dwelling units (ADU)~~—Types I and II~~.	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with ~~large~~ parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning ~~Director~~ Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
    a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
    b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
    c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
    d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within a one block of the middle housing development.
    e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Manager ~~Director~~ shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager ~~Director~~, based on the applicant's materials and other data the Planning Manager ~~Director~~ deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.
2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
    a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
    b. The reduction of off-street parking will not adversely affect available on-street parking.
    c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
    a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
    b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
    c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

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

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

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

   a. Properties zoned Commercial Limited (C-L).

   b. Properties zoned Commercial Neighborhood (C-N).

   c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.

   d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

   a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   b. Parking for ~~multifamily~~ multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   c. Parking for all uses except single~~-family attached and~~ detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.

   d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

   Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager ~~Director~~ shall have the authority to determine when multiple uses exist on a site.

   a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.

   b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

   Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

   The minimum amount of required parking for ~~all~~ non-single~~-family~~ unit residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

   Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager ~~Director~~, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

   The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing
   Parking minimums in Table 19.605.1 may be reduced for the following:

   a. For any multiunit dwelling unit or middle housing dwelling unit that 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.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for ~~cottage clusters, rowhouses, duplexes,~~ middle housing, single~~-family~~ detached dwellings, and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, ~~rowhouses, cottage clusters, duplexes, single-family detached dwellings,~~ and residential homes in all zones, unless specifically stated otherwise.

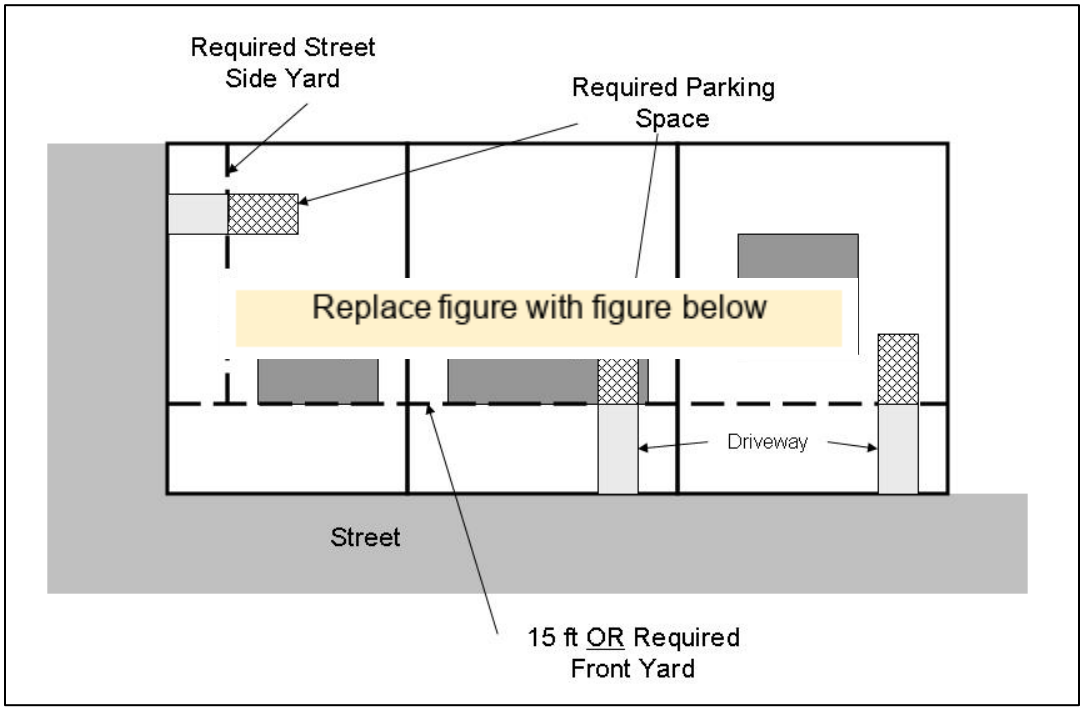
A. Dimensions

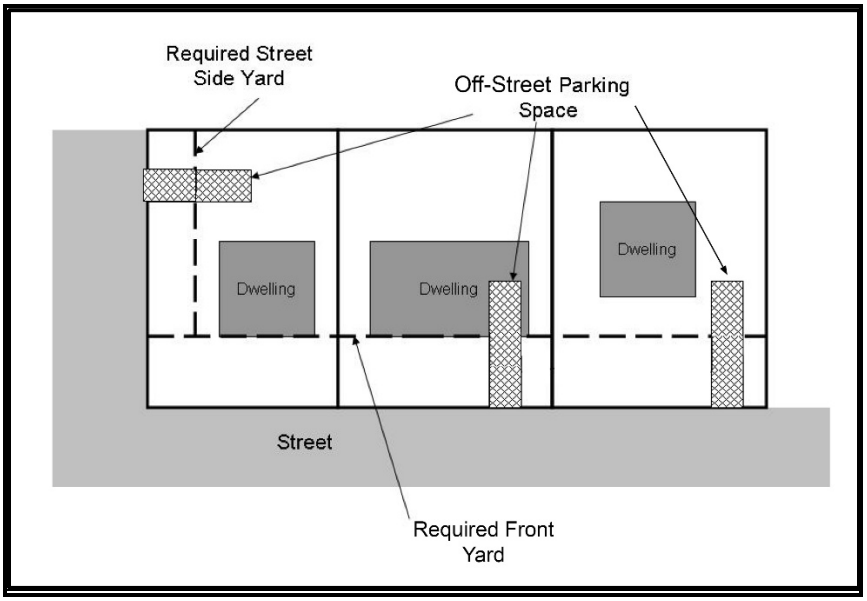
Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
    a. Within ~~the required front yard or within 15 ft of the front lot line, whichever is greater~~ an adjacent public street right-of-way or access easement.
    b. ~~Within a required street side yard~~ Over a public sidewalk.

Figure 19.607.1.B.2
Required Parking Space Location





C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
    a. Required parking space(s).
    b. All vehicle parking spaces and maneuvering areas located within a ~~required~~ front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
    c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

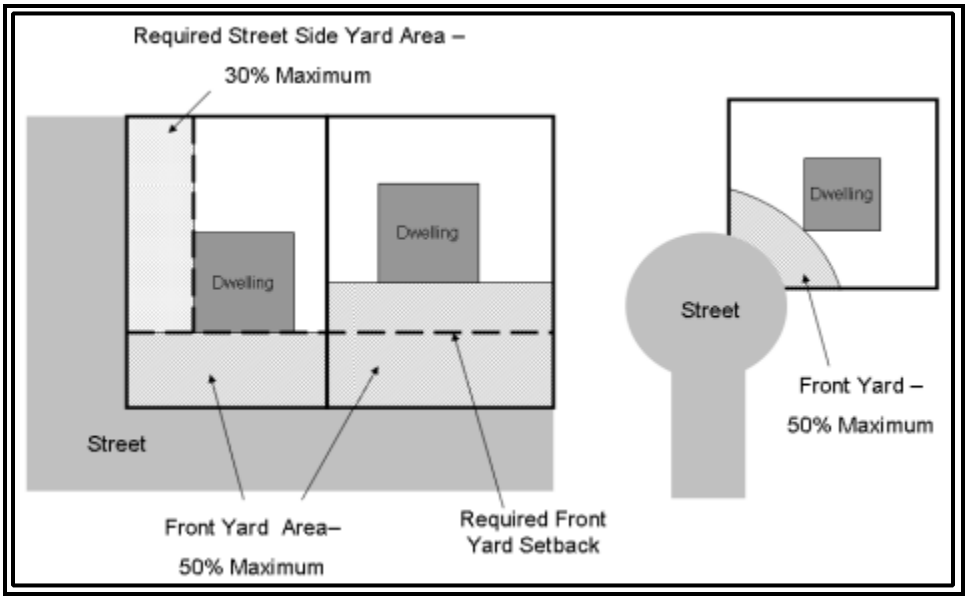
D. Parking Area Limitations

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

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

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

Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits



E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the ~~front property line~~ right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

Figure 19.607.1.E.1
Driveway Widening Limitation—Option 1

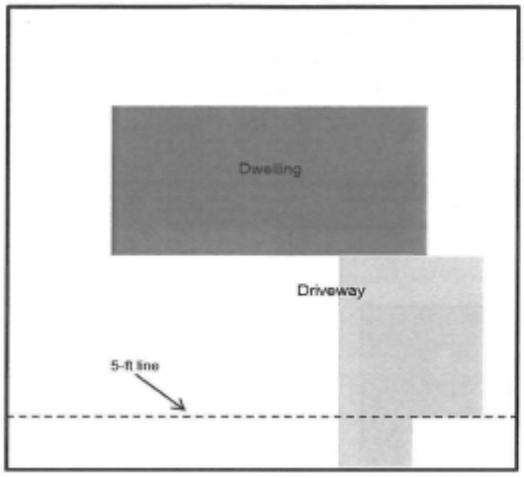
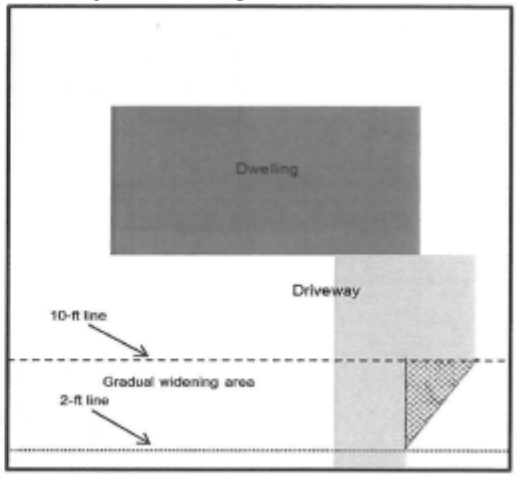


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats.

D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single ~~-family~~ detached residential development and development in downtown zones.

1. A new dwelling unit.

2. Any increase in gross floor area.

3. Any projected increase in vehicle trips, as determined by the ~~Engineering Director~~ City Engineer.

19.702.2 Single ~~-Family~~ Detached Residential Expansions

Chapter 19.700 applies to single ~~-family~~ detached residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single ~~-family~~ detached residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least ~~200~~ 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than ~~200~~ 800 sq ft, none of Chapter 19.700 applies.

D. single ~~-family~~ detached residential expansions shall provide adequate public utilities as determined by the ~~Engineering Director~~ City Engineer pursuant to Section 19.709.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

A. Modifications to existing single~~-family~~ detached residential structures that do not result in an increase in gross floor area.

19.703 REVIEW PROCESS

19.703.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the ~~Engineering Director~~ City Engineer will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the ~~Engineering Director~~ City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the ~~Engineering Director~~ City Engineer will also determine whether a ~~transportation impact study~~Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there ~~are~~ could be impacts to the transportation system if the proposed single~~-family~~ detached residential expansion/conversion is greater than ~~200~~ 800 sq ft.

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the ~~Engineering Director~~ City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the ~~Engineering Director~~ City Engineer will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The ~~Engineering Director~~ City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The ~~Engineering Director~~ City Engineer or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.

2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.

3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.

4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.

5. Where a curb is required by the Engineering Director, it ~~shall~~ must be designed in accordance with the Public Works Standards.

6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.

7. On-street parking in industrial zones ~~shall~~ must have a minimum width of 8 ft.

8. On-street parking in commercial zones ~~shall~~ must have a minimum width of 7 ft.

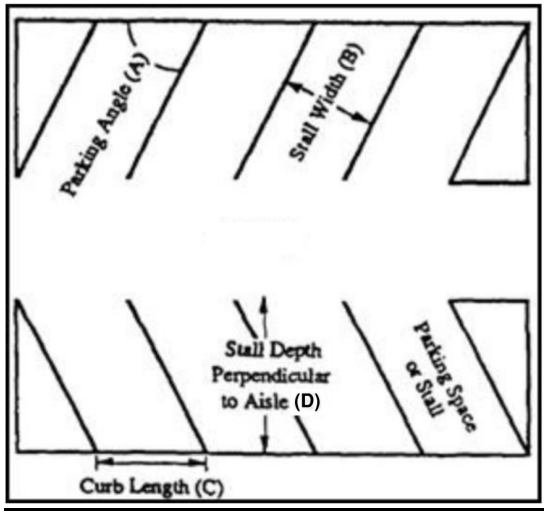
9. On-street parking in residential zones ~~shall~~ must have a minimum width of 6 ft.

10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3			
Full and Mid-Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpindicular)	8	8	18
Compact Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpindicular)	7	7	16

Figure 19.708.1

Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.

12.~~10~~. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

13.~~11~~. Landscape strip widths shall be measured from back of curb to front of sidewalk.

14.~~12~~. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

15. ~~13~~. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.

16. ~~14~~. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED
Land Use Applications

Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
~~Accessory Dwelling Unit~~	~~Subsection 19.910.1~~	~~I, II~~
~~Duplex~~	~~Subsection 19.910.2~~	~~II~~
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies

Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager ~~Director~~ at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C**.**

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

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

1. New or expanded ~~single-family~~ single detached dwelling or middle housing detached or attached residential dwellings.
2. ~~Single-family r~~ Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.
5. Temporary events as allowed in Chapter 11.04.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. ~~It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.~~

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be ~~evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per~~ allowed by right. Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

~~Where a detached accessory dwelling unit is proposed that would undergo a Type I review, properties adjoining the site shall receive mailed notice of the proposed development. The notice shall include a site plan, building elevations, and a description of the standards and review process for the development. The notice shall be mailed within 7 days of the date that the application is deemed complete per Subsection 19.1003.3.~~

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided ~~reviewed through a Type I review shall be approved~~ each of the following standards are met.
    a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
    b. The primary use of property for the proposed accessory dwelling unit is a single~~-family~~ detached dwelling.
    c ~~One accessory dwelling unit per lot is allowed~~. Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
    d. The development standards of Subsection 19.910.1.E are met.
    e. The proposal complies with all other applicable standards of this title.

~~2. An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.~~

~~a. The standards in Subsection 19.910.1.D.1 are met.~~

~~b. The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.~~

~~c. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.~~

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

E. Standards

1. Creation

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

2. Coordination of Standards

~~The more restrictive provisions shall be applicable in~~ In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property. ~~An attached accessory dwelling unit shall be reviewed by a Type I review per Subsection 19.1004.~~

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

(1) The façade of the structure that faces the front lot line ~~shall~~ must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

(2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.

(3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.

(a) The exterior finish on the addition ~~shall~~ must match the exterior finish material of the primary dwelling unit in type, size, and placement.

(b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

(c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

(d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a ~~Type I~~ Type B ADU ~~review~~ require Type II ~~review. Structures are not allowed to exceed any of the maximums associated with a Type II review without~~ approval of a variance per Section 19.911.

Table 19.910.1.E.4.b
Footprint, Height, and Required Yards for Detached Accessory Dwelling Units

Standard	~~Type I~~ Type A ADU	~~Type I~~ Type B ADU
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft ~~Base zone requirement for side and rear yard~~	Base zone requirement for side and rear yard ~~5 ft~~
Required Front Yard	10′ behind front yard as defined in Section 19.201, unless located at least 40′ from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

c. Design Standards

(1) A detached accessory structure ~~shall~~ must include at least ~~2~~ two of the design details listed below. An architectural feature may be used to comply with more than ~~1~~ one standard.

(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.

(3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

(4) ~~A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.4.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards.~~

d. Privacy Standards

(1) Privacy standards are required for detached accessory dwelling units~~. processed through a Type I review. A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.~~

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

(a) The wall is within 20 ft of a side or rear lot line.

(b) The wall is at an angle of 45 degrees or less to the lot line.

(c) The wall faces an adjacent residential property.

(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.

(a) All windows on a wall ~~shall~~ must be placed in the upper third of the distance between a floor and ceiling.

(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening ~~shall~~ must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs ~~shall~~ must be no less than 5 ft above grade at time of planting, and they ~~shall~~ must reach a 6-ft ~~high~~ height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the

time of the ADU permit submittal ~~established on or after December 1, 2012, the effective date of Ordinance #2051,~~ is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal ~~prior to December 1, 2012, the effective date of Ordinance #2051,~~ is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. ~~However, the~~ The conversion ~~shall~~ must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

~~1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.~~

~~The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 of the dwelling units.~~

1~~2~~. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.

2~~3~~. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

~~19.910.2 Duplexes~~

~~A. Purpose~~

~~This subsection is intended to allow duplexes in order to increase available housing in the city. while maintaining the coherence of single-family residential neighborhoods.~~

~~B. Applicability~~

~~The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert, or add on to, an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.~~

~~C. Review Process~~

~~1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of, or addition to, an existing structure.~~

~~a. In Residential Zones R-5, R-3, R-2.5, R-2, R-1, R-1-B, and R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review~~

~~of applicable development and design standards that occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.~~

~~b. A duplex in Residential Zone R-10 or R-7 is allowed outright, subject to the lot size requirements for the zone, in either of the following situations. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.~~

~~(1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.~~

~~(2) The property is a corner lot.~~

~~c. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b is allowed through a Type II review per Section 19.1005.~~

~~d. A duplex in the Limited Commercial Zone C-L is allowed through a Type II review per Section 19.1005.~~

~~2. For additions or modifications to an existing duplex, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.~~

~~D.Approval Criteria~~

~~1. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use, under Subsection 19.910.2.C.1.b, must meet the following criteria.~~

~~a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings within the general vicinity of the site.~~

~~b. The design of the proposed duplex is generally consistent with the surrounding development.~~

~~c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.~~

~~2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.~~

~~a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial Zone.~~

~~b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.~~

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.

2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.

4. A variance of up to 10% to lot width or depth standards.

5. A variance of up to 10% to a lot frontage standard.

6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.

10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

4. Impacts from the proposed variance will be mitigated to the extent practicable.

5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager ~~Director~~ and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone ~~single-family zones~~, except to the extent the ~~Director~~ Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing

accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the ~~Engineering Director~~ City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the ~~Engineering Director~~ City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include ~~three (3) copies of~~ an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The ~~Engineering Director~~ City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity, and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.

c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered ~~professional traffic engineer~~ Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The ~~access study~~ Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design;

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;

c. Review of all modes of transportation to the site;

d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the ~~Engineering Director~~ City Engineer.

C. Accessway Location

1. Double Frontage

When a lot has frontage on two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations

Individual access to single~~-family~~ detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the ~~Engineering Director~~ City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least ~~seven and one-half (7½)~~five (5) feet from the side property line in residential districts and at least ten

(10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

a. At least forty-five (45) feet for single ~~-family~~ detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least one hundred (100) feet for multi-unit ~~family~~ residential properties and all other uses accessing local and neighborhood streets.

c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit ~~family~~ areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single ~~-Family~~ Detached Residential

One accessway per property is allowed for single ~~-family~~ detached residential uses.

a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by

the ~~Engineering Director~~ City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.

c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-~~Family~~ Detached Residential

The number of accessways for uses other than single-~~family~~ detached residential is subject to the following provisions:

a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;

b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The ~~Engineering Director~~ City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

a. Cause or increase existing hazardous traffic conditions;

b. Provide inadequate access for emergency vehicles; or

c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-~~family~~ detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The ~~Engineering Director~~ City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single ~~-family~~ detached attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.

3. Multi-unit ~~family~~ residential Middle Housing units ~~uses~~ comprised of up to four (4) units,~~with three (3) dwellings~~ shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.

4. Multi-unit~~family~~ residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between ~~four (4)~~five (5) and ~~seven (7)~~eight (8) ~~dwellings~~ units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.

5. Multi-unit~~family~~ residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of ~~twelve (12)~~sixteen (16) feet and a maximum width of thirty-six (36) feet.

7. Industrial uses shall have a minimum driveway apron width of ~~fifteen (15)~~twenty-four (24) feet and a maximum width of forty-five (45) feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the ~~Engineering Director~~City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets." ~~The clear vision area for all street and driveway or accessway intersections shall be that area within a twenty (20) foot radius from where the lot line and the edge of a driveway intersect.~~

B. Modification of this computation may be made by the ~~Engineering Director~~City Engineer after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into

consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

The following terms are definitions for the purposes of this chapter.

"Applicant" means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

"City" means the City of Milwaukie.

"~~Engineering Director~~ City Engineer" means the person who is the manager/supervisor of the city's Engineering Department, or the City Manager's designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager. ~~holding the position of Engineering Director or any officer or employee designated by that person to perform duties stated within this chapter.~~

"Front footage" means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the ~~Engineering Director~~City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.

LAND USE

(EXISTING)

Milwaukie Comprehensive Plan
Map 8

- City Boundary
- Tacoma Station Area
- LD - Low Density
- MD - Moderate Density
- MED. D - Medium Density
- HD - High Density
- C - Commercial
- C/HD - Mixed Use
- I - Industrial
- P - Public
- TC - Town Center
- Water Body

Rev. as of Ord. #2194 , effective August 28th, 2020

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

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Please check with Planning Department for most up-to-date information.
503-786-7630
planning@milwaukieoregon.gov

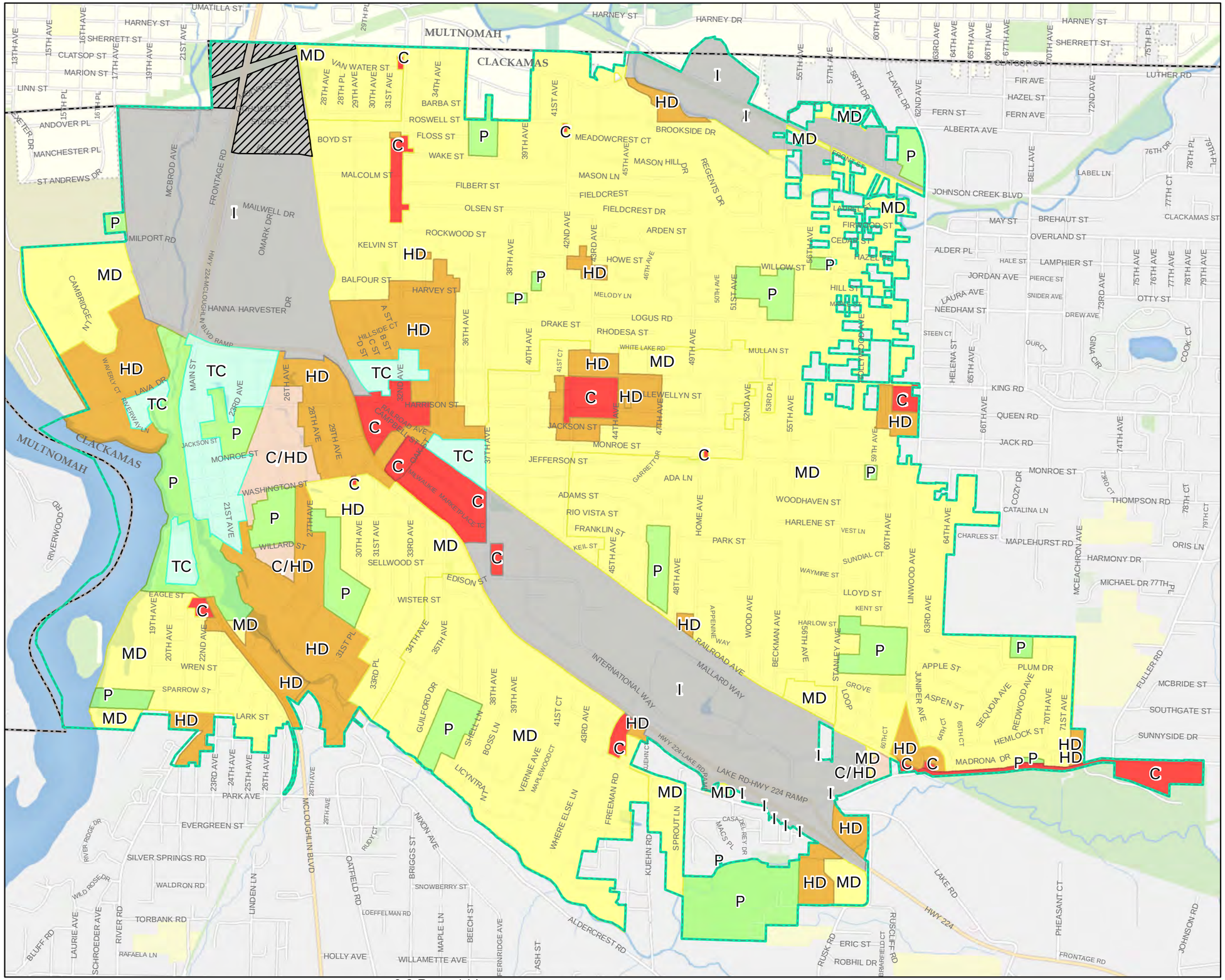
CITY OF MILWAUKIE

0 0.25 0.5 Miles

CITY OF MILWAUKIE

Milwaukie Comprehensive Plan
Proposed Landuse

- City of Milwaukie
- County Boundary
- Tacoma Station Area
- C -Commercial
- C/HD - Mixed Use
- HD - High Density
- I - Industrial
- MD - Moderate Density
- P - Public
- TC - Town Center



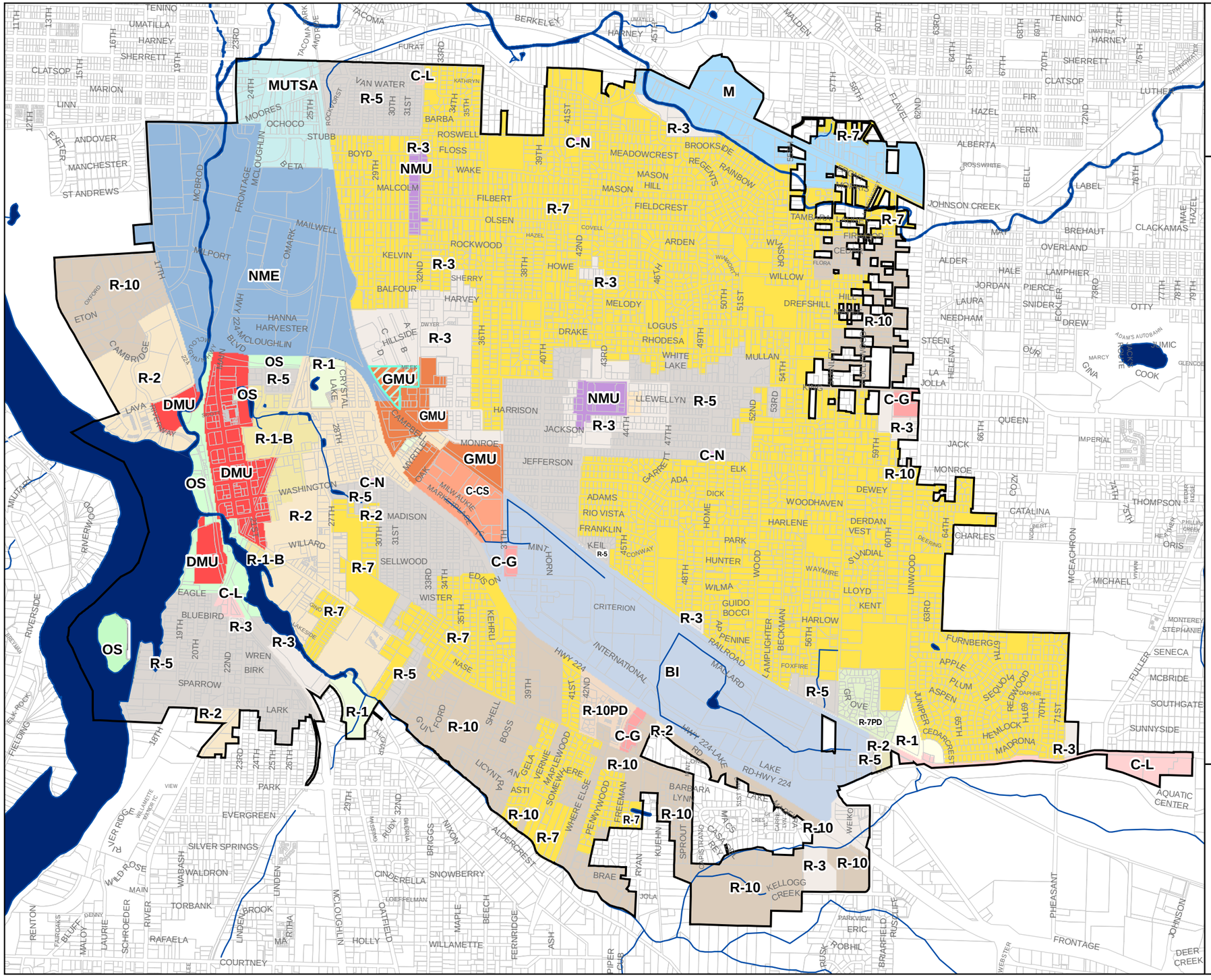
Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Wednesday, June 9, 2021

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GIS Coordinator
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
(503) 786-7687

0 0.25 0.5 Miles



ZONING

(EXISTING)

Industrial
- BI
- M
- MUTSA
- NME

Residential
- R-1
- R-1-B
- R-2
- R-2.5
- R-3
- R-5
- R-7
- R-7PD
- R-10
- R-10PD

Commercial and Mixed Use
- NMU
- C-N
- C-L
- C-G
- C-CS
- GMU

Downtown
- DMU
- OS

- Flex Space Overlay
- City Boundary
- Water Body

Adopted by Ord. #1438, effective Dec. 5, 1979
Rev. as of Ord. #2194 , effective August 28th, 2020

Data Sources: City of Milwaukie GIS, Metro Data Resource Center
9/10/2020

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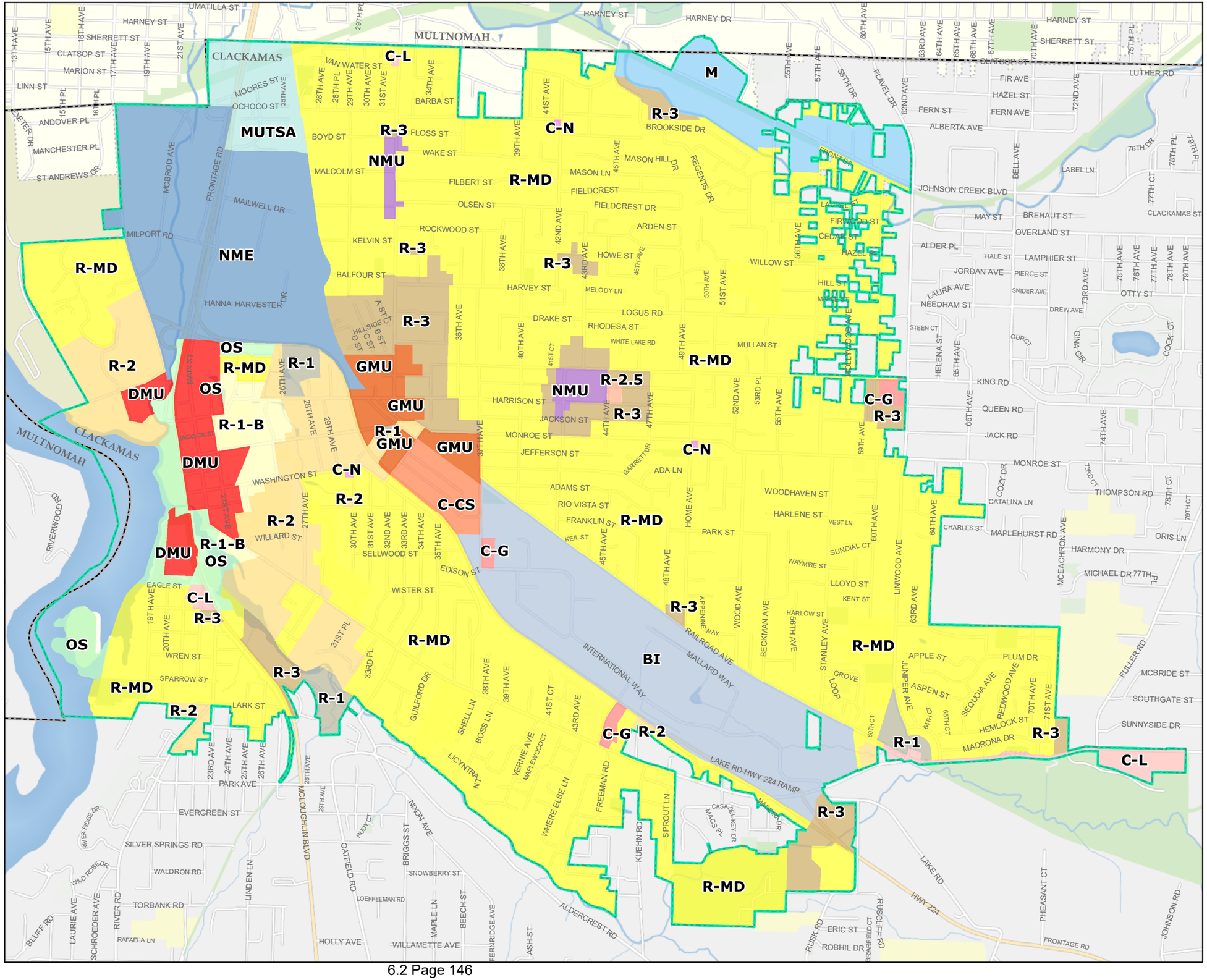
CITY OF MILWAUKIE

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CITY OF MILWAUKIE

Milwaukie Comprehensive Plan Zoning Proposed Designations

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



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

Date: Thursday, July 22, 2021

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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 will ~~shall~~ apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

"Arbor Day/Week" means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

"Arboriculture" means the practice and study of the care of trees and other woody plants in the landscape.

"City" means the City of Milwaukie.

"City Engineer" means the city engineer of the City of Milwaukie or designee.

"City Manager" means the city manager or the city manager's authorized representative or designee.

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

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

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

"DBH" means the diameter at breast height.

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

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

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

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

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

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

"ISA" means the International Society of Arboriculture.

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

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

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

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

"NDA" means Neighborhood District Association.

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

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

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

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

"Planning ~~Director~~ Manager" means the planning ~~director~~ manager of the City of Milwaukie or designee.

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

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

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

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

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

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

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

"Tree Canopy" means the aggregate or collective tree crowns.

"Tree Fund" means the Tree Fund as created by this chapter.

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

"Urban forest" means the trees that exist within the City.

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

A. The City Manager is authorized to administer and enforce the provisions of this chapter.

B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.

C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning ~~Director~~ Manager, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;

2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;

4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;

5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and

7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;

2. Payments received in lieu of required and/or supplemental plantings;

3. Civil penalties collected pursuant to this chapter;

4. Agreed-upon restoration payments or settlements in lieu of penalties;

5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;

7. Sale of seedlings by the City; and

8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC_12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter will ~~shall~~ be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one

year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

a. Whether the species of tree is appropriate for its location,
b. Whether the species of tree is an invasive species;
c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:

(1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.

(6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.

(7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.

c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.

2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

   a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.

b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.

c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.

3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.

2. The applicant's proposed outreach and notification program provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;

2. Geographic area covered by the permit;

3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;

4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;

5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and

6. Traffic control requirements.

7. Annual Report

   On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
   a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
   b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will ~~shall~~ be provided in accordance with MMC 16.32.026 B.2
   c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation
   1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal must ~~shall~~ be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

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

C. Public Infrastructure Improvements

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

D. Private Utility Services and Dwelling Units

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

16.32.038 LOW INCOME ASSISTANCE

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

16.32.040 PENALTY

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

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

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

1. Land Divisions.

2. Construction of New Residential Dwellings Units.

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25 percent of onsite tree canopy maybe removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Affordable housing developments that meet the exemption standards in MMC 3.60.050 (A)1 and 2 may remove up to 50% of the existing canopy below the 40 % site canopy coverage standard without mitigation. See Table 16.32.042 B1. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Table 16.32.042 B1

Development Type	Standard	Allowable Reduction not requiring Mitigation	Remaining Site Canopy Coverage
Residential Developments	40% Site Canopy Coverage	25% below 40%	30%
Eligible Affordable Housing Developments	40% Site Canopy Coverage	50% below 40%	20%

Trees listed on the City of Milwaukie Rare or Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards.

C. Clear and Objective Tree Canopy Standards

In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.

3. One hundred percent (100%) of the existing canopy or mature crown area of onsite trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.

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

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

D. Mitigation Standards

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

1. The 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 minimum tree canopy preservation standard as shown in Table 16.32.042 B1.

2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Variance Procedure.

1. An applicant may apply for a variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review). The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. Examples of activities that may justify a variance include but are not limited to:

a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
b. Use of techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
c. Use of techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
d. Use of techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

a. Establish a root protection zone:

(1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1-foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.

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

(3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:

(a) the area of all new encroachments is less than 25 percent (25%) of the remaining root protection zone area when existing encroachments are subtracted; and

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

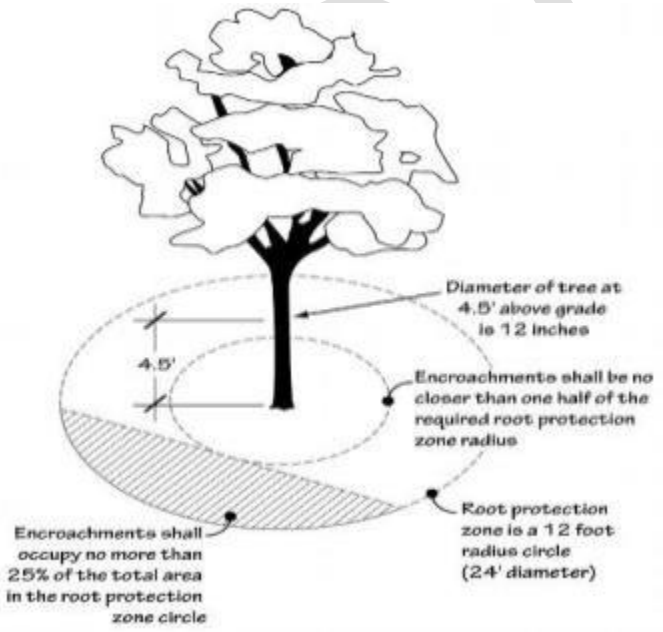


Figure 16.32.042.F - Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

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

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone plan is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impacts based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify with the Urban Forester in writing that the soil volume plan has been successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be 3 feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is 3 feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

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

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

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the

development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

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

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

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

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

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

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

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

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

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

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

(1) Compaction Reduction
- (a) tilling
- (b) backhoe turning
- (c) subsoiling

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

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

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

H. Submittal Requirements

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

1. Tree Inventory Requirements

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

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

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

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

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

f. Provide the crown area of each tree using the formula: (crown radius)^2 x π.

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

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

h. Identify whether the tree is on the Milwaukie Rare or Threatened Tree List.

i. Identify whether the tree is proposed for removal or retained.

j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify 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 and description of tree and soil volume protection fencing and signage.

i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

a. Provide a site plan drawn to scale.

b. Include the existing trees to be retained and their crown areas to scale.

c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.

d. Identify the soil volume areas for each tree to be planted to scale.

e. For performance path soil volume areas, identify the methods and specifications as applicable for:

(1) Compaction Reduction;
(2) Soil Amendments;
(3) Topsoil Replacement; and/or
(4) Soil Under Pavement

f. Include a diagram depicting the tree planting that is consistent with ISA best management practices.

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

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

Table 16.32.042.H

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

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type that, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the tree preservation standards in MMC 16.32.042.B have been met.

c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.

d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.

e. If the applicant is seeking a variance to the tree preservation and/or tree canopy standards in place of providing mitigation fees, provide findings that demonstrate the proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.

f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.

g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

a. Trees that are at least 6-inch DBH.

b. Trees that are less than 6-inch DBH as specified on the City of Milwaukie threatened tree list.

c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

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

a. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

(1) The proposed tree removal will be performed according to current ISA Best Management Practices.

(2) The tree proposed for removal meets one or more of the following criteria:

(a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA tree risk assessment standards.

(e) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(k) Healthy trees. One (1) healthy tree may be removed per site per calendar year if the tree meets the following:

i. The tree is less than 18 inches in diameter;

ii. None of the trees are required to be preserved by a condition of a land use review, q provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.I.2.a.j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock

must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

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

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

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

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

(1) Whether the species of tree is appropriate for its location;

(2) Whether the species of tree is an invasive species;

(3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

(4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and

(5) Whether the removal will significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:

a. Photograph(s) that clearly identify the tree(s) proposed for removal.

b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.

c. Information as to whether the tree is within a Habitat Conservation Area overlay district, or is part of an approved landscape or mitigation plan.

d. Any additional information required by the City.

e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.

a. Application Procedures Type 1 Tree Removal Permit.

(1) Applications for a Type 1 Tree Removal Permit must meet the requirements of Section MMC 16.32.042. I.4..

(2) Additional information required.

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 I.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant..

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16,32.042. I.4.

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 18 inches in diameter.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review factors in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4The Urban Forester must notify the applicant of the decision in writing.

(5). If no appeal is filed as specified in subsection 7. below, the decision of the Urban Forester is final.

c. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision, or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.

b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.

c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

(1) 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 may apply to violations of the provisions of MMC 16.32.042:

a. The penalty for illegal tree removal must not be less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

b. Topping, pruning, or otherwise inflicting willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

(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.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

DRAFT

Clean Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

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

Comprehensive Plan Residential Land Use Designations

Moderate Density Residential: Zone R-MD (5.0 – 34.8 units/acre)

a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
b. Transportation routes are limited primarily to collectors and local streets.
c. Sites with natural resource or natural hazard overlays may require a reduction in density.

High Density: Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)

a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
c. Access to High Density areas should be primarily by major or minor arterials.
d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

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

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

19.107.2 Zoning Map

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

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

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

As used in this title:

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may

define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

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

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

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

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

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

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

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

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

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

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

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

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

Residential Uses and Structures

"Duplex" means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

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

"Cottage Cluster" means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per

Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

“Cottage Cluster Project” means two or more cottage clusters constructed or proposed to be constructed.

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

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

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

“Multi-unit development” means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums.

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

“Single detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.

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

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

19.202 MEASUREMENTS

19.202.4 Density Calculations

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

C. Discrepancy between Minimum Required and Maximum Allowed Density

If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

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

19.301.1 Purpose

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

19.301.2 Allowed Uses in Moderate Density Residential Zones

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

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

Table 19.301.2
Moderate Density Residential Uses Allowed

Use	R-MD	Standards/Additional Provisions
Residential Uses		
Single detached dwelling	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Duplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Triplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Townhouse	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.5** Standards for Townhouses
Cottage Cluster	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing
Residential home	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development

Accessory dwelling unit	P	**Subsection 19.910.1** Accessory Dwelling Units
Manufactured dwelling park	N	**Subsection 19.910.3** Manufactured Dwelling Parks.
Senior and retirement housing	CU	**Subsection 19.905.9.G** Senior and Retirement Housing
Commercial Uses		
Bed and breakfast or Vacation rental	CU	**Section 19.905** Conditional Uses
Accessory and Other Uses		
Accessory use	P	**Section 19.503** Accessory Uses
Agricultural or horticultural use	P	**Subsection 19.301.3** Use Limitations and Restrictions
Community service use	CSU	**Section 19.904** Community Service Uses
Home occupation	P	**Section 19.507** Home Occupation Standards
Short-term rental	P	**Section 19.507** Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

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

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

II = Type II review required.

III = Type III review required.

19.301.3 Use Limitations and Restrictions

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

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

B. Marijuana production is not permitted in 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.

Table 19.301.4
Moderate Density Residential Development Standards

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage[1]	Single Detached Dwelling, Single Detached Dwelling, with 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. Minimum yard requirements for primary structures (ft)					**Subsection 19.301.5.A** Side Yards

[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-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
a .Front yard	20 [3]	20	20	20	**Subsection 19.501.2** Yard Exceptions **Subsection 19.504.8** Flag Lot and Back Lot Design and Development Standards **Subsection 19.505.4** Cottage Cluster Housing **Subsection 19.505.5** Townhouses
b. Side yard	5 [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 a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45				**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage(percent of total lot area)	45%	35%	35%	30%	**Section 19.201 "Lot coverage"** definition **Subsection 19.301.5.B** Lot Coverage
5. Minimum vegetation(percent of total lot area)	15%	25%	25%	30%	**Subsection 19.301.5.C** Front Yard Minimum Vegetation

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

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
					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	34.8 [4]	8.7 [5]	8.7 [5]	6.2 [5]	

19.301.5 Additional Development Standards

A. Side Yards

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

B. Lot Coverage

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

1. Decreased Lot Coverage for Large Lots

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

2. Increased Lot Coverage for Single Detached Dwellings

[4] Represents the maximum density of townhouses permitted on this lot size. Cottage clusters are exempt from this density maximum.

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

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of an addition to an existing single-~~family~~ detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

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

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

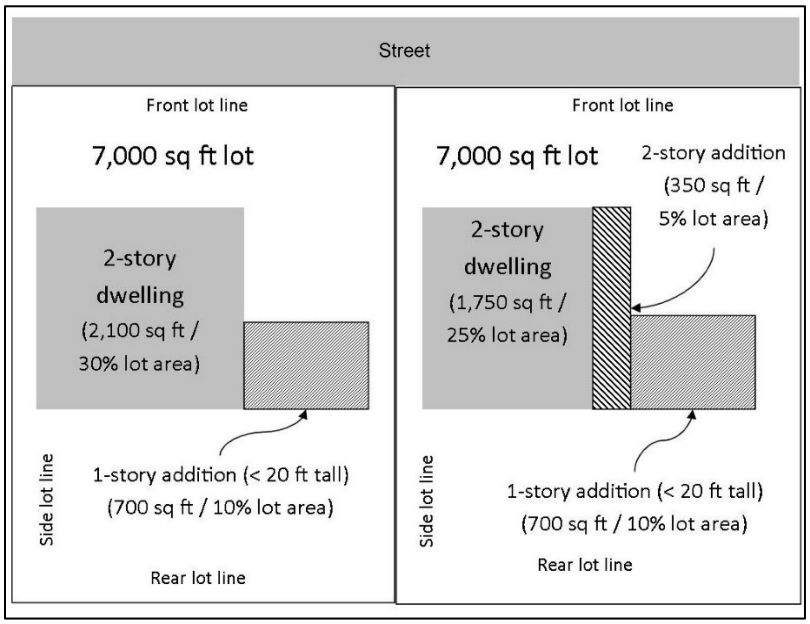


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD, based on a 7,000-sq-ft lot.

3. Increased Lot Coverage for Middle Housing

   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units, provided that the portions of the structure(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.

4. Increased Lot Coverage for Detached Accessory Dwelling Units

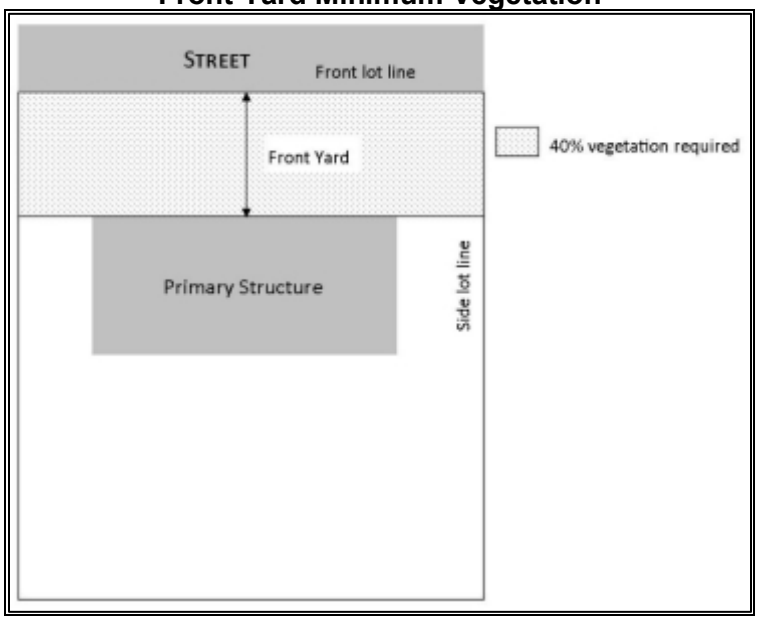
   The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not

allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

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

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

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

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

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Off-Street Parking and Loading

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

G. Public Facility Improvements

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

H. Additional Standards

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

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

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

19.302 HIGH DENSITY RESIDENTIAL ZONES

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

19.302.1 Purpose

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

19.302.2 Allowed Uses in High Density Residential Zones

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

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

Table 19.302.2
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 detached dwelling	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Duplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Triplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P/~~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
Townhouse	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.5** Standards for Townhouses
Cottage cluster	P	P	P	P	P	**Subsection 19.505.1** Single Detached and Middle Housing Residential Development **Subsection 19.505.4** Cottage Cluster Housing

Table 19.302.2 CONTINUED **Medium and High Density Residential Uses Allowed**						
Use	**R-3**	**R-2.5**	**R-2**	**R-1**	**R-1-B**	**Standards/ Additional Provisions**
Residential Uses CONTINUED						
Multi-unit	CU	CU	P	P	P	**Subsection 19.505.3** Multi Unit Housing **Subsection 19.302.5.F** Residential Densities

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

19.302.3 Use Limitations and Restrictions

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

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

B. Office uses allowed in the high density zone~~s~~ are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted

provided that no marijuana or marijuana products associated with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

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

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

19.302.4 Development Standards

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

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

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

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

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

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

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

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

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

Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					**Subsection 19.501.1** Lot Size Exceptions

			Subsection **19.505.4** Cottage Cluster Housing **Subsection** **19.505.5** Rowhouses
2. Minimum lot width (ft)	20		
3. Minimum lot depth (ft)	70		
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	 20 35 25 35		
B. Development Standards			
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	 20 See Subsection 19.302.5.A 15 15		**Subsection** **19.302.5.A** Side Yards **Subsection** **19.501.2** Yard Exceptions **Subsection** **19.504.8** Flag Lot and Back Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft,whichever is less	3 stories or 45 ft,whichever is less	**Subsection** **19.302.5.E** Height Exceptions **Subsection** **19.501.3** Building Height and Side Yard Height Plane Exceptions **Subsection** **19.302.5.I** Transition Measures

3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45	25 45		**Subsection 19.501.3** Building Height and Side Yard Height Plane Exceptions
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	**Section 19.201 "Lot coverage"** definition
5. Minimum vegetation (percent of total lot area)	35%	15%		**Subsection 19.504.7** Minimum Vegetation **Subsection 19.302.5.D** Front Yard Minimum Vegetation **Subsection 19.302.5.C** Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre) a. Minimum b. Maximum[5]	11.6 14.5	11.6 17.4	25.0 32.0	**Subsection 19.202.4** Density Calculations **Subsection 19.302.5.F** Residential Densities **Subsection 19.501.4** Density Exceptions

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

19.302.5 Additional Development Standards

A. Side Yards

In the 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 townhouse shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior townhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior 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 Detached Dwellings

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

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

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

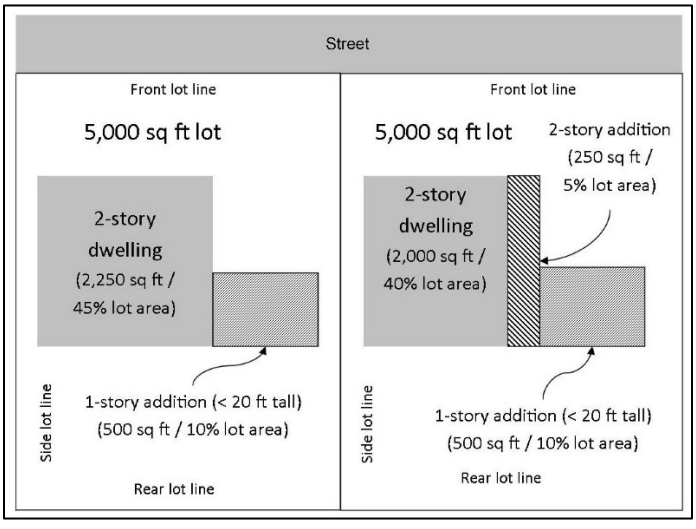


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units and Townhouses.

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units or Townhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

   The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

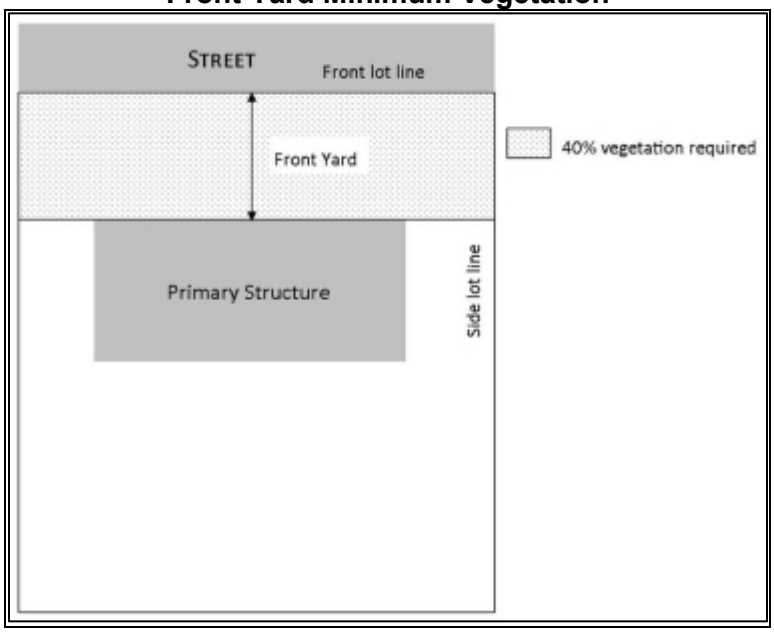
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

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

Figure 19.302.5.D
Front Yard Minimum Vegetation



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For the additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of One to Four Dwelling Units, Cottage Clusters, or an accessory dwelling are exempt from the minimum and maximum density requirements.

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

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2
Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones

Units	R-2 Zone	R-1 and R-1-B Zone
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

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

I. Off-Street Parking and Loading

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

J. Public Facility Improvements

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

K. Additional Standards

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

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards

3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multi-Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses
10. Subsection 19.505.8 Building Orientation to Transit
11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

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CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

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

"Large trees" means trees with at least a 6-in diameter at breast height (DBH).

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

   The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

   The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

   a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.

   b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.

   c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. Restore Native Vegetation

   The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. Enhance Vegetation Buffer Area

   The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan will be Carried Out

   The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.

2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.

3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.

4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

6. Removal of trees under any of the following circumstances:

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

a. Trails shall be confined to a single ownership or within a public trail easement.

b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.

c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.

d. Trails shall be located at least 15 ft from the top of bank of all water bodies.

e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.

f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning Manager may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager. 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.

3. The Planning Manager ~~Director~~ shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.

2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.

3. Location of site access and egress that construction equipment will use.

4. Equipment and material staging and stockpile areas.

5. Erosion and sediment control measures.

6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F.

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs
The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA
for Single Detached and Middle Housing Residential Uses

X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

Y = The area of the lot or parcel outside the total resource area (WQR and HCA).

Z = The net amount of disturbance area allowed within the HCA (Z = X - Y)

If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, provided the development conforms with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

3. Variances

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911.

4. Frontage, Accessway, and Driveway Design

a. Flag lots shall have frontage or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

c. Driveway Design and Emergency Vehicle Access

(1) Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

(3) A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

(4) The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) Design standards for shared driveways serving 3 or more lots shall be specified by the City Engineer after consultation with the Fire Marshal.

(6) Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.

g. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

D. Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

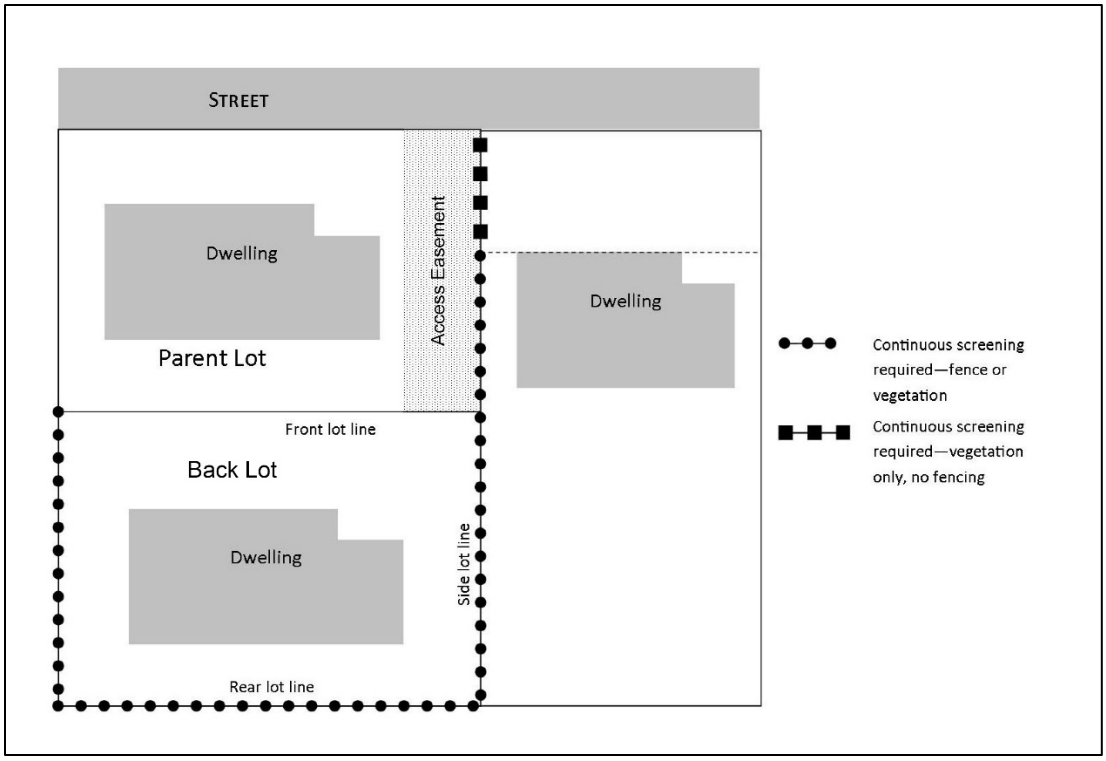
a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.

b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.F

Back Lot Screening



E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.

2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single detached and multi-unit residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

route.

19.505.1 <u>Single Detached and Middle Housing Residential Development</u>

A. Purpose

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

Dwellings must address the following design objectives:

1. Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
2. Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
3. Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
4. Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design must meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

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

1. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	
Privacy and screening	[1]	[1]	[1]

Recycling areas	[4]	[4]	[4]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4
5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
   a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
   b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
   c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
      (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
      (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
      (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
   d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
   e. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

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

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

1. Articulation

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

a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements must be provided along the street-facing façades.

(1) A porch at least 5 ft deep.

(2) A balcony that is at least 2 ft deep and is accessible from an interior room.

(3) A bay window that extends at least 2 ft wide.

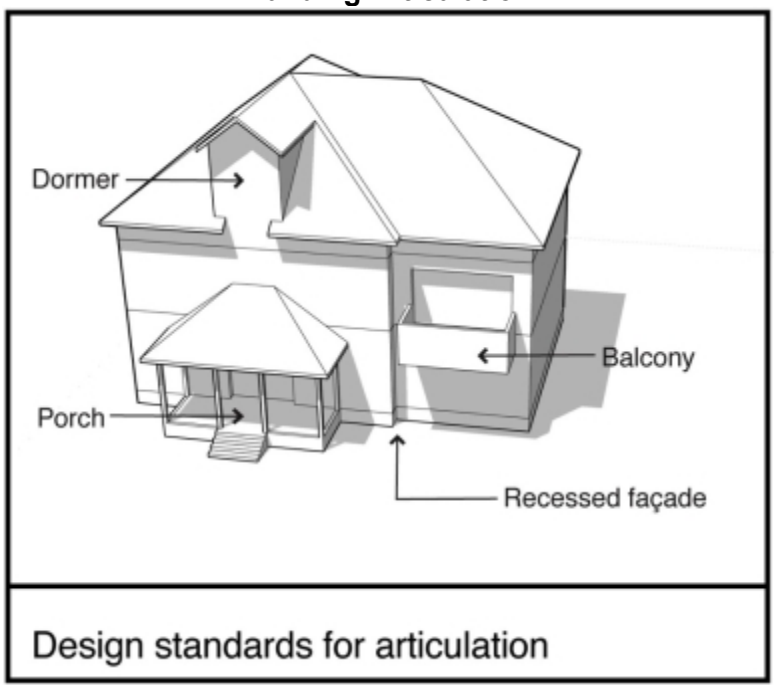
(4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.

(5) A gabled dormer.

b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above must be provided for every 30 ft of street frontage. Elements must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.

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

Figure 19.505.1.C.1
Building Articulation



2. Eyes on the Street

   At least 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

   a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.

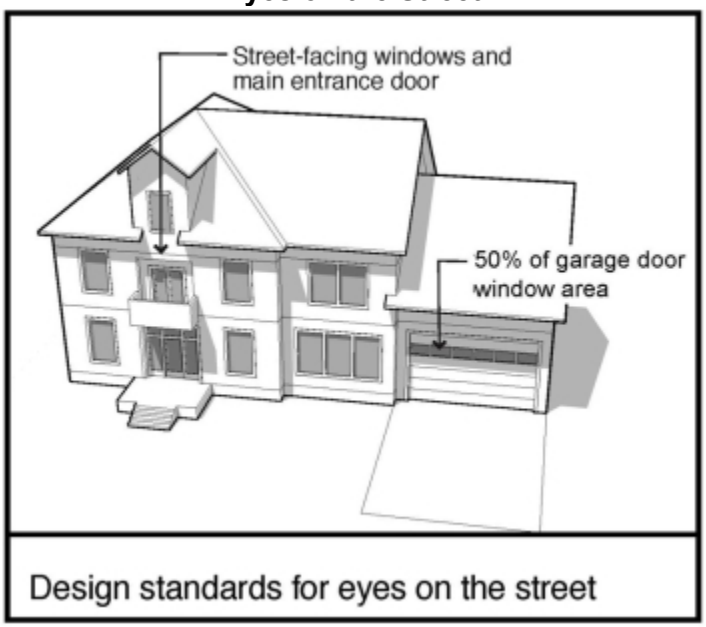
   b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.

   c. Window area is considered the entire area within the outer window frame, including any interior window grid.

   d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.

   e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

Figure 19.505.1.C.2
Eyes on the Street



3. Main Entrance

   At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

   a. Be no further than 8 ft behind the longest street-facing wall of the building.

   b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.

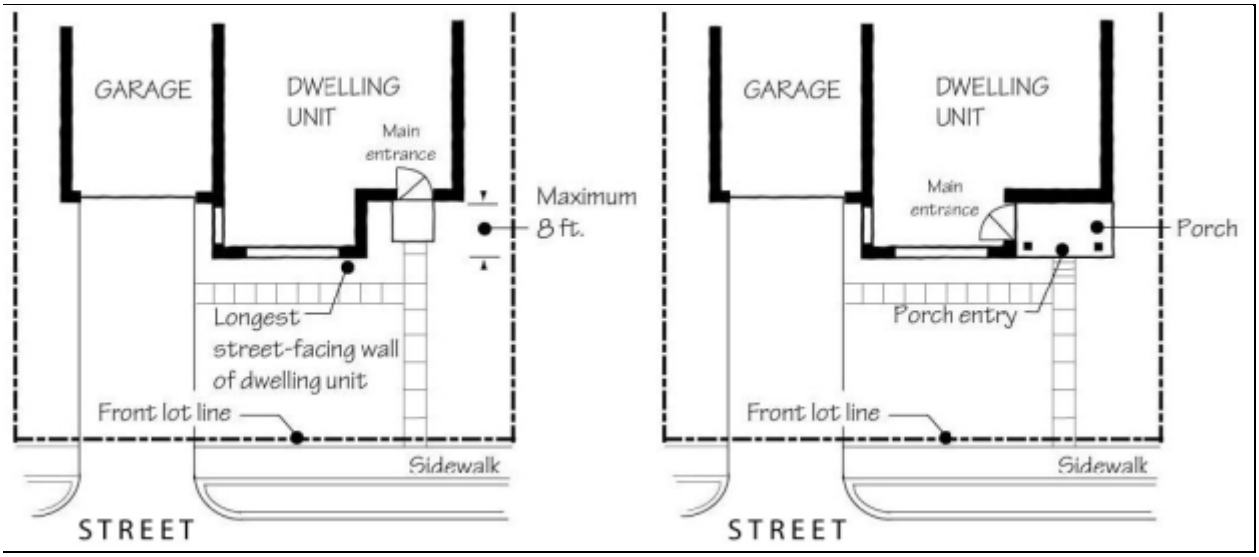
      (1) Be at least 25 sq ft in area with a minimum 4-ft depth.

      (2) Have at least 1 porch entry facing the street.

      (3) Have a roof that is no more than 12 ft above the floor of the porch.

      (4) Have a roof that covers at least 30% of the porch area.

Figure 19.505.1.C.3
Main Entrances



4. Detailed Design

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

   a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

   b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

   c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.

   d. Dormer that is at least 4 ft wide and integrated into the roof form.

   e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

   f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.

   g. Tile or wood shingle roofs.

   h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

   i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.

   j. Gable roof, hip roof, or gambrel roof design.

   k. Window trim around all windows at least 3 in wide and 5/8 in deep.

   l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

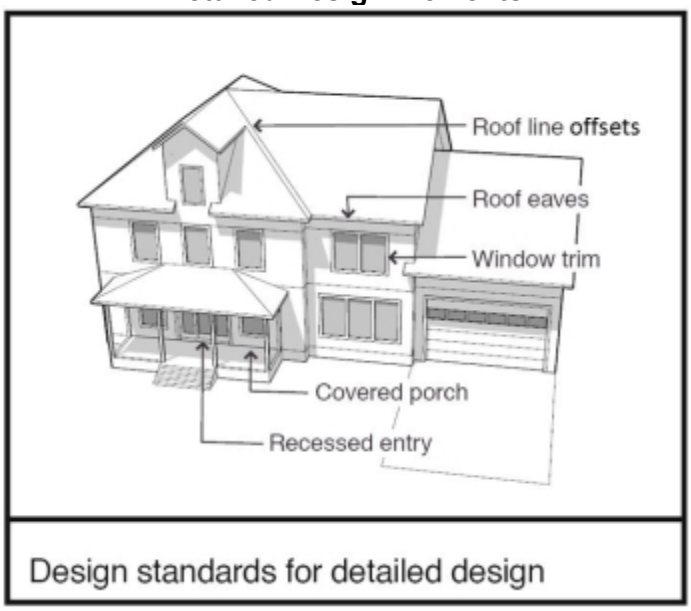
m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.

o. Bay window at least 2 ft deep and 5 ft long.

p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

Figure 19.505.1.C.4
Detailed Design Elements



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

a. The common courtyard must be a single, contiguous piece.

b. Cottages must abut the common courtyard on at least two sides of the courtyard.

c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).

d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.

b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.

c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.

d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

a. Off-street parking may be arranged in clusters, subject to the following standards:

i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.

ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.

iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.

iv. Clustered parking areas may be covered.

b. Off-street parking spaces and vehicle maneuvering areas must not be located:

i. Within of 20 feet from any street property line, except alley property lines;

ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.

iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

d. Garages and carports (whether shared or individual) must not abut common courtyards.

e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

f. Individual detached garages must not exceed 400 square feet in floor area.

g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.

b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must be not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.

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

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.

5. Windows that are operable by building occupants.

6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

19.505.3 Multi-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit or congregate housing development is subject to the design elements in this subsection.

2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.

a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.

b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.

c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.

d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.

e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.

f. Subsection 19.505.3.D.8 Landscaping, for the entire site.

g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.

h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.

j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.

3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.

4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.

2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D
Multi-unit Design Guidelines and Standards

Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	Landscaping of multi-unit developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent	a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.

	properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management	b. Trees shall be planted to provide, within 5 years, canopy coverage for at least ⅓ of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees. c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting. d. For projects with more than 20 units: (1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (2) To reduce the "heat island" effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.
10. Recycling Areas	Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.	A recycling area or recycling areas within a multi-unit development shall meet the following standards. a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum. b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area. c. Recycling containers must be covered by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.

11. Sustainability	Multi-unit development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment. When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	In order to promote more sustainable development, multi-unit ~~family~~ developments shall incorporate the following elements. a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12. (3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface. (4) An integrated solar panel system for a minimum of 30% of the total roof or building surface. (5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof. (6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.
12. Privacy Considerations	Multi-unit development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	In order to protect the privacy of adjacent properties, multi-unit developments shall incorporate the following elements: a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties. b. Where windows on a multi-unit development are within 30 ft of windows on adjacent residences, windows on the multi-unit development shall be offset so the panes do not overlap windows on adjacent

		residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit unit.
13. Safety	Multi-unit development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design: • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control.	a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill. b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street. c. Uses on the site shall be illuminated as follows: (1) Parking and loading areas: 0.5 footcandle minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way. e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.

19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended

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

B. Applicability

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

C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

Table 19.505.4.C.1
Cottage Cluster Development Standards

Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
A. Home Types		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 8 maximum dwelling units
B. Home Size		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	
C. Height		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot line	15 ft	

3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum)[6]	6 ft[7]	
b. Side and rear site setbacks	5 ft[8]	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
E. Impervious Area, Vegetated Area		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
F. Community and Common Space		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	1	0.5
2. Dry, secure bicycle parking spaces per	1.5	

[6] If the structure has eaves, the 6-foot minimum separation applies between eaves.
[7] For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.
[8] Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

home (minimum)	
3. Guest bicycle parking spaces perhome (minimum)	0.5

D. Cottage Standards

1. Size

The total footprint of a cottage unit must not exceed 900 sq ft, and the maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures must not exceed 25 feet or two (2) stories, whichever is greater.

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

(1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.

(2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

(a) Have a main entrance facing the common courtyard;

(b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

(c) Be connected to the common courtyard by a pedestrian path.

(3) Cottages within 20 feet of a street property line may have their entrances facing the street.

(4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

E. Site Design and Other Standards

1. Number of Cottages Allowed

A cottage cluster must include a minimum of 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

2. Off-Street Parking

a. There shall be at least 1 off-street parking space per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for

other cottages in a common area, and not located on the same lot as an individual cottage unit.

b. A cottage cluster parking area must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.

c. If there are more than 8 units in a cottage cluster, there must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.

d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.

e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

3. Fences

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

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;

b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;

c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;

d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

19.505.5 Townhouses

A. Purpose

Townhouses provide a type of housing that includes the benefits of a single detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. Townhouses are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, and the general design requirements are very similar to the design requirements for single detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse development may take place on existing lots that meet the lot standards for townhouse lots or on land that has been divided to create new townhouse lots.
2. Development standards for townhouses are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single ~~-family~~ detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units or multi-unit housing.

C. Townhouse Design Standards

1. Townhouses are subject to the design standards for single detached dwelling housing in Subsection 19.505.1.
2. Townhouses must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
   a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft from the front lot line.
   b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it must be at least 4 ft from the front lot line.

D. Number of Townhouses Allowed

In the High Density Zones, no more than 4 consecutive townhouses that share a common wall(s) are allowed. A set of 4 townhouses with common walls is allowed to be adjacent to a separate set of 4 townhouses with common walls.

In the R-MD zone, the maximum width of attached townhouse frontage may not exceed 40 feet.

E. Townhouse Lot Standards

1. Townhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area

meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

2.. Townhouse development must meet the minimum lot size of 1,500 sq ft.

F. Driveway Access and Parking

1. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.

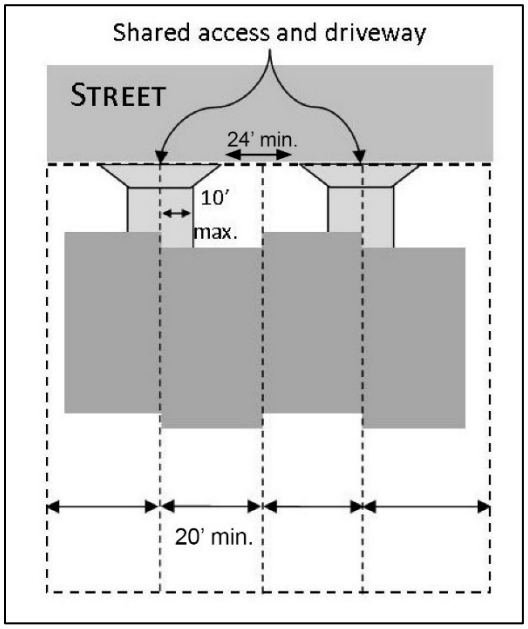
   a. Development of 2 or 3 townhouses has at least 1 shared access between the lots, and development of 4 townhouses has 2 shared accesses.

   b. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.

   c. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.

   d. Shared accesses are spaced a minimum of 24 feet apart.

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



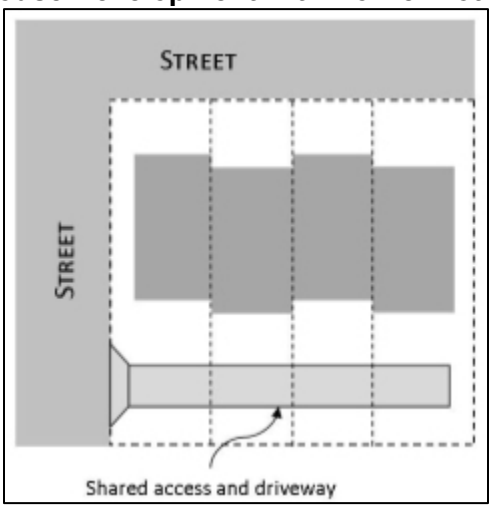
2. The following rules apply to driveways and parking areas for townhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.

   a. Off-street parking areas must be accessed on the back façade or located in the rear yard.

   b. Townhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The City Engineer may alter this

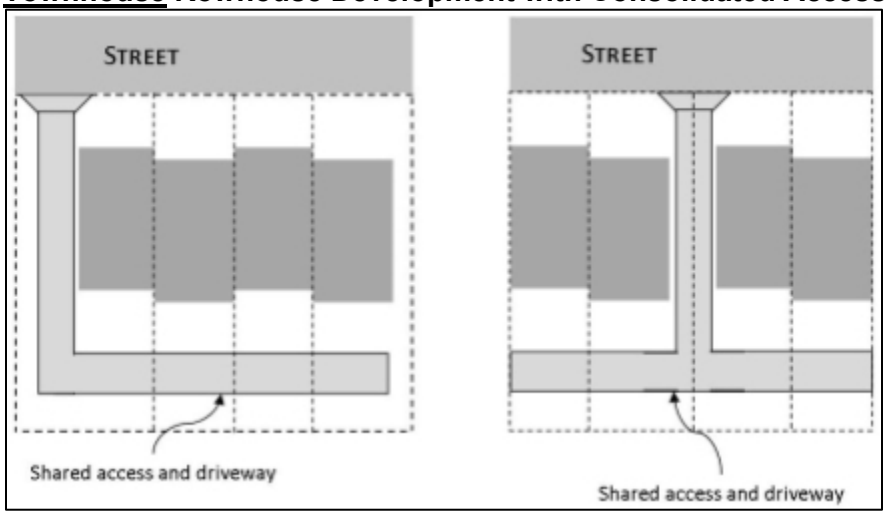
requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

Figure 19.505.5.F.2.b
Townhouse Development with Corner Lot Access



c. Townhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse. See Figure 19.505.5.F.2.c.

Figure 19.505.5.F.2.c
Townhouse ~~Rowhouse~~ Development with Consolidated Access



d. A townhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

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

A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; support efficient streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

A. On the same site as the primary use for which the parking is accessory.

B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.

C. Where parking is approved in conformance with Subsection 19.605.2

D. Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	**Minimum Required**	**Maximum Allowed**
A. Residential Uses		
1. Single detached dwellings, including manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings	1 space per dwelling unit.	2 spaces per dwelling unit.
3. Middle Housing a. Duplexes b. Triplexes c. Quadplexes d. Town Houses e. Cottage Clusters	 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit	 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit
4. Residential homes and similar facilities allowed by right in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
5. Accessory dwelling units	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
    a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
    b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
    c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
    d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within a one block of the middle housing development.
    e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Manager shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager, based on the applicant's materials and other data the Planning Manager deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other

locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
    a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
    b. The reduction of off-street parking will not adversely affect available on-street parking.
    c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
    a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
    b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
    c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

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

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required

parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

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

   a. Properties zoned Commercial Limited (C-L).

   b. Properties zoned Commercial Neighborhood (C-N).

   c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.

   d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

   a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   b. Parking for multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.

   c. Parking for all uses except single detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.

   d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

   Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager shall have the authority to determine when multiple uses exist on a site.

   a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.

   b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

   Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%.

This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

   The minimum amount of required parking for non-single unit residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

   Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

   The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing
   Parking minimums in Table 19.605.1 may be reduced for the following:

   a. For any multiunit dwelling unit or middle housing dwelling unit that 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.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for middle housing, single detached dwellings, and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to

passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, and residential homes in all zones, unless specifically stated otherwise.

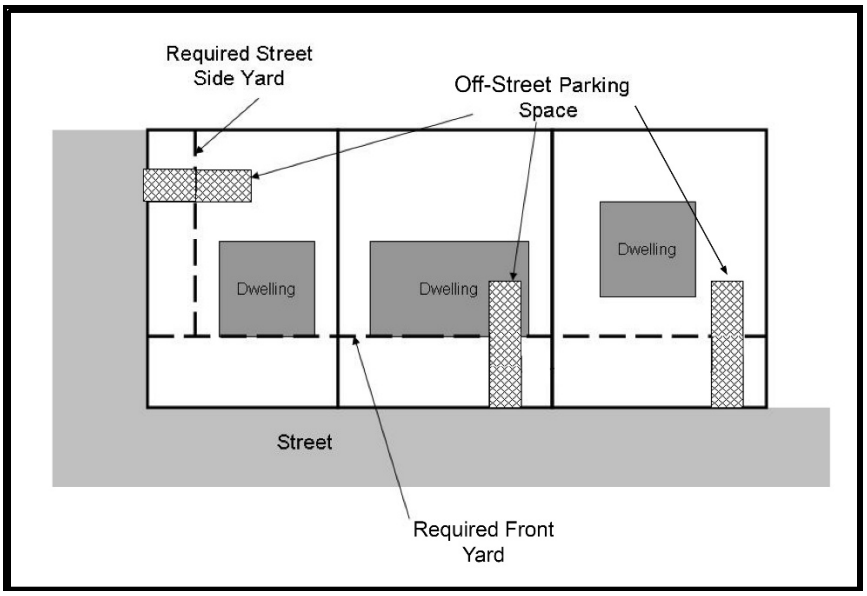
A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
   a. Within an adjacent public street right-of-way or access easement.
   b. Over a public sidewalk.

Figure 19.607.1.B.2
Required Parking Space Location



C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
   a. Required parking space(s).

b. All vehicle parking spaces and maneuvering areas located within a ~~required~~ front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.

c. All off-street parking and maneuvering areas for a residential home.

2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

D. Parking Area Limitations

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

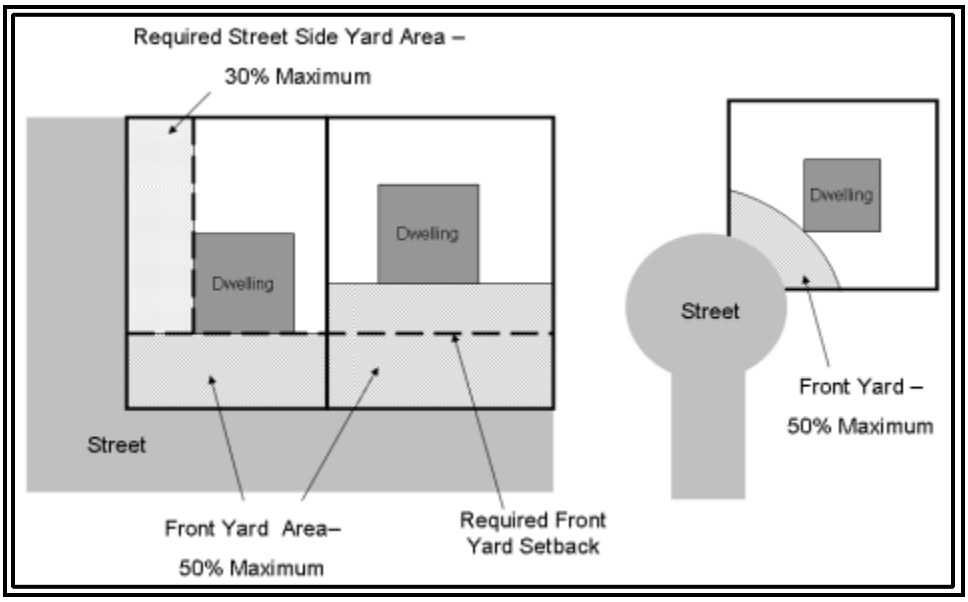
These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses, which are subject to the standards in Subsection 19.505.5.

a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.

b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.

c. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits



E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the ~~front property line~~ right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

Figure 19.607.1.E.1
Driveway Widening Limitation—Option 1

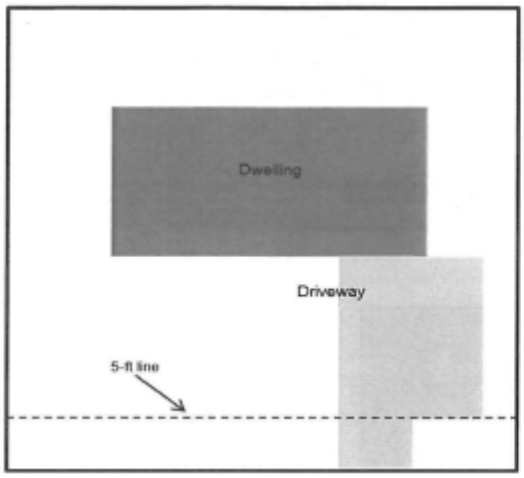
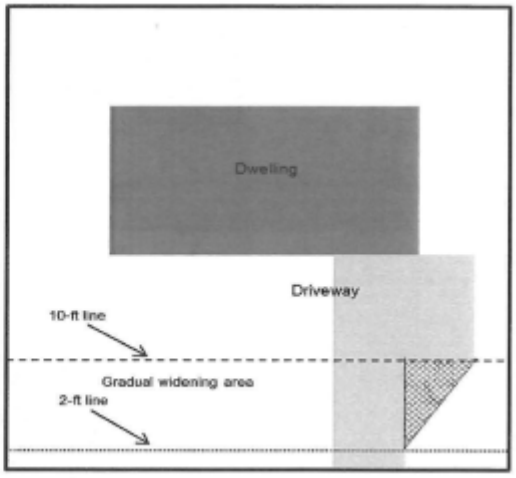


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats.

D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single detached residential development and development in downtown zones.

1. A new dwelling unit.

2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the City Engineer.

19.702.2 Single Detached Residential Expansions

Chapter 19.700 applies to single detached residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single detached residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 800 sq ft, none of Chapter 19.700 applies.

D. single detached residential expansions shall provide adequate public utilities as determined by the City Engineer pursuant to Section 19.709.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

A. Modifications to existing single detached residential structures that do not result in an increase in gross floor area.

19.703 REVIEW PROCESS

19.703.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.703.4. In making these determinations, the City Engineer

will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation

For development that is subject to Chapter 19.700 per Subsection 19.702.1, the City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the City Engineer will also determine whether a Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there could be impacts to the transportation system if the proposed single detached residential expansion/conversion is greater than 800 sq ft.

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the City Engineer will conduct a proportionality analysis pursuant to Section 19.705 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.705.2.

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit

transportation facilities within the study area. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The City Engineer or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft travel lane width shall be provided on local streets with no on-street parking.
2. Where travel lanes are next to a curb line, an additional 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.
5. Where a curb is required by the Engineering Director, it must be designed in accordance with the Public Works Standards.

6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.

7. On-street parking in industrial zones must have a minimum width of 8 ft.

8. On-street parking in commercial zones must have a minimum width of 7 ft.

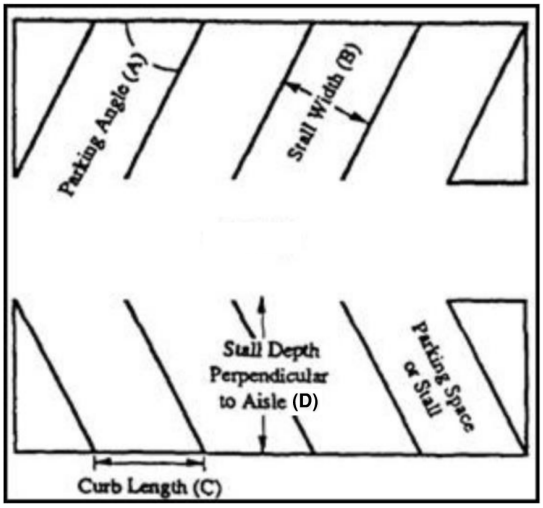
9. On-street parking in residential zones must have a minimum width of 6 ft.

10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3			
Full and Mid-Size Vehicles			
Angle (A)	**Width (B)**	**Curb Length (C)**	**Depth (D)**
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpindicular)	8	8	18
Compact Size Vehicles			
Angle (A)	**Width (B)**	**Curb Length (C)**	**Depth (D)**
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpindicular)	7	7	16

Figure 19.708.1

Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.

12. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

13. Landscape strip widths shall be measured from back of curb to front of sidewalk.

14.Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

15. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.

16. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED
Land Use Applications

Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II

Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C**.**

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

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

1. New or expanded single detached dwelling or middle housing detached or attached residential dwellings.
2. Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.

5. Temporary events as allowed in Chapter 11.04.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be allowed by right. Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided each of the following standards are met.
    a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
    b. The primary use of property for the proposed accessory dwelling unit is a single detached dwelling.
    c. Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
    d. The development standards of Subsection 19.910.1.E are met.
    e. The proposal complies with all other applicable standards of this title.

E. Standards

1. Creation

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

2. Coordination of Standards

    In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property.

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

(1) The façade of the structure that faces the front lot line must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.

(2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.

(3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.

(a) The exterior finish on the addition must match the exterior finish material of the primary dwelling unit in type, size, and placement.

(b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

(c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).

(d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a Type B ADU require Type II approval of a variance per Section 19.911.

Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units		
Standard	**Type A ADU**	**Type B ADU**
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft	Base zone requirement for side and rear yard
Required Front Yard	10′ behind front yard as defined in Section 19.201, unless located at least 40′ from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

c. Design Standards

(1) A detached accessory structure must include at least two of the design details listed below. An architectural feature may be used to comply with more than one standard.

(a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

(b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.

(c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.

(d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.

(e) Window trim around all windows at least 3 in wide and 5/8 in deep.

(2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.

(3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

d. Privacy Standards

(1) Privacy standards are required for detached accessory dwelling units.

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

(a) The wall is within 20 ft of a side or rear lot line.

(b) The wall is at an angle of 45 degrees or less to the lot line.

(c) The wall faces an adjacent residential property.

(2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.

(a) All windows on a wall must be placed in the upper third of the distance between a floor and ceiling.

(b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs must be no less than 5 ft above grade at time of planting, and they must reach a 6-ft height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the time of the ADU permit submittal is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. The conversion must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

1. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
2. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.

2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.

3. A variance of up to 10% to lot coverage or minimum vegetation standards.

4. A variance of up to 10% to lot width or depth standards.

5. A variance of up to 10% to a lot frontage standard.

6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.

7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.

8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.

9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.

10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.

2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.

3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.

4. Impacts from the proposed variance will be mitigated to the extent practicable.

5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone, except to the extent the Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity, and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.

c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of

factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design;

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;

c. Review of all modes of transportation to the site;

d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the City Engineer.

C. Accessway Location

1. Double Frontage

When a lot has frontage on two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations

Individual access to single detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least five (5) feet from the side property line in residential districts and at least ten (10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of

driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

a. At least forty-five (45) feet for single detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least one hundred (100) feet for multi-unit residential properties and all other uses accessing local and neighborhood streets.

c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single Detached Residential

One accessway per property is allowed for single detached residential uses.

a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by the City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.

c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single Detached Residential

The number of accessways for uses other than single detached residential is subject to the following provisions:

a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;

b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

a. Cause or increase existing hazardous traffic conditions;

b. Provide inadequate access for emergency vehicles; or

c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single detached attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.

3. Multi-unit residential Middle Housing units comprised of up to four (4) units, shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.

4. Multi-unit residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between five (5) and eight (8) units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.

5. Multi-unit residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.

6. Commercial, office, and institutional uses shall have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.

7. Industrial uses shall have a minimum driveway apron width of twenty-four (24) feet and a maximum width of forty-five (45) feet.

8. Maximum driveway apron widths for commercial and industrial uses may be increased if the City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets.”

B. Modification of this computation may be made by the City Engineer after considering the standards set forth in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets” and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

The following terms are definitions for the purposes of this chapter.

"Applicant" means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

"City" means the City of Milwaukie.

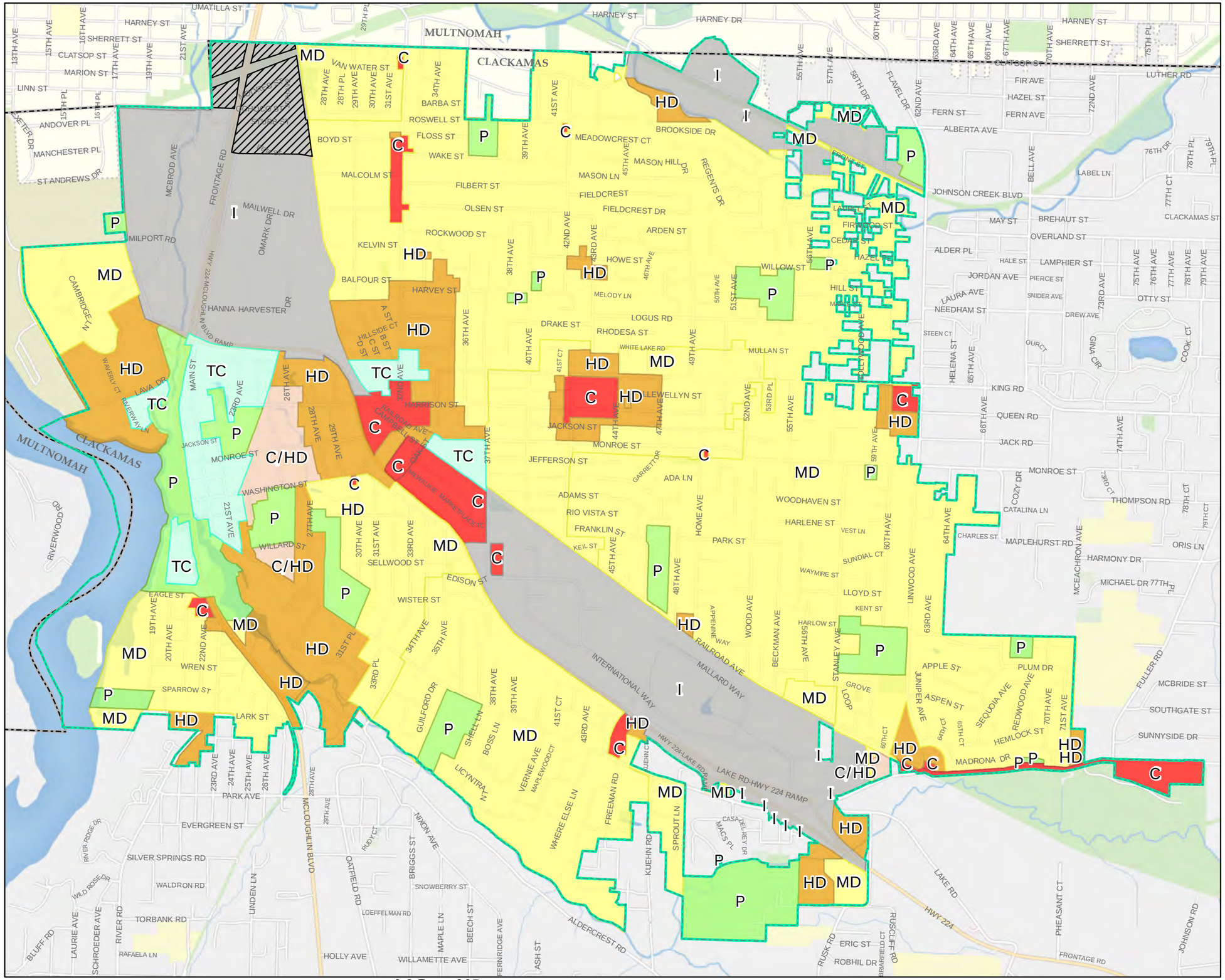
"City Engineer" means the person who is the manager/supervisor of the city's Engineering Department, or the City Manager's designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager.

"Front footage" means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner's portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.

CITY OF MILWAUKIE

Milwaukie Comprehensive Plan Landuse

- City of Milwaukie
- County Boundary
- Tacoma Station Area
- C -Commercial
- C/HD - Mixed Use
- HD - High Density
- I - Industrial
- MD - Moderate Density
- P - Public
- TC - Town Center



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

Date: Wednesday, June 9, 2021

The information depicted on this map is for general reference only.The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

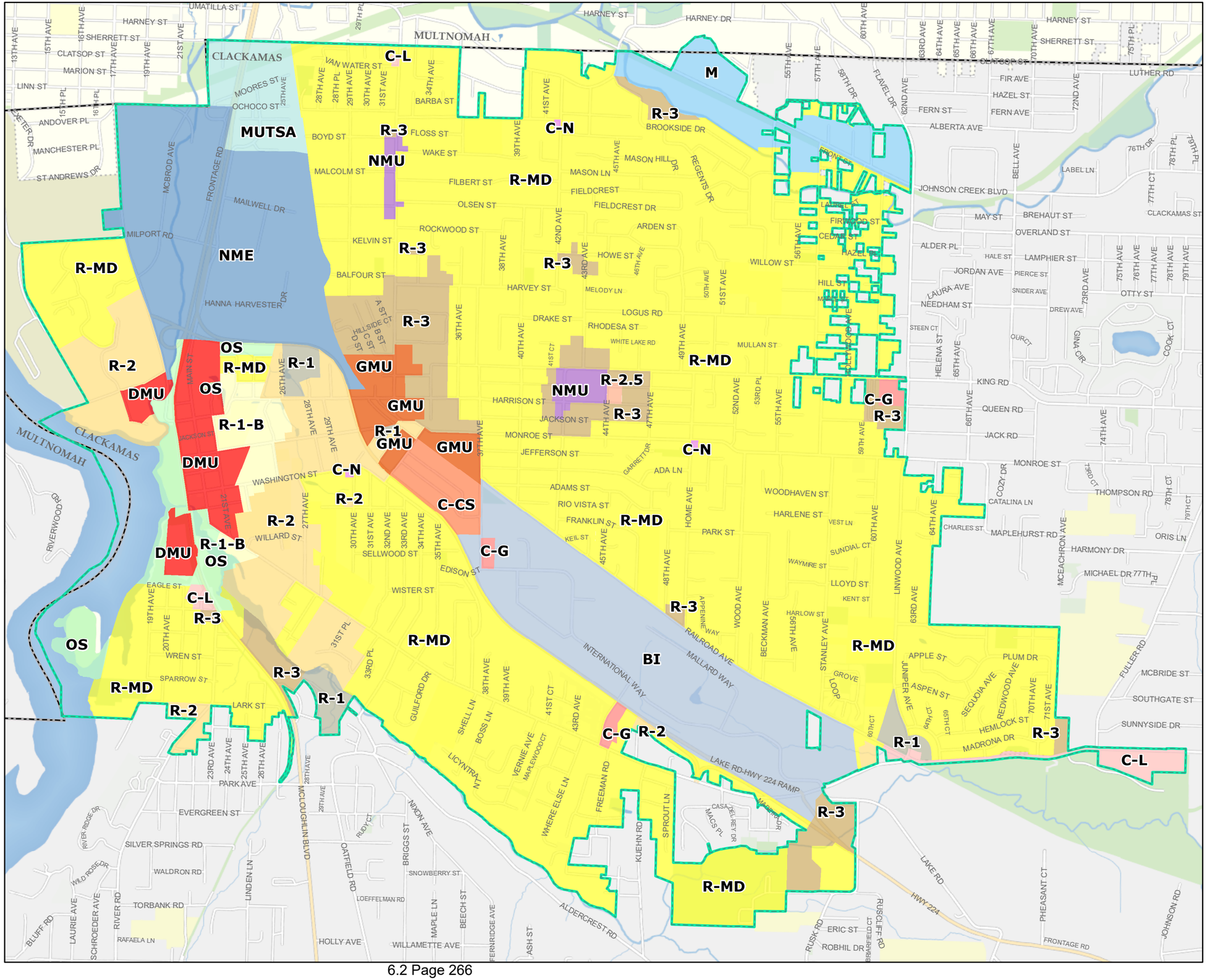
GIS Coordinator
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0 0.25 0.5 Miles

CITY OF MILWAUKIE

Milwaukie Zoning Designations

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



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

Date: Thursday, July 22, 2021

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0 0.25 0.5 Miles

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 will apply for terminology used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

"Arbor Day/Week" means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

"Arboriculture" means the practice and study of the care of trees and other woody plants in the landscape.

"City" means the City of Milwaukie.

"City Engineer" means the city engineer of the City of Milwaukie or designee.

"City Manager" means the city manager or the city manager's authorized representative or designee.

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

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

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

"DBH" means the diameter at breast height.

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

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

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

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

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

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

"ISA" means the International Society of Arboriculture.

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

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

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

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

"NDA" means Neighborhood District Association.

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

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

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

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

"Planning Manager" means the planning manager of the City of Milwaukie or designee.

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

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

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

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

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

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

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

"Tree Canopy" means the aggregate or collective tree crowns.

"Tree Fund" means the Tree Fund as created by this chapter.

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

"Urban forest" means the trees that exist within the City.

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

A. The City Manager is authorized to administer and enforce the provisions of this chapter.

B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.

C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning Manager, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;

2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;

4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;

5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and

7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;

2. Payments received in lieu of required and/or supplemental plantings;

3. Civil penalties collected pursuant to this chapter;

4. Agreed-upon restoration payments or settlements in lieu of penalties;

5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;

7. Sale of seedlings by the City; and

8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one

year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

a. Whether the species of tree is appropriate for its location,
b. Whether the species of tree is an invasive species;
c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:

(1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.

(6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.

(7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.

c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.

2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

   a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.

b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.

c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.

3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.

2. The applicant's proposed outreach and notification program provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;

2. Geographic area covered by the permit;

3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;

4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;

5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and

6. Traffic control requirements.

7. Annual Report

   On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
   a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
   b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will be provided in accordance with MMC 16.32.026 B.2
   c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028 F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation
   1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal must be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

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

C. Public Infrastructure Improvements

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

D. Private Utility Services and Dwelling Units

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

16.32.038 LOW INCOME ASSISTANCE

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

16.32.040 PENALTY

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

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

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

1. Land Divisions.

2. Construction of New Residential Dwellings Units.

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25 percent of onsite tree canopy maybe removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Affordable housing developments that meet the exemption standards in MMC 3.60.050 (A)1 and 2 may remove up to 50% of the existing canopy below the 40% site canopy coverage standard without mitigation. See Table 16.32.042 B1. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Table 16.32.042 B1

Development Type	Standard	Allowable Reduction not requiring Mitigation	Remaining Site Canopy Coverage
Residential Developments	40% Site Canopy Coverage	25% below 40%	30%
Eligible Affordable Housing Developments	40% Site Canopy Coverage	50% below 40%	20%

Trees listed on the City of Milwaukie Rare or Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards.

C. Clear and Objective Tree Canopy Standards

In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.

3. One hundred percent (100%) of the existing canopy or mature crown area of onsite trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.

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

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

D. Mitigation Standards

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

1. The 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 minimum tree canopy preservation standard as shown in Table 16.32.042 B1.

2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Variance Procedure.

1. An applicant may apply for a variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review). The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. Examples of activities that may justify a variance include but are not limited to:

   a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
   b. Use of techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
   c. Use of techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
   d. Use of techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

   a. Establish a root protection zone:

(1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1-foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.

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

(3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:

(a) the area of all new encroachments is less than 25 percent (25%) of the remaining root protection zone area when existing encroachments are subtracted; and

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

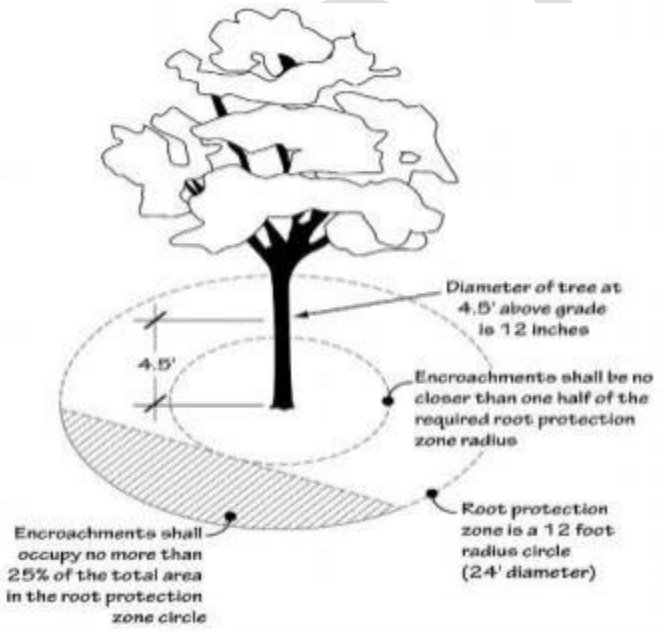


Figure 16.32.042.F - Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

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

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone plan is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impacts based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify with the Urban Forester in writing that the soil volume plan has been successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be 3 feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is 3 feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

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

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

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the

development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

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

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

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

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

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

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

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

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least 3 feet wide for the entire area.

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

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

(1) Compaction Reduction
- (a) tilling
- (b) backhoe turning
- (c) subsoiling

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

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

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

H. Submittal Requirements

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

1. Tree Inventory Requirements

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

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

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

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

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

f. Provide the crown area of each tree using the formula: (crown radius)^2 x π.

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

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

h. Identify whether the tree is on the Milwaukie Rare or Threatened Tree List.

i. Identify whether the tree is proposed for removal or retained.

j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify 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 and description of tree and soil volume protection fencing and signage.

i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

a. Provide a site plan drawn to scale.

b. Include the existing trees to be retained and their crown areas to scale.

c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.

d. Identify the soil volume areas for each tree to be planted to scale.

e. For performance path soil volume areas, identify the methods and specifications as applicable for:

(1) Compaction Reduction;
(2) Soil Amendments;
(3) Topsoil Replacement; and/or
(4) Soil Under Pavement

f. Include a diagram depicting the tree planting that is consistent with ISA best management practices.

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

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

Table 16.32.042.H

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

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type that, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the tree preservation standards in MMC 16.32.042.B have been met.

c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.

d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.

e. If the applicant is seeking a variance to the tree preservation and/or tree canopy standards in place of providing mitigation fees, provide findings that demonstrate the proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.

f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.

g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

a. Trees that are at least 6-inch DBH.

b. Trees that are less than 6-inch DBH as specified on the City of Milwaukie threatened tree list.

c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

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

a. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

(1) The proposed tree removal will be performed according to current ISA Best Management Practices.

(2) The tree proposed for removal meets one or more of the following criteria:

(a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA tree risk assessment standards.

(e) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(k) Healthy trees. One (1) healthy tree may be removed per site per calendar year if the tree meets the following:

i. The tree is less than 18 inches in diameter;

ii. None of the trees are required to be preserved by a condition of a land use review, a provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.I.2.a.j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock

must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

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

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

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

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

(1) Whether the species of tree is appropriate for its location;

(2) Whether the species of tree is an invasive species;

(3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

(4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and

(5) Whether the removal will significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:

a. Photograph(s) that clearly identify the tree(s) proposed for removal.

b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.

c. Information as to whether the tree is within a Habitat Conservation Area overlay district, or is part of an approved landscape or mitigation plan.

d. Any additional information required by the City.

e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.

a. Application Procedures Type 1 Tree Removal Permit.

(1) Applications for a Type 1 Tree Removal Permit must meet the requirements of MMC 16.32.042. I.4..

(2) Additional information required.

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 I.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety, and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant.

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16,32.042. I.4.

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 18 inches in diameter.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5). If no appeal is filed as specified in subsection 7., below, the decision of the Urban Forester is final.

7. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision, or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.

b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.

c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

(1) 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 may apply to violations of the provisions of MMC 16.32.042:

a. The penalty for illegal tree removal must not be less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

b. Topping, pruning, or otherwise inflicting willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

(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.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or type 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

DRAFT

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 will ~~shall~~ apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

"Arbor Day/Week" means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

"Arboriculture" means the practice and study of the care of trees and other woody plants in the landscape.

"City" means the City of Milwaukie.

"City Engineer" means the city engineer of the City of Milwaukie or designee.

"City Manager" means the city manager or the city manager's authorized representative or designee.

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

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

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

"DBH" means the diameter at breast height.

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

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

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

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

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

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

"ISA" means the International Society of Arboriculture.

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

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

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

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

"NDA" means Neighborhood District Association.

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

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

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

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

"Planning ~~Director~~Manager" means the planning ~~director~~ manager of the City of Milwaukie or designee.

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

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

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

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

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

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

"Street Tree List" is the list of tree and shrub species approved by the City for planting within the right-of-way.

"Topping" means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

"Tree" means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

"Tree Board" means the city of Milwaukie Tree Board.

"Tree Canopy" means the aggregate or collective tree crowns.

"Tree Fund" means the Tree Fund as created by this chapter.

"Tree removal" means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

"Urban forest" means the trees that exist within the City.

"Urban Forester" means the Urban Forester of the City of Milwaukie, or designee.

"Urban Forest Management Plan" is the management plan adopted by City Council for the management of the City's urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

A. The City Manager is authorized to administer and enforce the provisions of this chapter.

B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.

C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning ~~Director~~Manager, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, ~~-~~and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;

2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;

3. Provide outreach and education to the community on tree-related issues and concerns;

4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;

5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and

7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and -make recommendations -on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;

2. Payments received in lieu of required and/or supplemental plantings;

3. Civil penalties collected pursuant to this chapter;

4. Agreed-upon restoration payments or settlements in lieu of penalties;

5. Sale of trees or wood from City property;

6. Donations and grants for tree purposes;

7. Sale of seedlings by the City; and

8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way -as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest -as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC -12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not -remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter will ~~shall~~ be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

a. Whether the species of tree is appropriate for its location,
b. Whether the species of tree is an invasive species;
c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:

(1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by

pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.

(6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.

(7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.

c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.

2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.
b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.
c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.

3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.

2. The applicant's proposed outreach and notification program~~,~~ provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;

2. Geographic area covered by the permit;

3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;

4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;

5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and

6. Traffic control requirements.

7. Annual Report

   On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
   a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
   b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will ~~shall~~ be provided in accordance with MMC 16.32.026 B.2
   c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation

1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal must ~~shall~~ be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

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

C. Public Infrastructure Improvements

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

D. Private Utility Services and Dwelling Units

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

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within ~~in~~ the right of way and residential zones. Eligibility and extent of assistance will be based on a

percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

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

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

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

1. Land Divisions.

2. Construction of New Residential Dwellings Units.

B. Clear and Objective Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 25 percent of ~~existing~~onsite tree canopy maybe removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Affordable housing developments that meet the exemption standards ~~as defined~~ in MMC 3.~~0~~60.050 ~~1~~(A)~~.~~1 and 2 may remove up to 50% of the existing canopy below the 40 % site canopy coverage standard without mitigation. See Table 16.32.042 B1. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Table 16.32.042 B1

Development Type	Standard	Allowable Reduction not requiring Mitigation	Remaining Site Canopy Coverage
Residential Developments	40% Site Canopy Coverage	25% below 40%	30%

Eligible Affordable Housing Developments	40% Site Canopy Coverage	50% below 40%	20%

~~Not more than 33 percent of existing tree canopy can be removed from a development site unless mitigation is provided according to MMC 16.32.042.D.~~ Trees listed on the City of Milwaukie Rare and Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule.~~.~~ When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards. ~~Required yard setbacks may be reduced and building heights may be exceeded the minimum amount needed to preserve trees as determined by the Urban Forester.~~

C. Clear and Objective Tree Canopy Standards

In addition to the preservation of ~~existing~~ onsite trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.

3. One hundred percent (100%) of t~~T~~he existing canopy 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~~ are not met, 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 as shown in Table 16.32.042 B1.

2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. ~~Discretionary Review Alternative~~Variance Procedure.

1. ~~As an alternative to the mitigation fee payment, a~~An applicant may apply for a ~~Type III~~ variance to the tree preservation and/or tree canopy standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of ~~Section~~ MMC 19.1006 (Type III review). ~~according to MMC 19.911~~. The applicant is required to demonstrate that ~~the alternative proposal provides~~ equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. ~~The proposal must be approved by the Urban Forester or designee~~. ~~Grounds for~~Examples of activities that may justify a variance ~~Discretionary alternatives may~~ include but are not limited to:

   a. Use of t~~T~~echniques that minimize hydrological impacts beyond regulatory requirements (~~e.g.,~~examples include porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
   b. Use of t~~T~~echniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
   c. Use of t~~T~~echniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
   d. Use of t~~T~~echniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester ~~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 (25%) of the remaining root protection zone area when existing encroachments are subtracted; and

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

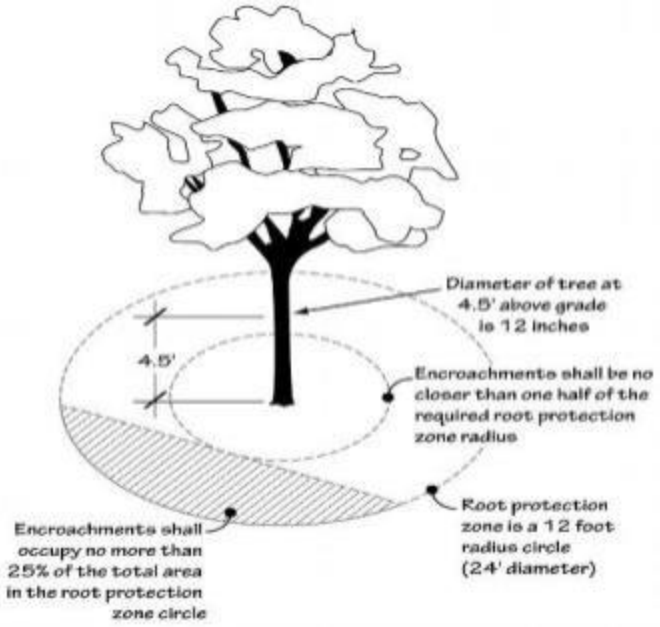


Figure 16.32.042.F - Permissible RPZ Encroachments

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~~begins, including clearing and grading,~~;~~ and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met~~is not practicable~~ for onsite trees as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone plan is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impacts based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify with the Urban Forester in writing that the soil volume plan ~~was~~ has been successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be ~~three~~ 3 feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is ~~three~~ 3 feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least ~~three~~ 3 feet wide for the entire area.

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

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

(1) Protection fencing:

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

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

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

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

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

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

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

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

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential ~~contaminants~~ contamination prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least ~~three~~ 3 feet wide for the entire area.

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

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

(1) Compaction Reduction
- (a) tilling
- (b) backhoe turning
- (c) subsoiling

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

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

(4) Soil Under Pavement
- (a) structural soil cells
- (b) structural tree soils
- (c) soil vaults

(d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through ~~G~~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~~is proposed for remova~~led~~ or retained.

j. Organize the tree inventory information in a table or other ~~approved~~ format approved in writing by the Urban Forester.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify 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~~Demolition
(2) ~~tree~~ Tree removal
(3) ~~staging~~Staging, storage, and construction access
(4) ~~grading~~ Grading and filling
(5) ~~paving~~Paving
(6) ~~construction~~ Construction of structures, foundations, and walls
(7) ~~utility~~ Utility construction
(8) ~~trenching~~ Trenching and boring
(9) ~~excavation~~Excavation
(10) ~~any~~ Any other demolition or construction activities that could result in ground disturbances and/or tree damage

e. Locate tree and soil protection fencing to scale.

f. Locate soil compaction prevention methods to scale.

g. Identify performance path tree protection and soil volume areas.

h. Include tree and soil volume protection specifications from the arborist report on the plans including a detail and description ~~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 diagram depicting the 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

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

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type ~~which~~that, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the ~~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 the applicant is seeking a variance to the tree preservation and/or canopy standards ~~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 threatened tree list.

c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following ~~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 any adopted historic or other applicable design guidelines.~~

~~B~~a. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

(1) The proposed tree removal will be performed according to current ISA b~~B~~est m~~M~~anagement p~~P~~ractices.

(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 c~~C~~ertified a~~A~~rborist 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 c~~C~~ertified a~~A~~rborist 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 ~~t~~Tree ~~r~~Risk ~~a~~Assessment standards.

(e) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(k) Healthy trees. One (1) healthy tree may be removed per site per calendar year if the tree meets the following:

i. The tree is less than 18 inches in diameter;

ii. None of the trees are required to be preserved by a condition of a land use review, a provision of this ~~Title~~chapter or ~~the Zoning Code~~Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (~~criterion j~~MMC 16.32.042.I.2.a.j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

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

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

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

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

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester ~~or designee~~ 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~~ for approving, approving with conditions, or denying a tree removal permit application.

a. Review ~~Factors~~ criteria : The City encourages retention of healthy p~~P~~rivate t~~T~~rees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

(1) Whether the species of tree is appropriate for its location;

(2) Whether the species of tree is an invasive species;

(3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;

(4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and

(5) Whether the removal will significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

~~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. Applications: An application for a tree removal permit shall be made upon forms prescribed by the City.

a. Photograph(s) that ~~positively~~ clearly identify the tree ~~species~~(s) proposed for removal.~~;~~

b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.

c. Information as to whether the tree is within a Habitat Conservation Area overlay district, or is part of an approved landscape or mitigation plan~~; and~~.

d. Any ~~other~~ additional information ~~reasonably~~ required by the City.

e. An application for a tree cutting permit ~~shall~~ must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant. ~~There is no public notice, and the decision of the Urban Forester is final.~~

a. Application.

(1) ~~Generally.~~ Applications for a Type 1 Tree Removal Permit ~~shall~~must meet the requirements of ~~Section~~MMC 16.~~,~~32.042. I.4. ~~Applications~~.

(2) Additional information required.

(a) If the ~~City~~Urban Forester requires additional information to review an application, the ~~City~~Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

~~©~~(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision ~~shall~~will be based on an evaluation of the facts and applicable standards and review ~~factors~~criteria in Section 16.32.042 I.2.a~~b~~.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit ~~shall~~must be performed in strict accordance with the terms and provisions of this c~~C~~hapter and conditions of approval of the permit.

(4) The Urban Forester ~~shall~~must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety ~~or significant undue impacts on neighborhood character,~~ and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager ~~or designee~~ by the applicant. ~~and any person adversely affected or aggrieved by the decision.~~

a. Application.

(1) Generally. Applications for a Type 2~~1~~ Tree Removal Permit ~~shall~~must meet the requirements of Section 16,32.042. I.4.

(2) Additional information required:~~.~~

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c)) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 18 inches in diameter.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision ~~shall~~ must be based on an evaluation of the facts and applicable standards and review ~~factors~~criteria in ~~Chapter~~ MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit ~~shall~~must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) ~~If the application is denied, t~~The Urban~~City~~ Forester ~~shall~~ must notify the applicant of the decision in writing.

(5). If no appeal is filed ~~within a timely manner~~ as specified in s~~S~~ubsection 7.~~c.,~~ below, the decision of the Urban Forester is final. ~~The City Forester shall notify the applicant that the decision is final.~~

c. Appeal. The applicant may appeal the Urban Forester's decision. ~~In addition, when public notice is required per Table 30-1, the neighborhood association or any other person may also appeal the decision.~~ Appeals ~~shall~~must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review ~~factors~~criteria.

~~d. Appeal process.~~

~~(1) Scheduling of the appeal hearing. The appeal hearing will be scheduled within 30 days of the date the appeal was filed. However, for good cause shown by any party, the City Manager may extend the hearing deadline.~~

~~(2) Notice of the appeal hearing will be sent to the applicant, the appellant, and the neighborhood association at least 14 days before the hearing. The applicant shall post a copy of the appeal hearing notice on the site in a location clearly visible from the street nearest the tree.~~

(~~3~~4) Appeals are heard by the City Manager.

(~~4~~5) The City Manager will consider the application against the applicable standards or review ~~factors~~criteria, taking into consideration information provided by the applicant~~, appellant,~~ and City staff.

(~~5~~6) The City Manager may affirm or reverse the Urban Forester's decision, or remand the decision to the Urban Forester to determine appropriate mitigation.

~~(6) The Appeals Board will give due deference to the professional judgment of the Urban Forester, and will reverse or remand the City Forester's decision only upon a finding that the City Forester's decision is not supported by substantial evidence, or upon a finding that the Urban Forester's decision was arbitrary or capricious, an abuse of discretion or otherwise was not in accordance with the provisions of this Title.~~

(7~~7~~) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.

b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.

c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

(1) 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 may apply to violations of the provisions of MMC 16.32.042:

a. ~~Illegal tree removal:~~

~~(1) Not~~The penalty for illegal tree removal must not be less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

~~(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 otherwise ~~incurring~~ inflicting willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

~~(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.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

DRAFT

Attachment 3

Recommended Revisions to posted code amendments – Titles 17 and 19
(see highlighted text for specific revised language)

1. **Revise Table 19.301.4 with a new footnote and amended density for townhouses – per HB 2001.**
2. **Allow all middle housing types, except cottage clusters and townhouses, on lots with a minimum of 3,000 sq ft.**
3. **Provide reduced setbacks for development of income-restricted housing.**

Table 19.301.4 **Moderate Density Residential Development Standards**					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage[1]	Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADU, Duplex Triplex Quadplex	Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADU, Duplex, Triplex Quadplex	Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADU, Duplex, Triplex, Quadplex, Cottage Cluster	**Subsection 19.501.1** Lot Size Exceptions
C. Development Standards					

[1] For a Cottage within a Cottage Cluster only

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
1. Minimum yard requirements for primary structures (ft)[2]					19.301.5.A Yards
a .Front yard	20 [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	
C. Other Standards					
1. Density requirements(dwelling units per acre) a. Minimum b. Maximum	 25 ~~34.8~~ 25 [4]	 7.0 8.7 [4]	 7.0 8.7 [4]	 5.0 6.2 [4]	**Subsection 19.301.5.D** Residential Densities **Subsection 19.501.4** Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4

[2] Cottage Cluster developments are subject to the standards in Section 19.505.4

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

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

19.301.5 Additional Development Standards

A. ~~Side~~ Yards

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

1. Affordable Housing

For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced as follows:

a. Front yard: 10 ft
b. Rear yard: 15 ft
c. Side yard: 5 ft
d. Street side yard: 10 ft

4. Revise 19.301.5.D as follows:

D. Residential Densities

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

5. Revise 19.501.2 as follows:

19.501.2 Yard Exceptions

C. A covered porch on a single-~~family~~ unit detached dwelling, or middle housing unit, may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
2. The surface of the porch does not exceed 18 in high above the average grade.
3. The porch is at least 5 ft from the front lot line.

6. Revise 19.505.1 as follows:

19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development

A. Purpose

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

Site design is intended to ~~must~~ meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

6. Revise 19.505.5.D to comply with HB 2001 as follows:

D. Number of Townhouses ~~Rowhouses~~ Allowed

In the High Density Zones , no more than 4 consecutive townhouses ~~rowhouses~~ that share a common wall(s) are allowed. A set of 4 townhouses ~~rowhouses~~ with common walls is allowed to be adjacent to a separate set of 4 townhouses ~~rowhouses~~ with common walls.

In the R-MD zone, ~~the maximum width of attached townhouse frontage may not exceed 40 feet~~ the maximum number of consecutive attached townhouses is 4 ~~2~~.

7. Revise 19.702 to include duplexes to comply with HB 2001 as follows:

19.702.2 Single-~~Family~~ Detached and Duplex Residential Expansions

Chapter 19.700 applies to single-~~family~~ detached and duplex residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-~~family~~ detached and duplex residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least ~~200~~ 800 sq ft, but not

more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than ~~200~~ 800 sq ft, none of Chapter 19.700 applies.

D. single~~-family~~ detached and duplex residential expansions shall provide adequate public utilities as determined by the ~~Engineering Director~~ City Engineer pursuant to Section 19.709.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

A. Modifications to existing single~~-family~~ detached and duplex residential structures that do not result in an increase in gross floor area.

8. **Revise minimum off-street parking requirements as follows:**

Table 19.505.4.C.1 Cottage Cluster Development Standards		
Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	0.5	0.5

19.505.4. E. 2. Off-Street Parking

a. There shall be at least 0.5 off-street parking spaces per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	**Minimum Required**	**Maximum Allowed**
A. Residential Uses		
3. Middle Housing		
a. Duplexes	0	1 space per dwelling unit
b. Triplexes	0	1 space per dwelling unit
c. Quadplexes	0	1 space per dwelling unit
d. Town Houses	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit

9. **Revise MMC 17.28.070 to permit flag lots and back lots in new subdivisions as follows:**

17.28.070 FLAG LOT AND BACK LOTS IN SUBDIVISIONS ~~LIMITATIONS~~

Flag lots and back lots are ~~prohibited~~ permitted in new subdivisions. ~~and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)~~

Updated November 1, 2021				
Commenter	**Date Received**	**Municipal Code Section**	**Comment**	**City Staff Response/Recommendation**
Zoning Map				
Bradley Bondy	7/26/2021	Zoning Map	*Rezone properties in close proximity to downtown or frequent service bus lines to the new R-1 zone, and those within 10 minute walk to downtown or MAX to the new R-1-b.*	Staff will be working on the high density zones in the next phase of code amendments and comprehensive plan implementation.
12106SE (Engage Milwaukie)	9/15/2021	Zoning Map	*It is difficult to tell on the zoning map if the Clackamas Community College Campus is included in the Comp. Plan. It appears that it is not.*	The college campus property is zoned Limited Commercial, not residential, so the proposed code amendments will not directly affect this property.
Title 19 Zoning				
Bradley Bondy	8/24/2021	19.301 and 19.302	*The proposed minimum lot size requirements for different forms of middle housing should not be included as is in the final code. I ask that the Planning Commission reduce minimum lot sizes for 3-plexes and 4-plexes to something that doesn't strongly discourage their construction.*	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	8/24/2021	19.301.5.B.3	*In 19.301.5.B.3, middle housing is provided a 10% lot coverage bonus, however it's written such that only the first floor can be built within that bonus, second floors are restricted to the same area as a single detached dwelling. This reduces the possible square footage of middle housing, thus reducing their viability. This greater restriction is not present in the R-1 and R-1b zones, and it should be not included in the R-2 zone.* *SUGGESTED EDITS: "Increaased Lot Coverage for ~~Duplexes~~ Middle Housing.* *The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by ~~20~~ 10 percentage points for a ~~duplex~~ middle housing, provided that the portions of the structures(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.*	
Bradley Bondy	8/24/2021	19.301.5.B.3	*The draft code proposes a reduction to the lot coverage bonus for middle housing from 20%, down to 10%. This change should be dropped. It's both fine and good to allow buildings in which 2-4 families live to be a fair bit larger than a single detached home where only 1 family lives. Keeping this reduction in hte final code would discourage the building of hte middle housing that the adopted comp plan makes clear is a high priority for the city.*	
Bradley Bondy	7/26/2021	19.605	*Eliminate parking minimum in the R-1-b zone. This zone exists exclusively within a short walk to downtown, the MAX, and the transit center where 8 bus lines all converge. It's also a neighborhood where a significant number of folks already don't own cars.*	By-right reductions to required off-street parking include credits for proximity to transit.
Bradley Bondy	7/26/2021	19.302	*Modify the R-1-b zone to allow 4-plexes on 5,000 sq ft lots. No adjustments to setback or lot coverage standards needed.*	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	7/26/2021	19.302	*Allow Single Room Occupancies (SROs) within the R-1-b zone.*	SROs and other similar types of housing will be addressed in a future phase of code amendments.

Wibke and Mark Fretz	9/25/2021	19.505.1	*While we understand that the intent of the Detailed Design standards is to have housing that is appropriate for the neighborhood, we would note that the 15 listed features do not constitute a known style and adhering to them would not necessarily produce esthetic housing or housing compatible with the neighborhood. We support the inclusion of porches and several other non-stylistic features, but, for example, bay windows, changes in roof height and other façade offsets add construction costs to units that are meant to be affordable and decrease energy performance (impacting climate and operational affordability). Additionally, the choice of wood shingles for roofs or walls is problematic, as these are a fire hazard. More consideration could be given for alternative materials. We realize that applicants may go through a Type II variance application to avoid compliance with 5 out of the 15 features, but an alternative would be to reconsider the list of required features so that more developments could forgo the variance application, which increases development timelines, housing cost and inhibits design innovation.*	Determining a new list of design details was beyond the scope of this project. As proposed, the existing list of design details for single detached dwellings would apply to middle housing as well to be consistent. This list was put together in a public process in 2012.
Wibke and Mark Fretz	9/25/2021	19.505.4	*We understand that the definition of a cottage is one home/house. However, if a duplex cottage (two units) can meet the maximum footprint of 900 sq. ft. and the massing (height, roof slope, etc.) requirements for a single cottage, we would advocate for the code to allow for that type of cottage within a cottage cluster.*	As proposed, duplex cottages are permitted in the High Density zones, but not in the R-MD zone.
Bradley Bondy	7/26/2021	19.607	*Allow on-street parking spaces directly in front of a property to count towards the minimum. Car parking takes up a ton of space and can greatly reduce the amount of living space that is possible to build, and it eats into yard space, likely reducing the number of trees on a property. The city's on-street parking capacity is greatly underuitilized. Limited on-street parking is not an issue.*	In order to account for each property's specific on-street parking availability, the code provides for a Type II parking modification process to allow for this type of flexibility on a case by case basis.
Rob Reynolds	9/1/2021	19.600	*Why does the city want more street parking?*	The proposed code requirements for on-street parking are in line with the requirements of HB 2001, but, more importantly, we recognize that building off-street parking increases the cost of development and one of the goals of the comprehensive plan is to find ways to reduce the cost of housing. As part of this code project, we had a Residential Parking Occupancy Study done to help ground-truth how the amendments might affect on-street parking. We posted this document on the Engage Milwaukie site. It is available here: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/117711/residential_occupancy_parking_study_-milwaukie.pdf.

Rob Reynolds			*Thanks for your response, but you still did not answer my questions. Why is the city pushing their political view for my property and future property owners? What is the number of people that you are referring to? We do not have a large involvement of all the residents in Milwaukie. I would like to see that change. But with that said I am not sure what standing you are using when you say that this is what the people in Milwaukie want. If these were safety issues that a contractor was causing I could see the code changes. But all I see is a political view being forced on the people milwaukie.*	The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law.
Donald Courson	9/6/2021	19.605.3	*Key amendment item states "Include a by-right reduction in minimum off-street parking for middle housing located near transit." A clear definition of "transit" is not referenced, and a quantitative definition of "near transit" is not included. Given Trimet's current level of coverage, this would allow for any housing to be deemed "near transit" and eliminate the requirement for off-street parking in all cases. My position is that the city needs to revise to include both a clear definition of "transit" and quantified definition of "near".*	Proximity to transit is already a reduction in the existing code – we are adding middle housing to the types of development that can get this reduction:
			Key amendment item states: "include a by-right reduction in minimum off-street parking for income restricted (affordable) housing." The terms "income restricted (affordable) housing" are a broad term, subject to interpretation resulting complexity to enforce. Recommend that the city revises to provide a clearly enforceable definition of "income restricted (affordable) housing" in a manner such as "income restricted (affordable) housing as defined by XX", or even stating a definition in detail. Otherwise, potential developers may be concerned with whether their build plans would meet the city's regulations, and the city may have limitations in situations where they disagree that a developer's plans are in the best interest of the city and affected neighborhood.	Income-restricted housing code language has been included in the proposed amendments.
Brad Thompson	9/9/2021	19.605	*I would preferably like to see only onsite parking with no street parking as this could cause pedestrian traffic accidents.*	
Charles ISN (Engage Milwaukie)	9/20/2021	19.605	*The amendment does not address the need for more parking per unit. With a couple each with a car plus a teenager and a boat more off street parking would be critical. Please adjust the amendment to include more off street parking.*	Oregon House Bill 2001 does not allow us to require more than 1 off-street parking space per dwelling unit. This is the requirement for single detached homes as well, so the proposed code is applying the same requirements to single detached homes and middle housing.

Wibke and Mark Fretz	9/25/2021	19.600	*We strongly support the proposal to reduce required parking numbers through several methods, including tree preservation, via a Type II parking modification. The summary of "key amendments," however, suggests a more flexible arrangement of parking for middle and cottage cluster developments than is specified in the code language and we would support the more flexible language in the summary, including allowing parking in some of the required setbacks. We also want to advocate for a more flexible approach to parking in general. For example, requiring parking for cottage cluster developments to be in a common area would create a large, paved surface vs. having parking spaces placed individually, some even associated closely with individual units, which seems more in keeping with the character of surrounding neighborhoods. These additional requirements for parking, including placement, limits the number of housing units on a lot, which restricts affordability.*	The proposed code amendments do provide for an allowance for parking within the required setbacks. The cottage cluster code amendments reflect HB2001 and the model code to ensure compliance with these requirements. The parking modification process is available to provide flexibility as needed on a case by case basis.
Rice99_97068 (Engage Milwaukie)	9/24/2021	19.600	*As far as the residential parking in yards and side areas i think its a great idea. Milwaukie is a city of families and families like to do stuff the may enjoy camping a have travel trailers or classic cars the family's enjoy of like water sports so have jet skis or boats, and some of the houses were not build with enough driveway space to park more then a car or 2 but there is plenty of other areas on the property that would be great to park*	
Stephan Lashbrook	10/11/2021	19.605	*Reducing the parking standard for residential developments still concerns me because there is so much variation in available parking from one block to another. I realize that the State has mandated a reduced parking standard and I suppose that the best I can do is simply say that there will be problems when residents discover that the on-street parking they have relied on for years is now occupied by overflow parking from other properties. I wish we had frequent transit service in every neighborhood and a thoroughly connected sidewalk and bike system all over town. We do not and we probably never will. Without those alternative transportation improvements, we are going to create parking problems for some people in some parts of town.*	
Jay Panagos (Engage Milwaukie)	9/1/2021		*Are "Tiny Houses" included in Cottage Cluster Development?*	Thank you for your question. If by "tiny homes" you mean very small homes on a wheeled chassis, then no, they are not permitted as dwellings because they are considered vehicles. Current code does not permit people to live in vehicles. Cottages in a cottage cluster development must meet certain minimum design and development standards – you can review them in code sections 19.505.1 and 19.505.4.
Erik (Engage Milwaukie)	9/21/2021		*I have serious reservations with the idea of combining housing type zones (essentially rezoning) for the quiet neighborhoods like many around Milwaukie. The way I read this, it would presumably allow a developer to build a high-density condo-like complex right along side single family homes. In my Hector Campbell neighborhood, we already have monstrous, brand new houses being built that tower high above all our little single-story ranch-style homes that have been here for decades, which appear intrusive. These ridiculously large houses are out of place enough already, I can't even imagine a 4+ story, 30-dwelling condo complex building on the corner of my block, casting its shadow on my already sun-starved garden (tree requirements), filled with people staring down into my windows and overseeing my activities in my yard from above. Sure, this is an extreme example, but this plan would allow for it.*	The proposed code amendments apply to middle housing and not to large multiunit developments. The proposed design and development standards include maximum building height for middle housing that is the same as for single detached units, so a 4+ story building would not be permitted in the medium density zones. The Engineering and Public Works Departments are part of the project team for these proposed amendments as well.

			I would also like to echo the previous commenter's concerns regarding additional traffic on our streets, which mine hasn't been paved since its first (only) layer of asphalt was laid down in 1946, and is now so broken and cratered it's worse than driving on the surface of the Moon. Another major concern I have is the current capacity of our existing utilities - water, gas, electrical, storm/sewer, broadband internet, phone/cell, etc... Some parts of Milwaukie are already at (or above) the limits for many of these services. We have areas in older neighborhoods with chronic sewage issues and/or low water pressure. Most of our upper-North Milwaukie neighborhoods have overhead electrical lines running old, thin copper conductors that are not tree-rated, and which already max out their current rating during the coldest weather of each Winter.	
			If you're just going to railroad these changes through anyway (Re: TriMet MAX) then at least prepare the area for potential impacts, and upgrade roads and work with utility providers toward expansion ahead of construction, instead of playing catch-up after the fact or just flat-out ignoring and denying these problems and the needs of Milwaukie's residents altogether.	
Dawntim17 (Engage Milwaukie)	9/17/2021		*Not all zones being changed to allow higher density housing have a street infrastructure to support the additional traffic. Before higher density housing is permitted, there needs to be street infrastucture improvement to support it, lest Milwaukie become the next Sellwood.*	
12106SE (Engage Milwaukie)	9/15/2021		*So the new code would require subdividing the lot for cottage cluster or could they be owned as tenants in common?*	A cottage cluster can be owned in common.
12106SE (Engage Milwaukie)	9/15/2021		*I understand the need for more middle housing. I am ok with adding duplexes and triplexes ONLY if we have stricter zoning as to what is acceptable. I don't want to live next door to a 'skinny house' that has a door and single garage facing the street. They need to fit the character of the neighborhood and that is something, I believe, that the City would need to put into the code. Also, while adding more residents to Milwaukie, what is the plan to keep up the infrastructure of the City - roads, sewer, etc? That is something we really need to have plans for.*	All new middle housing development would need to comply with minimum design standards (just like single family homes do). The Public Works and Engineering Departments are involved in this project as it relates to infrastructure needs.
Milwaukieres (Engage Milwaukie)	9/27/2021		*We are aware and understanding of the housing crisis. However, we feel that tiny home/cottage clusters and other multiple unit dwellings will ruin the charm and draw to Milwaukie and neighborhood property values will decline. It would directly affect the livability for my family. It's one thing to have neighbors next door, but it's another when there's multiple sets of neighbors next door. We live on a well traveled street and already experience many issues with traffic on a daily basis as is, so adding more people in our neighborhood would only contribute to the issue. More people=more cars=more congestion=Unhappy, established longtime homeowners. We don't want to live next door to or down the street from any more duplexes or tiny home clusters.*	Tiny homes (small homes on wheeled chassis) are not part of the proposed code amendments. The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law. The proposed amendments also include design and development standards so that new housing will compliment existing neighborhoods.
Stephan Lashbrook	10/11/2021	Trees and Solar Access	*I fear that we are not doing enough to protect solar access for energy production and for gardens. I know this requires a careful balance between tree canopy goals and building height/setback regulations and my guess is that we are about to sacrifice solar access in some cases for other goals. I am not prepared to offer specific suggestions except to say that I have long felt that building setbacks and height standards on the north side of a property that adjoins other developed or developable properties should be regulated to protect solar access on those adjacent properties.*	

Stephan Lashbrook	10/11/2021		*One question — are the standards intended to apply to a quadplex the same as for a cottage cluster of four units? If not, I think they should be the same.*	Cottage cluster development shares some standards with a quadplex, but many of the standards are specific to cottage clusters as required in HB 2001.
Stephan Lashbrook	10/11/2021		*Use more graphics in the code - fewer words*	
Stephan Lashbrook	10/11/2021	Definitions	*One suggestion — rewrite the definition of a "half story" used in the current Code (following) and carried forward in the recommended provisions. Here is the current language: "'Half-story' means a story under a gable, gambrel, or hip roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than six ft above grade, for more than 50% of the total perimeter and is not more than 10 ft above grade at any point, such basement or unused under-floor space shall be considered as a half-story."*	
			That definition consists of two distinct thoughts that have little to do with one-another. The first sentence of that definition, although somewhat challenging to track, does seem relevant to the height standards for residential structures set at "2 1/2 stories or 35 feet, whichever is less." My complaint lies with the second sentence, which applies only to basements or under-floor spaces. It does nothing legitimate to help in the regulation of building height and only serves to potentially reduce the amount of floor space that might be developed on a residential property. Let me be more specific.	
			In the Lewelling Neighborhood, where I live, there are many ranch style homes constructed in the 1950s, many of which look very much like one-another. Some of the homes have full basements, others do not. Very few have daylight basements, but some do. Other than the homes with daylight basements, the other homes with basements cannot be distinguished from those without basements from a street view. However, the second sentence of the definition of "half story" would impose a more strict height standard on the homes with a conventional basement than those without. What is missing from the definition is a more specific application to homes with daylight basements, because they tend to appear, from at least one side, to be taller than nearby homes without daylight basements. I will leave it to the decision-makers to decide whether more strict height standards are needed for homes with daylight basements. For homes with conventional basements, I would urge you to amend the rules to treat them just like visually similar houses without basements. Please delete or restructure the second sentence of the definition.	
Bradley Bondy	10/25/2021	lot size and parking	*Please allow for all middle housing types on 3,000sqft lots, as well as for reducing the required parking to .5 spaces per home. Both of these changes would help to create an abundance and variety of housing options in Milwaukie. I also feel that Milwaukie has made a strong commitment towards advancing affordability in it's comprehensive plan, and adopting the bare minimum to comply with state law doesn't scream "doing all we can to advance affordability." Please also approve the changes for set back requirements for income restricted housing, and further expand that change to apply for all housing regardless of deed restrictions on affordability. It's ok for homes to have smaller setbacks. Many neighborhoods in the region have similar setback requirements, and they're all perfectly pleasant places to live.*	

Tim Taylor	10/26/2021	19.605	*My name is Tim Taylor, I'm a resident of Milwaukie, a small business owner, and I helped contribute to the most recent election for Milwaukie's newest Commissioner. I'm writing to express my support of the proposed changes to reduce parking minimums to 0.5 spaces per unit for middle housing (duplex, triplex, and quadplex). This change will prioritize Milwaukie's housing affordability and climate action goals, instead of putting car parking ahead of those goals. I believe Milwaukie should be focused on providing housing for people and space for tree canopy, not cars. As a young professional, I have friends who are interested in moving to Milwaukie but haven't due to a lack of affordable housing. These are individuals who may not be able to afford a single-family home, but would likely be able to afford a duplex. I love living in Milwaukie, but I also want to see it grow. I want small businesses to move here, but as a business owner myself, Milwaukie is not yet a desirable location to expand or start a new business. There is simply not enough people in certain areas to support a new brand. Thank you for considering my opinion on this matter and thank you for caring about the future of our beautiful city.*	
andersem (Engage Milwaukie)	10/28/2021	Zoning Map	*Simplifying the zoning map seems good, and allowing structures of similar size to exist seems good, too. People already have every right to share detached homes in any neighborhood, and often do; over the long term, the main thing this would do is give people the option of having their own kitchen and entrance if they want to prioritize that. In the short term, this should give people the option to prioritize location over home size (for any given budget) if they choose to do that.Increasing the number of homes in the city is the only way Milwaukie will be able to gracefully adapt to people relocating from elsewhere, often with quite a bit of money to spend on housing. If Milwaukie doen't allow more homes to exist, people with more money will just outbid people with less, which means the prices of existing homes will keep going up faster than is healthy for the city.*	
andersem (Engage Milwaukie)	10/28/2021		*Allowing units in a "plex" to be physically detached from each other is a great way to increase flexibility, save trees and reduce needless demolitions. Great idea. I don't understand why it should be illegal to put a triplex on a 4,999 square foot lot, or a fourplex on a 5,000 square foot lot. Splitting the land cost among more households should reduce the cost of the project (relative to other new construction).To the traffic concerns some have shared: there are only three ways to reduce auto traffic. One is to have fewer people. That's not in the cards for this region in the forseeable future. The second is for many people to have less money to spend. Probably nobody wants that. The third is to shift more trips from cars to foot, transit, bike, etc. Trying to control traffic by making it illegal for someone who wants to live in Milwaukie to do so only leads to them living somewhere else, presumably farther from their desired destinations, which means more driving. Allowing more people to live close to each other allows the sort of walkable retail and more frequent transit that we already see in the parts of Milwaukie that were built before we started building cities around cars.*	

andersem (Engage Milwaukie)	10/28/2021	Parking (19.600)	*These proposals are an improvement on the status quo. Having lots of parking space is nice, but it's not more important than housing, and making parking mandatory with every new (whether or not the people who live in the home want it) literally implies that parking spaces are more important than homes.It's likely that some public curbsides will gradually become more crowded. The only people who will be harmed by this are ... people who are already parking on the public curbsides. So I'm not clear on what grounds they have to object.If we truly want to preserve curbside space, though, requiring one parking space per home doesn't make much sense to me. Every additional driveway basically eliminates one curbside space (and removes a space for a potential tree). So if a bunch of homes go in with one off-street driveway parking space, and have to install curb cuts to do so, the only thing we're doing is removing one parking space from the street (which can be used by anyone) in order to create it off-street (which can be used only by the owners). That seems inefficient.Also, the only way to actually stop people from parking in the public street is to have permits or meters or something. Otherwise, some folks are never going to bother to clear out their garage.*	
Barbara McGinnie	10/30/2021	Parking (19.600)	*I live @ 2336 SE Llewellyn and have for about 40 years. When the Waldorf school opened the parking on the street got very difficult if not impossible during school hours, although the school administration had promised not to let the teachers & students park in the neighborhood We also have a large apartment in our back yard @ 23 & Llewellyn. They charge for a parking space there so many tenants park on the street as well. These people are not paying the $42360.76 property taxes, I am, but I could never count on being able to park on the street or have my guests park anywhere close. Now the city thinking of cutting the parking space per apartment requirement from 1 down to 1/2 space??? Please consider us home owners in the close in neighborhoods.*	
Title 16.32 Tree Code				
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Crown" is defined, but there is no definition for "mature tree crown." How will this be determined?*	Urban Forester will create species characteristics lists for street trees and yard trees using best available information. Lists will be updated and posted online for community use.
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Right-of-way" is defined but "abutting right-of-way" is not. This should be defined.*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	*"Street tree" is defined as a tree, shrub, or other woody vegetation on land within the right-of-way. The "other woody vegetation" language may be broad, and complicate things for the City if it is required to regulate the clearing of woody vegetation. To simplify this and reduce complaints, the City might consider a "height threshold when fully grown" for the purpose of regulating their removal/pruning, and remove mention of anything smaller in stature.*	Tree is defined as ""“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity."
Elvis Clark	7/11/2021	16.32.023	*Objection to proposed language on interference with city: This language taken at just its word would seem to give the Urban Forester the ability to just enter one's private property without getting permission from the property owner or through proper judicial process to override the proeprty owner's resistance.*	Intent is to allow for hazard tree removal or diseased tree/pest treatment to control infection spread
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.040	*16.32.040 Penalty: The current language suggests that penalties only apply to a person who removes a street tree or a public tree without first obtaining a permit, or for a person who removes a tree in violation of an approved permit. However, no penalty is mentioned in the event that someone removes a private residential yard tree in a non-development situation without a permit. This language should be clarified to include removal of a tree on private property without permit in situations that require a permit under Section I.1.*	16.32.042.J.2
Elvis Clark	7/11/2021	16.32.042	*Objection to proposed language including exception on residential building heights: I prefer no such exception for developers to use to build houses higher than the current 2 and half story height limit contained in the proposed Comprehensive Plan Implementation*	
Elvis Clark	7/11/2021	16.32.042	*Ojection to 6-inch DBH standard in non-development tree permit requirements: This is too narrow a diameter for private property, non-developmental tree regulation. The City of Portland uses 12 inches DBH for residential tree removal requirments. Seems unrealistic as enforcement is very unlikely to be able to enforce consistently and fairly over private property.*	
Elvis Clark	9/22/2021	16.32.402	*I believe 8 inch Diameter is too low a diameter to be practical in enforcing code. I think the focus by the City should be on regulating private property/non-development trees with diameters of at least 20 inches and greater (DBH) I think the public consternation of tree falling on private property surrounds more the mature and tall firs, oaks, elms, etc. typcially these being well over 20 inches DBH. I can't imagine the City wanting to so micro manage even small trees down to 8 inch DBH. These small trees should maybe be the subject of informational encouragement rather than enforcement. 8 inch will also cause too much friction between neighbors, as the only way it gets consistently enforced is if neighbors are "ratting on one another." Arborists and tree cutters are no longer so cheap, too; and so many folks do there own managing of trees; and so here again, there should be more balance between imposing costs beyond the 20 DBH and greater on Milwaukie property owners. I make this plea again against a draconian launch into private property tree codes, down to the 8 inch diameter range at (DBH).*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Support for 6-inch DBH: We strongly support the inclusion of trees above 6" DBH in Tree Inventory Requirements (H.1) and in Non-Development Tree Permit Requirements (I.1.a) This stringency is critical to protecting the urban forest and giving small trees a chance to contribute to a multi-age sustainable canopy as the urban forest ages.*	
Elvis Clark	7/11/2021	16.32.042	*Objection to on going maintenance language: This is both too intrusive over non-development, private property owners, and unrealistic per code enforcement. It seems way overboard for government to oversee such matters, and, costly if the property owner must hire an arborist to "properly prune."*	Removed from recent draft of code.
Elvis Clark	7/11/2021	16.32.042	*Objection to illegal tree removal language: The City should stick to a fixed Master Fee Schedule for all illegal tree removal. Appraised Value opens a can of worms as for instance guessing what a tree's assessed value is in the aftermath of its falling and even possible removal.*	Appraised value is based on ISA BMPs
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Integration of strategies to achieve 40% tree cover and equity considerations into regulatory mechanisms: There is no clear articulation of how the City plans to achieve a 40% tree cover from the 26% cover noted in the 2019 Urban Forest Management Plan. The Plan describes the need to "analyze the potential of a tree planting program to increase canopy coverage to 40% by 2040, prioritizing lower income neighborhoods that do not have adequate canopy coverage." This is an admirable goal we strongly support. A planting program obviously would require staffing and funding, in addition to partnerships. The timeline for this to be determined is unclear. However, we also belive the code framework can be an effective tool to pursue both tree coverage and equity geographically. Geospacial tools offer a decision tool for ensuring equity as trees are planted. This information is now available on Branch Out Milwaukie at the census tract level. An approach such as this provides a methodology for ensuring equity. No census tract in Milwaukie has a canopy cover greater than 35% based on current data. The aforementioned future tree planting program could help create equitable outcomes.*	Staff intend to develop an additional implementation and planting plan as follow up to UFMP to address the 40% canopy gap
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Tree preservation and planting in residential zones: Section B. Tree Preservation Standards, establishes a base requirement that one third of the existing priority tree canopy be preserved. Given the goal of 40% canopy and an existing coverage of 26%, we again feel that we cannot judge the adequacy of this 33% standard in meeting this 40% goal. How was it arrived at?*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Adequacy of tree fund payment schedule: We do not believe that the Tree Fund Payment schedule is adequate enough to incentivize developers and landowners to perserve existing trees. Conversations with city staff indicated that they predicted that most developers would simply consider these fees part of the cost of doing business, remove many large trees, adn pass the cost to homebuyers. It is absolutely critical that if the city offer a payment instead of preservation option that the cost be high enough that serves to protect large old trees and is only used as a last resort.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Role of Urban Forester: The Urban Forester is obviously a position that will hold extensive expertise in urban tree management, this latitude places a lot of power to grant exceptions to this individual with the faith that they will be forward-looking and seeking to maximize urban forest versus providing streamlined process for development. Given that positions inevitably transition, the city should 1) specify how adequate oversight of these discretionary processes will occur, and by whom, and 2) create a process by with Urban Forester exemptions and determinations can be appealed to the Tree Board before any trees are felled.*	Tree board does not serve as an appeals body in current code. Discretionary language will be limited and standards set.
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Clearer standards, criteria, and determining parties: Section D, Mitigation Standards, does not specify who determines whether or not "tree preservation and/or tree canopy standards are practicable to meet", what criteria will be used in this determination, and what routes of appeal of this decision are available to applicants, impacted parties, and/or other stakeholders. One method to clarify this could be the Urban Forester advising the lead development permit planner to approve/deny the option to remove and mitigate trees at a development site (this would parallel the process under E. Discretionary Review Alternative - where the Tree Board provides a recommendation to the Planning Commission). One can predict that arborists and consultants, operating on behalf of their clients, will often be able to justify the removal of trees, or why preservation and/or replanting are not feasible. A clear method should be established for when the Urban Forester and the applicant's arborist disagree, and that is transparent, equitable, and serves the urban forest and the public interest.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Submittal, Tree Preservation Plan, and Tree Canopy Plan Requirements for Development Tree Permits: The burden of proof and a rigorous standard should be clearly placed on the applicant to demonstrate that first, protection of existing trees is not possible, including changing the footprint of proposed buildings, parking, etc. We do not believe that this code articulates this burden or standard sufficiently. One strategy to improve this dynamic is for the city to require predevelopment site visits in which the Urban Forester verify inventories of existing tree canopy and help developers craft a site plan that accomplishes multiple goals, including retaining existing trees. The submittal, tree preservation, and canopy plans should assess the site within its human and ecological context, including: amount of tree canopy, percentage of impervious surface, and urban heat island effect in that census tract; impact of any loss of trees, on wildlife habitat connectivity; impact of any loss trees, on riparian shade; impact of any loss of trees on stormwater and flood attenuation.*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Discretionary Review Alternative (E 1a-ad): We are very concerned that the net benefit/loss of these techniques to the environment and the community will be lower and/or difficult to assess. The Discretionary Review Alternative distracts the City from the primary goal with teh most collateral benefits: expanding Milwaukie's urban forest. Typically, assessing the value of these discretionary alternative techniques requires expertise of a type beyond that of an arborist or the Tree Board (expertise in stormwater design, carbon sequestration, etc.) Many constructed stormwater facilites such as cartridge systems or detention vaults provide benefit in one sphere only (stormwater) but none of the collateral benefits that trees to (urban heat island effect reduction, shade, increase to nearby property values, wildlife habitat, carbon sequestration, etc.) This strategy should therefore be removed.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We strongly support the language that replacement trees "must sustantively replace the function and values of the tree that was removed wherever practicable."*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We recommend further strengthening this requiement to state that the replacement tree be as lare as maturity as the site can reasonably accommodate.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We strongly support explicit language that "maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances."*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Non-Development tree permit requirements: We recommend that additional language be added to the review criteria for section 2.a to include: whether the tree provides significant wildlife and/or fish habitat; whether the tree is providing shade and/or erosion control to a stream, wetland, or other waterway.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Funding the Tree Fund with Payments of Preservation: We presume that it is the City's intent that future planting efforts be funded by the Tree Fund, generated via mitigaiton fees (D. 1-2). This creates a potential dynamic in which funds for planting are reliant on Tree Preservation and Canopy Standards are not being met. If trees are not preserved, there will be funds for planting but the City will lose a lot of its existing tree cover including old trees. This funding mechanism will make it very difficult to achieve the 40% canopy standard and equity goals because there will be either insufficient funds for significant planting, or because too many trees will be removed. This funding structure also creates a potential incentive to provide exceptions to the preservation goal, which goes against the intent of these policies. We are happy to work with the city to help identify and advocate for such funding streams.*	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	Commercial and Industrial zones: This plan applies to residential zones in the City of Milwaukie. Significant land, and significant urban heat island effect, is generated by commercial/industrial land as well. We believe that addresses the urban forest on these lands is essential and look forward to it being generated.	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Performance bonds for tree maitenance by HOAs: We recommend the City consider Performance Bonds for trees planted as mitigation as a way to ensure that either these trees survive to maturity and that if they do not the City ahs resources to maintain/replace them. Many mitigation plantings in general do not survive. Performance Bonds would likely manage by HOAs after construction. Given the experiences of neighboring jurisdictions (Clackamas Water Environment Services and Oak Lodge Water Services) with HOAs managing and maintaining stormwater facilites given the rapid turnover of HOA boards, these agencies have and/or are considering charging HOAs fees to manage these facilities themselves rather than see these facilities cease to function. Planning for tree maitenance should take these experiences into account to ensure tree survival and growth.*	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	*Permit and Fee Exemptions on Land Owned or Maintained by the City and Within the Public Right of Way: B Maintenance code states that no permit is required for regular maintenance or minor tree pruning for trees on public properties and rights-of-way. This seems to apply implies that a permit may be required for minor tree pruning in other situations. Based on our reading of this outright exemption, anyone (adjacent landowner or private citizen) can prune trees in street right-of-ways or on public lands. We assume that the city does not intend to authorize anyone to do minor tree pruning for all trees on public land. This should be clarified. Perhaps in lieu of a permit for minor tree pruning, the City could require notification to the Urban Forester for any party wishing to undertake tree pruning in these settings (but not for private yard trees.)*	
Rob Reynolds	9/1/2021	16.32.042	*How do you cover 40% of your lot with tree canopy? It seems that the City is setting unrealistic expectations for our property and for our city property. What does a 40% canopy achieve? Why does the city want to set up another charge, why do they think we have more money to spend on programs that not everyone agrees with?*	The origination of the tree canopy goal for Milwaukie started with the community visioning process. Through an award-winning engagement effort, the Milwaukie Community Vision was created which states that by 2040, “Milwaukie nurtures a verdant canopy of beneficial trees, promotes sustainable development, and is a net-zero energy city”. From this direction, the city created the Climate Action Plan which established the 40% canopy goal. This 40% value was created as an aspirational target, using guidance at the time from the American Forests Institute (who now recommends a 40-60% canopy cover in forested states such as Oregon) but also community feedback and opinion. The Urban Forest Management plan, adopted in 2019, developed recommendations to achieve that goal, and the Comprehensive Plan (adopted in 2020) baked that goal into policy, also with robust community engagement. According to the most recent community survey, 78% of community respondents felt like Milwaukie’s urban forest was an important city investment.
				While 40% is a target value that the city has created, it’s really just a number to represent the canopy needed to fully maximize the community benefits of trees. Our urban forest shades hot streets and sidewalks (reducing urban heat island effect), improves air quality, provides habitat, raises property values, decreases stormwater runoff and treatment costs, improves community health, and more. Especially after our record summer heat, these benefits are more important than ever! Many cities, neighborhoods, and lots in the Portland Metro region are at or above 40% cover already. You can check out some of this data here.

				In the proposed code, only newly developed properties and sites going through a development review process are required to meet the 40% canopy goal with new plantings and existing trees. Canopy cover of new plantings are based on their canopy at maturity, not on their current, young smaller canopy. There is nothing in the code that requires existing homes to plant up to 40%, though the tree fund may help with education, outreach and assistance to help homeowners who want to plant more trees on their property.
Teresa Bresaw	9/21/2021	16.32.042	*The city of Milwaukie should be putting their efforts in educating and encouraging citizens to plant the "right" tree, maintain, and protect trees on private property. The 40% lot coverage goal can't reasonably be done on the average sized lot. Trees should not be planted close to houses for fire prevention, ice and wind storms, damage to roofs and gutters. Trees are normally not recommended to be planted where there are utility easements. Large roots can cause damage to water lines, driveways and sidewalks. New construction with 3 car garages and the residential density that is encouraged again makes it difficult to get this 40% tree coverage. You would have better results concentrating on parks, green spaces (including wetlands that may be privately owned), public right of ways and city owned properties. If you want to compare the city of Durham to Milwaukie, in regards to the goal of 40% tree canopy, then you need to ask how many acres of parks and green spaces do they both have and the percentage? Also what percentage of land is residential and industrial in each? Durham is 262 acres with 50 acres in parks and green spaces. Milwaukie is 3200 acres and I suspect Milwaukie is way below average for parks. I personally love trees and recognize the importance of them. They are a huge expense, commitment, and lots of work! At least 7 neighbors have told me that they do not support mandating on their private property. I hope Milwaukie doesn't copy the city of Portland. I did review West Linns tree ordinance and agreed with many of their ideas. All 3 cities are completely different. We can increase tree canopy but mandating it on private property is not the way. Removal of nuisance trees should be decided by the property owner not the city that has zero responsibility. Having a city arborist on staff or on contract would be be a benefit to all. Possibly neighborhood grant money could help fund this. Large undeveloped lots likely have development standards relating to trees. There are many other ways to increase the tree canopy. Let's find places to actually plant these needed trees (with irrigation). Writing up more regulations is not the best way to do this. Furthermore tax dollars need to be efficiently used to increase this tree canopy which would create goodwill (not anger at government control, even though we need a certain amount). Milwaukie would be better served in helping residents plant the "right" tree in the "right" space with education on pruning, irrigation and preserving existing trees AND eradicating weeds like ivy!*	
eschutz (Engage Milwaukie)	9/12/2021	16.32.042	*In going through the documents I have seen incentives for utilizing native species mentioned and alternative plan options, such as solar. What I don't see is a penalty or strong incentive to remove plants such as ivy. Does our comprehensive plan already have staff and a budget to facilitate removing all the non-native pest plants to increase the native animal habitats?*	Thanks for participating in the conversation! The city does have code which prevents invasive species (species listed on the Oregon Noxious Weed List) on public property and in the right-of-way. Milwaukie has a small but mighty natural resources crew who goes around the city removing invasive species in public spaces and water quality facilities. Milwaukie also partners with organizations and non-profits like the North Clackamas Watersheds Council, Johnson Creek Watershed Council, Backyard Habitat Program and Friends of Trees to perform and promote habitat restoration on public and private property.

				The comprehensive plan calls for an analysis of the city's habitat connectivity (the connection of greenspaces across the city) and includes more robust natural resources policies. In later phases of the comprehensive plan implementation, when we look at natural resources code in more depth, the city can explore how to best incentivize or regulate invasive species. Thank you for the suggestion!
Emylou (Engage Milwaukie)	9/27/2021	16.32.42	*I think it might be useful to clarify "hazardous tree." For example, if a tree, limb, or any part of a tree already fell (due to storms, winds, non-human interaction), it would be good to clarify whether that would be considered a hazardous tree subject to removal permits or if it would be considered yard debris and no longer subject to removal permits.*	
Stephan Lashbrook	10/11/2021	16.32.42	*As we encourage more development on properties with trees, I am certain that a growing number of those trees will be damaged, especially where there is simply not enough room on a site to allow for adequate protection of tree roots. Roots are routinely cut because they are in the path of utilities or foundations. Roots are also often damaged by construction equipment driving over them or parking on them. I realize that tree protection is the subject of a continuation of this hearing but I felt it was appropriate to point out my concerns while the consideration of density standards is pending.*	
Paul Anderson	10/13/2021	16.32.42	*I wish to challenge the need for the Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees.*	
			As I look around the city of Milwaukie, I see an abundance of trees. I would guess the current canopy is around 20%. How did those trees get there? Was it because of some government edict? No, it was because people voluntarily planted them or let volunteer trees grow. Is there a big push by Milwaukians to cut them down so that the planning commission feels the need to preserve them? No, people like trees and will continue to plant them. This proposed ordinance looks to me like a solution to a nonexistent problem.	
			In the October 5, 2021 letter from you to the planning commission it is stated: trees "are a major contributor to the quality of life in Milwaukie", and they are "to be nurtured and protected". How is it that a planning commission can somehow know how to improve my, or anyone else's, quality of life? Last year I had a large tree in my front yard cut down, and guess what? Removing that tree increased the quality of life for me and my next-door neighbor. I no longer have to pay to have it trimmed. I no longer have to rake leaves for weeks and haul them away. I no longer have to worry about the tree's roots damaging my sprinkler system and plugging my roof drain piping (this happened a few years ago, causing water to back up in my yard and threatening my house's foundation). I don't have to worry about limbs breaking off in wind or ice storms and damaging my or my neighbor's house. My neighbor doesn't have to rake the leaves that fall or blow into her yard from my tree and her garden produces more now that it isn't being shaded by that tree. It is also nice to now be able to see some sky from my living room window.	
			The new ordinance would not have allowed me to cut down that tree, depriving me of improving my quality of life. Everyone's situation is different. The planning commission can't possibly know what is best for everyone or write an ordinance that would account for every possible situation. This country was founded on individual rights and freedoms and it has served us well for over 200 years. To switch to a mindset that we should subvert our individual rights and freedoms for what someone in the bureaucracy considers a common good would be a big mistake. We all know that socialism and communism don't work.	
			I also want to challenge the goal of increasing the tree canopy to 40%. Where did the 40% come from? It looks to be both arbitrary an unrealistic. To force new construction to have a 40% tree canopy doesn't make sense. My lawn covers about 40% of my lot. If I also had a 40% tree canopy, then none of my lawn would ever get any sunshine and it would feel like I live in a forest. I don't want to live in a forest. I also noticed that the Hillside development that is in the process of being approved has only a 29% tree canopy, and yet it looks like plenty to me.	

			Is the 40% canopy goal somehow related to preventing global warming? If so, does the planning commission really think that adding approximately one square mile of tree canopy over the next 20 years is going to have an effect on global warming? In contrast, Oregon now loses 1,300 to 1,500 square miles of forest to fires every year, which, over the next 20 years would add up to at least 26,000 square miles. If we really wanted to reduce global warming, we would go back to managing forests like we did 20 to 40 years ago when we only lost about 100 square miles per year to forest fires.	
			Most importantly, the proposed tree ordinance goes directly contrary to the goal of providing more affordable housing in Milwaukie. The ordinance adds another layer of red tape, requiring builders to hire a certified arborist to write a tree preservation plan, build fencing to protect the trees during construction, plant more trees, and pay increased fees. All of this adds to the cost and ultimately the price of housing. The planning commission needs to set priorities. Which is more important, reducing global warming by an infinitesimal, unmeasurably small amount, or providing affordable housing? I would say that providing affordable housing is far more important.	
				Finally, any time the government increases regulation it adversely affects small businesses more than large businesses. So, unless the planning commission likes the idea of driving out small contractors from our area in favor of big builders, they should scrap this ordinance.
Fida Hurlock	10/16/2021		*I am unable to attend the Milwaukie Planning Commissions hearing later this month and was hoping to email my testimony instead.* *I have grown up in Milwaukie nearly most of my life. I love Milwaukie and have seen it change and grow in so many ways. I think one of the beautiful things in this city is the greenery, especially during the summer and fall months. Currently I own my home in Milwaukie as well as work for the CIty! Originally my home had two enormous silver maple trees in the backyard. Prior to us purchasing the home, one of those tree's ended up splitting in 3 and destroyed the neighbors shed, truck and garden and eventually fell on my house and smashed half of it. After we lived in our home for about a year we noticed that the soil was very poor and whenever it rained it flooded the backyard, side and front yard. We have spent thousands of dollars trying to fertilize and treat our soil in order for it to absorb and grow tree's to no avail. Sadly our only remaining silver maple rottened and was infested with termites. It was no longer safe for us to keep the tree as it swayed on windy days and we feared if it fell it would crush my husband and I in our sleep (as it was hovering over our bedroom) with 3 small children we couldn't let that happen. We removed it as fast as we could.* *We have since then tried, unsuccessfully, to plant other trees only for their growth to be stunted and die. Again this summer we spent thousands of dollars to finally strip, grade and remove soil and lay partial asphalt gravel in our side and back yard. All of our neighbors have the same problem, many of them do not have any trees especially in the back yards. We all live a few blocks away from Johnson creek and though the flooding that occurs there doesn't reach us the water naturally flows from our homes to that direction. Our homes were built entirely on river rock with some top soil added. If you dig 2 feet down you will always hit river rock.* *Although having people replant trees is a novel idea, I urge you to please consider zoning this requirement to those that have proper soil and can safely replant a tree. Additionally, requiring a permit to cut down a tree is not appropriate for homes that have safety issues such as ours did. It can be costly and unattainable for many people that need to ensure the safety of their family and homes first and foremost and use those fees to pay a professional to remove the tree in question. After speaking to many neighbors that are originally owners I have learned that the City of Milwaukie is aware of this issue, as they had many years ago sent a City employee that graphed the natural flow of the water in our area. I urge you to reconsider.*	Hi Fida, Thank you for your comment, and it has been added to the record. I encourage you to reach out to Courtney Wilson, our urban forester, to talk more about what you can do on your site. Sounds like you've put a lot of thought and care into it already! The proposed tree code establishes approval standards for tree removals, including dead/dying/hazardous trees, which streamline the permitting process. No removal fees beyond the initial permit application fee (which may be waived for some circumstances) will be required. What the permit process allows is a chance for Courtney to reach out to the homeowner to discuss the tree removal and see if there's an opportunity to help. I will add your suggestion for additional considerations for site limitations such as soil quality to the list of code revision suggestions. Thank you again for reaching out, and please let me know if you have any other questions! Thanks! Natalie

Charles Bird	10/18/2021		*Thank you for considering this.* *Consider adding and incentive for growing, conserving and maintaining large trees. I recommend $50 per tree larger than 6" DBH per year to all land owners for each of their trees. This could be in the form of a property tax credit. As the new tree ordinance is coming into play as a deterrent to unnecessary tree removal this would offer an incentive to maintain and add new large trees on private property.* *Further consider upping the tax reduction by $5 per year per inch DBH as time passes. Yes there would be work for the urban forester to audit the trees on a property however as Milwaukie is committed to trees this cost could be easily included in the budget.* *It could also be a deterrent to developers and the planning department to issues permits for developments that propose to remove old trees. If a developer unnecessarily cuts these large trees the permit would be cancelled for a period until the tree(s) are replace by new trees with a 6" DBH tree hopefully natives.* *Charles L. Bird, P.E.* *ARO KG7OJJ - GMRS WQZJ967* *12312 SE River Road* *Milwaukie, Oregon 97222* *503.318.5065*	
Bernie Stout	10/20/2021	16.32.42	*Are lots developed by developers exempt from the 40% canopy requirement?*	All residential lots, whether as part of a development or not, would be subject to the new tree code. The 40% tree canopy applies to lots under development – there is an entire section in the proposed code that includes the standards and requirements for trees during a development project.
			Will there be an option to purchase "off site trees"?	The draft code does offer an option for a fee in lieu of replacement.
			Will inappropriately planted trees be removed?	The draft tree code does not force anyone to remove trees on private property. It is up to the property owner to determine if a tree needs to be removed. Significant infrastructure damage, hazardous trees, sick or dying trees are just a few of the many approval standards for a removal permit.
			Will there be a program through the City of Milwaukie to help people remove invasive species?	Staff are working on developing a streamlined process for the removal of invasive species. The tree fund, expanded through the draft code, may be a source of funding for incentives and financial assistance for removal of these species.
			What does PGE require for tree distance?	PGE requires vegetation to be a safe distance away from powerlines. They perform their own trimming and pruning to ensure this distance is met. For more information, visit https://portlandgeneral.com/outages-safety/safety/tree-maintenance

			What about solar panels and the 40% canopy goal?	The 40% canopy standard only applies to development situations, and not existing properties looking to remove a tree for landscaping. The city will work with developers when they want to install solar panels to chose appropriate trees and placement. Your neighbor will not need to plant any trees that block their existing panels. If they are looking to plant a tree, our urban forester can help them choose an appropriate species. Nothing in the tree code precludes a neighbor from planting a tree that in time may affect the adjacent property – we encourage property owners to work together to choose an appropriate site and tree species to prevent these situations. New construction may utilize the solar access for new development code (MMC 19.1203).
			Who pays for structural damage from trees on private property?	The property owner is responsible, and should contact their homeowners insurance.
			Who pays for the leaf clean up?	This comes out of the stormwater utility funds.
Daniel Stahlnecker	10/19/2021		*This is a noble goal but a clear case of government overreach. It's really none of the cities business how many trees I have on my property. Another complicated permitting process is unacceptable.* *This will also hamper development while we're already having an affordable housing crisis. Requiring 40% of a property to be canopy will require large lot sizes in order to develop. Residents buying these lots will have to deal with hazard trees and root damage since developers will be trying to cram as many trees as possible as close as possible to houses.* *Want more trees? Start with parks and school property.* *Any members of the council that vote in favor of this have lost my vote.*	
Kari Liebert	10/20/2021		*HI,* *I would like to be added to those in favor of the Tree Proposal for City of Milwaukie.* *Thank you,* *Kari Liebert 5800 SE King RD Milwaukie, OR 97222* *(I am reside in unincorporated Clackamas County, but work in Milwaukie part of the year. I also want to speak towards positive tree management and what it requires to keep our tree line in good standing in Milwaukie and why it is good.)*	

Kevin Stahl	10/21/2021		*To whom it may concern,* *I am writing to express my concern regarding the proposed mitigation fees. It does not include any information regarding income assistance or sliding scale for property owners. The ice storm earlier this year caused many issues for Milwaukie residents. Many of the trees in the area were left unsafe and well over the 6 inches in diameter at breast height (DBH) as proposed. My concern is that for property owners that cannot afford the costs of unsafe removal and the additional mitigation fees will be a barrier to protecting adjacent properties. I would like to see a revised draft with additional information for these scenarios.* *Additionally, many of the businesses along McLoughlin Blvd have little or no landscaping including tree canopy coverage. I think planting trees and landscaping needs to be included in future permitting and land use requirements.* *I appreciate your consideration in these matters.* *Regards,* *Kevin Stahl* *12374 SE 43rd Ave* *Milwaukie, OR 97222* *503-799-5580*	Low income assistance is included in the draft code. Dead/dying/hazardous trees are included in the approval standards and do not incur additional fees.
Dolores Julien	10/22/2021		*Dear Ms. Rogers,* *Having received the Notice regarding the Hearing Date of November 9, 2021 I have read the summary of Proposed changes. The second point states the establishment of a minimum tree canopy of 40% per lot. What does this mean?* *My property at 3725 SE Harvey St. has a very tall colonnade crabapple tree, several small fruit trees and medium sized trees such as Rhamnus, crape myrtle, pomegranate,* *Pinus Parviflora and Abies Koreana. By intent there are no large trees as the whole property is garden and therefore covered with plants and bushes.* *I do not want a tree canopy to shade out the property. Surely the garden provides the oxygen producing plants to provide the equivalent of the canopy suggested.* *What will this new proposal mean therefore in this case?*	The draft tree code does not require planting trees outside of development situations and a 1 for 1 tree removal in non-development situations. In addition, there are alternatives to mitigation proposed in the draft code in development situations, including habitat preservation or improvements.
Nico Varela	10/22/2021		*Hi Natalie,* *In the proposed changes it says "Establishes minimum tree canopy of 40% per lot"* *No where does it address how this might affect existing lots that might be below 40%. From my understanding there won't be any impact unless a tree is to be removed. Is that correct?*	Correct, there is no requirement for residents to plant trees unless a tree is removed or a lot is being developed.
Erica Talarico	10/23/2021		*Hello,* *As a resident of Milwaukie, I am in favor of protecting our existing trees and having clear guidelines for tree canopy on developing lots. As someone who owns an old property with trees that were planted very close together/crowded, I would like to add a comment about tree removal. It would make sense if the tree removal process allowed for some removal without fees or replacement, depending on the size of the lot. If that is not already written in, I would like that to be considered. As someone who treasures trees, I have removed a couple on my property due to crowding which was damaging the health of the surrounding trees. But in respect to my lot size, I still have a lot of tree coverage.*	Removals for the approved standards, inlcuding thinning, do not incur additional fees beyond the application fee for the permit. Thinning removals do not require replacement.

Gail Jenkins	10/24/2021		*To the planning committee,* *40% canopy for established residences is an unfair and unrealistic requirement for these reasons:* *There are many variables from one home to another.* *A storm or other severe incident could change the canopy in a matter of minutes.* *Older homes often have older trees which must be removed.* *It takes 15 years or longer for a young tree to mature.* *It is highly unlikely that the City of Milwaukie could measure or enforce a 40% canopy requirement.* *Homeowners should have as much freedom and responsibility for their own trees as feasibly possible.* *On the other hand, some Milwaukie trees are being* *•severely trimmed,* *•or incorrectly trimmed* *•or removed without good reason.This is wrong and should be stopped.* *I agree that there should be rules for trees over 6 inches in diameter.* *But the rules need to be as fair and reasonable as possible for the homeowner.* *The homeowner shouldn't need a permit if the tree is:* *•a non-native invasive species.* *•diseased* *•severely damaged by storm or other incident.* *•causing damage or at risk of damaging his or his neighbor's property.* *If your goal is to reduce the effects of global warming, why not, instead of targeting homeowners of established residences,* *make rules for tree goals for new construction of homes and businesses and for refurbished parking lots which, without adequate foliage, reflect a tremendous amount of heat into the atmosphere.*	40% canopy standard only applies to development sites. The canopy standard includes calculation consiterations for newly planted trees, facturing their size at maturity. Non-development residential tree removals do not require replanting up to 40% canopy, only 1:1 replacement in most situations. Significant outreach will be performed for tree care in the community. Permits will be required for dead/diseased/invasive, however, they will be streamlined and fees potentially waived.
Susanne Richter	10/24/2021		*Dear Ms. Rogers,* *I saw the abbreviation DBH in the notice of land use regarding trees on residential properties and wanted to know what is the exact height of DBH, Imperial System and/or metric.* *Thank you for your help,*	Hi Susanne, DBH stands for the diameter at breast height. It is a measurement of a tree trunk’s diameter (in inches) that is taken from 4.5 feet up from the highest point of the ground. Let me know if you have further questions.

Corliss McKeever	10/25/2021		*A few days ago I became aware of your implementation project focused on tree preservation. Of particular concern are the following discussion points:* *a. Require a permit for non-development tree removal if the tree is equal to or greater than six inches in diameter breast height (DBH), if the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code.* *b. The code establishes mitigation fees and replanting requirements for healthy tree removal. The code further establishes approval standards to waive mitigation fees for trees which are dead, dying, or a hazard For these trees replanting is required.* *c. No permits are required for removal of agricultural trees (i.e., a Christmas tree farm does not need a permit to remove each tree). The City Manager may exempt property owners from the permit and replanting fees when the owner demonstrates household income at or below 80% of median household income for the Portland-Vancouver-Hillsboro Metropolitan Statistical Area.* *d. Commissioner Rogers stated, " ways to waive permit costs are being considered for trees on the noxious weed list. And " permit costs are intended to cover much of the labor necessary to process the permits."* *I agree with point c above, where you've exempted the agricultural population along with household incomes at or below 80% of median household income. However, I was very disheartened that I did not find mention of specific efforts to avoid financial* *hardships and/or burdens on the average homeowners. Or, pn most vulnerable property owners, which are our disabled seniors.* *Also, adding a way to charge fees on a homeowners land resulting from a newly implemented tree code feels like double dipping. Especially living in one of the highest property tax areas in the state of Oregon that covers the dwelling and land. Are the trees not a part of the land we are already taxed on-of course they are. So if a new mandate is not required for longtime residents their trees should either be grandfathered in. Or have their property taxes reduced by whatever costs are incurred, including permit costs and labor costs, in order to meet the new tree codes.*	
			That is only fair. You have considered the huge impact this tree code potentially has to group c. But those of us long-term residents (16 yrs, 10 months) who have worked 19 years and saved for retirement are close to being pushed out of the neighborhood. Not because we cannot afford our mortgage payments. But, because we cannot afford the property taxes and potential fees prosed. Even if I was mortgage free, Id still face paying an almost $1000 monthly payment for property taxes and insurance alone. Adding new costs outside of those costs is not something easily accepted.	
Bernie Stout	10/31/2021		*For example: I receive an annual annuity payment every Oct 1st. This year, 50% ($10.000) went to my property taxes,*	
			I understand the intent of your tree preservation efforts. However, it should not cause an undue hardship on your most	
			New developers, and individual homeowners will have the choice to move into the area with the tree code in place. We	
			4. PORTLANDS HAS DEVELOPED MORE <u>DETAILED FLYERS</u> ABOUT VARIETIES.	
			With changes in climate and severity of storms Milwaukie needs to consider future damage and the ability of the trees on the current list being able to tolerate severe conditions	

Christopher and Ruth Burkett

RECEIVED
By Vera Kolias at 9:23 am, Oct 01, 2021

October 12, 2021
Milwaukie Planning Commission

Good evening,

The proper function of government is the preservation of property, not the taking of property.

Private ownership of property is the very foundation of freedom. These proposed changes subjugate our private property ownership and take away the freedoms which are guaranteed by the Constitution of the United States.

Let us not be under any illusions. When individuals are harmed through bureaucratic depredation, society is harmed. "The public" is merely a group of individuals. The idea that "the public interest" supersedes private interests and rights can only mean that the interests and rights of some individuals take precedence over the interests and rights of others. You cannot harm individuals and claim a greater good for society.

We will be heavily impacted and harmed if these regulations are approved. With the help of ISA certified arborists, we have carefully maintained hundreds of trees on our two properties for over twenty years. We have planted many new trees, integrating new trees into a mature landscape, with plans based on 20, 50 and 100 year time frames.

It is crucial for us to be able to make our own aesthetic and practical decisions to insure a cohesive and healthy landscape in accordance with our long range plans. This would be utterly prohibited under these regulations, as our aesthetic decisions and long range design plans are specifically excluded from consideration. Our idyllic properties and our quality of life will be seriously harmed if these regulations are approved. No good can come from this.

Therefore, we cannot consent to your claim of authority of our forested land. We plead with you to allow us to continue to live undisturbed on our land, at peace with our neighbors and in harmony with nature.

Sincerely,

Christopher and Ruth Burkett

4512 SE Ryan Court, Post Office Box 2[illegible] Milwaukie, Oregon 97222 • (503) 970-2309

From: Paul A.
To: Vera Kolias
Subject: Proposed Tree Preservation Ordinance
Date: Wednesday, October 13, 2021 13:46:38

This Message originated outside your organization.

Hi Vera,

I wish to challenge the need for the Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees.

I posted the following comments online on the engage.milwaukieoregon.gov website but also am sending them to you to make sure they get passed on to the planning commission members.

As I look around the city of Milwaukie, I see an abundance of trees. I would guess the current canopy is around 20%. How did those trees get there? Was it because of some government edict? No, it was because people voluntarily planted them or let volunteer trees grow. Is there a big push by Milwaukians to cut them down so that the planning commission feels the need to preserve them? No, people like trees and will continue to plant them. This proposed ordinance looks to me like a solution to a nonexistent problem.

In the October 5, 2021 letter from you to the planning commission it is stated: trees "are a major contributor to the quality of life in Milwaukie", and they are "to be nurtured and protected". How is it that a planning commission can somehow know how to improve my, or anyone else's, quality of life? Last year I had a large tree in my front yard cut down, and guess what? Removing that tree increased the quality of life for me and my next-door neighbor. I no longer have to pay to have it trimmed. I no longer have to rake leaves for weeks and haul them away. I no longer have to worry about the tree's roots damaging my sprinkler system and plugging my roof drain piping (this happened a few years ago, causing water to back up in my yard and threatening my house's foundation). I don't have to worry about limbs breaking off in wind or ice storms and damaging my or my neighbor's house. My neighbor doesn't have to rake the leaves that fall or blow into her yard from my tree and her garden produces more now that it isn't being shaded by that tree. It is also nice to now be able to see some sky from my living room window.

The new ordinance would not have allowed me to cut down that tree, depriving me of improving my quality of life. Everyone's situation is different. The planning commission can't possibly know what is best for everyone or write an ordinance that would account for every possible situation. This country was founded on individual rights and freedoms and it has served us well for over 200 years. To switch to a mindset that we should subvert our individual rights and freedoms for what someone in the bureaucracy considers a common good would be a big mistake. We all know that socialism and communism don't work.

I also want to challenge the goal of increasing the tree canopy to 40%. Where did the 40% come from? It looks to be both arbitrary an unrealistic. To force new construction to have a 40% tree canopy doesn't make sense. My lawn covers about 40% of my lot. If I also had a 40% tree canopy, then none of my lawn would ever get any sunshine and it would feel like I live in a forest. I don't want to live in a forest. I also noticed that the Hillside development that is in the process of being approved has only a 29% tree canopy, and yet it looks like plenty to me.

Is the 40% canopy goal somehow related to preventing global warming? If so, does the planning commission really think that adding approximately one square mile of tree canopy over the next 20 years is going to have an effect on global warming? In contrast, Oregon now loses 1,300 to 1,500 square miles of forest to fires every year, which, over the next 20 years would add up to at least 26,000 square miles. If we really wanted to reduce

global warming, we would go back to managing forests like we did 20 to 40 years ago when we only lost about 100 square miles per year to forest fires.

Most importantly, the proposed tree ordinance goes directly contrary to the goal of providing more affordable housing in Milwaukie. The ordinance adds another layer of red tape, requiring builders to hire a certified arborist to write a tree preservation plan, build fencing to protect the trees during construction, plant more trees, and pay increased fees. All of this adds to the cost and ultimately the price of housing. The planning commission needs to set priorities. Which is more important, reducing global warming by an infinitesimal, unmeasurably small amount, or providing affordable housing? I would say that providing affordable housing is far more important.

Finally, any time the government increases regulation it adversely affects small businesses more than large businesses. So, unless the planning commission likes the idea of driving out small contractors from our area in favor of big builders, they should scrap this ordinance.

Thank you,

Paul Anderson

503-753-9852

From:
To:
Subject:
Date:

From: Fida Hurlock <peaceloveandpalestine@gmail.com>
Sent: Saturday, October 16, 2021 12:17 PM
To: Urban Forest <UrbanForest@milwaukieoregon.gov>
Subject: Land use proposal

This Message originated outside your organization.

Hello,

I am unable to attend the Milwaukie Planning Commissions hearing later this month and was hoping to email my testimony instead.

I have grown up in Milwaukie nearly most of my life. I love Milwaukie and have seen it change and grow in so many ways. I think one of the beautiful things in this city is the greenery, especially during the summer and fall months.

Currently I own my home in Milwaukie as well as work for the CIty! Originally my home had two enormous silver maple trees in the backyard. Prior to us purchasing the home, one of those tree's ended up splitting in 3 and destroyed the neighbors shed, truck and garden and eventually fell on my house and smashed half of it. After we lived in our home for about a year we noticed that the soil was very poor and whenever it rained it flooded the backyard, side and front yard. We have spent thousands of dollars trying to fertilize and treat our soil in order for it to absorb and grow tree's to no avail. Sadly our only remaining silver maple rottened and was infested with termites. It was no longer safe for us to keep the tree as it swayed on windy days and we feared if it fell it would crush my husband and I in our sleep (as it was hovering over our bedroom) with 3 small children we couldn't let that happen. We removed it as fast as we could.

We have since then tried, unsuccessfully, to plant other trees only for their growth to be stunted and die. Again this summer we spent thousands of dollars to finally strip, grade and remove soil and lay partial asphalt gravel in our side and back yard. All of our neighbors have the same problem, many of them do not have any trees especially in the back yards. We all live a few blocks away from Johnson creek and though the flooding that occurs there doesn't reach us the water naturally flows from our homes to that direction. Our homes were built entirely on river rock with some top soil added. If you

dig 2 feet down you will always hit river rock.

Although having people replant trees is a novel idea, I urge you to please consider zoning this requirement to those that have proper soil and can safely replant a tree. Additionally, requiring a permit to cut down a tree is not appropriate for homes that have safety issues such as ours did. It can be costly and unattainable for many people that need to ensure the safety of their family and homes first and foremost and use those fees to pay a professional to remove the tree in question.

After speaking to many neighbors that are originally owners I have learned that the City of Milwaukie is aware of this issue, as they had many years ago sent a City employee that graphed the natural flow of the water in our area.

I urge you to reconsider.

Thank you for your time
Warmly,
Fida Hurlock
971-340-6320

--
"I remember", said Milo eagerly. "Tell me now"
"It was impossible", said the King, looking at the Mathematician.
"Completely impossible", said the Mathematician, looking at the King.
"Do you mean....." stammered the bug, who suddenly felt a bit faint.
"Yes, indeed", they repeated together;" but if we'd told you then, you might not have gone-and, as you've discovered, so many things are possible, just as long as you don't know they are impossible."

"The Phantom Tollbooth"
By Norton Juster 1961

From: Corliss
To: Milwaukie Planning
Subject: Tree Preservation Meeting
Date: Tuesday, October 26, 2021 6:24:07

This Message originated outside your organization.

Dear Planning Committee:

A few days ago I became aware of your implementation project focused on tree preservation. Of particular concern are the following discussion points:

a. "Require a permit for non-development tree removal if the tree is equal to or greater than six inches in diameter breast height (DBH), if the tree is less than six inches in DBH but is a species specified on the city's rare or threatened tree list, or if it was planted to meet any requirements in the private tree code.
b. The code establishes mitigation fees and replanting requirements for healthy tree removal. The code further establishes approval standards to waive mitigation fees for trees which are dead, dying, or a hazard For these trees replanting is required.
c. No permits are required for removal of agricultural trees (i.e., a Christmas tree farm does not need a permit to remove each tree). The City Manager may exempt property owners from the permit and replanting fees when the owner demonstrates household income at or below 80% of median household income for the Portland-Vancouver-Hillsboro Metropolitan Statistical Area.
d. Commissioner Rogers stated, " ways to waive permit costs are being considered for trees on the noxious weed list. And " permit costs are intended to cover much of the labor necessary to process the permits."

I agree with point c above, where you've exempted the agricultural population along with household incomes at or below 80% of median household income. However, I was very disheartened that I did not find mention of specific efforts to avoid financial hardships and/or burdens on the average homeowners. Or, pn most vulnerable property owners, which are our disabled seniors.

Also, adding a way to charge fees on a homeowners land resulting from a newly implemented tree code feels like double dipping. Especially living in one of the highest property tax areas in the state of Oregon that covers the dwelling and land. Are the trees not a part of the land we are already taxed on-of course they are. So if a new mandate is not required for longtime residents their trees should either be grandfathered in. Or have their property taxes reduced by whatever costs are incurred, including permit costs and labor costs, in order to meet the new tree codes.

That is only fair. You have considered the huge impact this tree code potentially has to group c. But those of us long-term residents (16 yrs, 10 months) who have worked 19 years and saved for

retirement are close to being pushed out of the neighborhood. Not because we cannot afford our mortgage payments. But, because we cannot afford the property taxes and potential fees prosed. Even if I was mortgage free, Id still face paying an almost $1000 monthly payment for property taxes and insurance alone. Adding new costs outside of those costs is not something easily accepted.

For example: I receive an annual annuity payment every Oct 1st. This year, 50% ($10.000) went to my property taxes, 20% ($4000) to Fed taxes, 10% ($2000) to Oregon State taxes. Thus., out of $20000, $16000 went to various taxes leaving a $4000 balance. So, the thought of paying additional costs is extremely stressful and disturbing. Especially, when one of my main property attractions was the trees. Had this tree code been in effect 16 years ago I would have chosen to pass buying in Milwaukie Therefore, in addition to feeling like the trees are already included in the cost of my property taxes. It also feels a little "big brother-ish" with some of my personal preference being taken.

I understand the intent of your tree preservation efforts. However, it should not cause an undue hardship on your most vulnerable population, who are already at-risk of being run out of the neighborhood. As stated we have paid our dues over the years and chose to live on our property due to personal choice. It should not be taken away.

New developers, and individual homeowners will have the choice to move into the area with the tree code in place. We deserve that same right Since we do not have the choice to move into an area with the tree code in place At the very least we should be grandfathered-in. Or have our property taxes reduced by any cost we incur having to meet the new tree code.

Sincerely,

Corliss Mc Keever

From: Barbara McGinnis
To: Vera Kolias
Subject: Parking 24 7 Llewellyn
Date: Saturday, October 30, 2021 19:05:17

This Message originated outside your organization.

Hello Vera,
I live @ 2336 SE Llewellyn and have for about 40 years. When the Waldorf school opened the parking on the street got very difficult if not impossible during school hours, although the school administration had promised not to let the teachers & students park in the neighborhood We also have a large apartment in our back yard @ 23 & Llewellyn. They charge for a parking space there so many tenants park on the street as well. These people are not paying the $42360.76 property taxes, I am, but I could never count on being able to park on the street or have my guests park anywhere close. Now the city thinking of cutting the parking space per apartment requirement from 1 down to 1/2 space??? Please consider us home owners in the close in neighborhoods.
thank you, Barbara McGinnis

From: Bernie Stout
To: Vera Kolias; Natalie Rogers
Cc: OCR; corinn@chapeltheatremilwaukie.com; Sarah Smith; cdortolano@gmail.com
Subject: Land use #ZA-2021-002 TREES
Date: Sunday, October 31, 2021 8:46:41
Attachments: image003.png
image002.png
We sent you safe versions of your files.msg
TREES 2019 DROUGHT.docx

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

This Message originated outside your organization.

Sunday, October 31, 2021

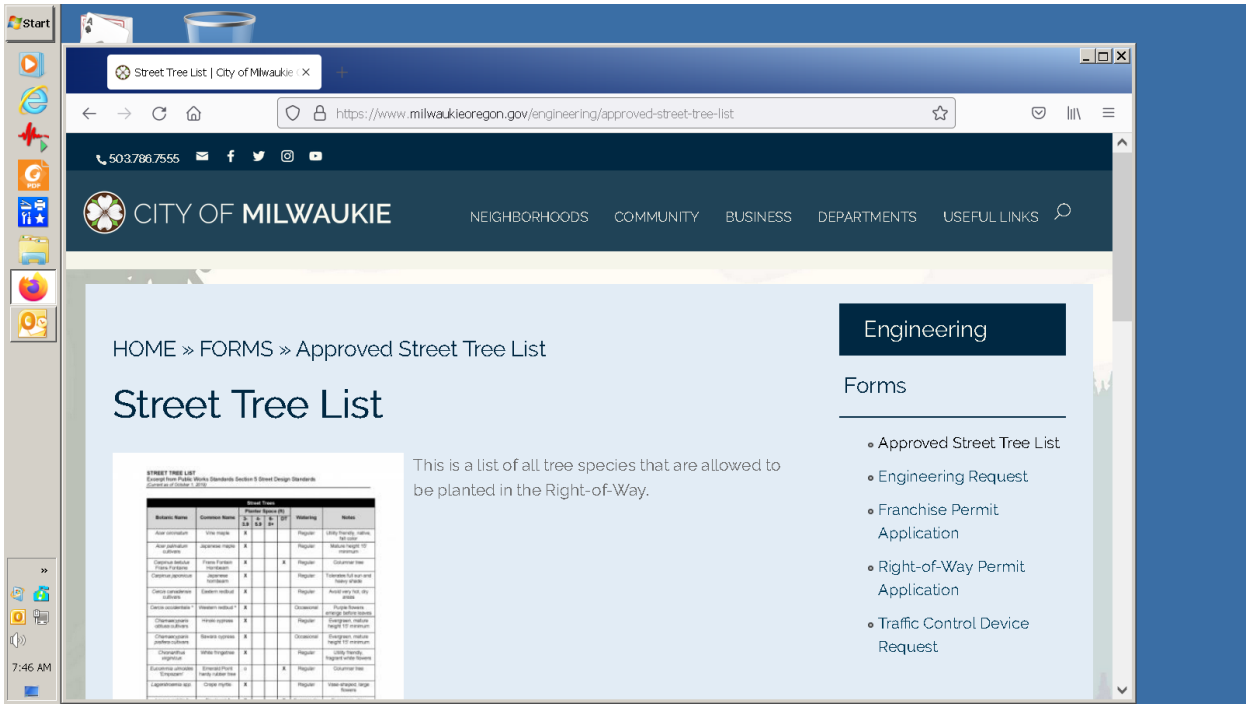
Am writing in regards to: Land use #ZA-2021-002

1. ESTABLISH FUND TO HELP HOME OWNERS WITH EXPENSE OF PLANTING OR REPLACING TREES. REMOVAL, NEW TREES, AND MOST IMPORTANTLY INSTALLATION OF **ROOT BARRIER** WITH CONFIRMATION OF INSTALLATION WHEN INSPECTION IS DOCUMENTED.
2. TREE ON MILWUAKIE'S LIST NOT ALLOWED IN PORTLAND.
3. AREAS THAT HAVE POWER LINES NEED MORE DIRECTION REGARDING IF THE TREE WILL MATURE TOO HIGH. THE CITY NEEDS TO ENFORCE THIS BETTER. IT WILL HELP WITH STORM OUTAGES.

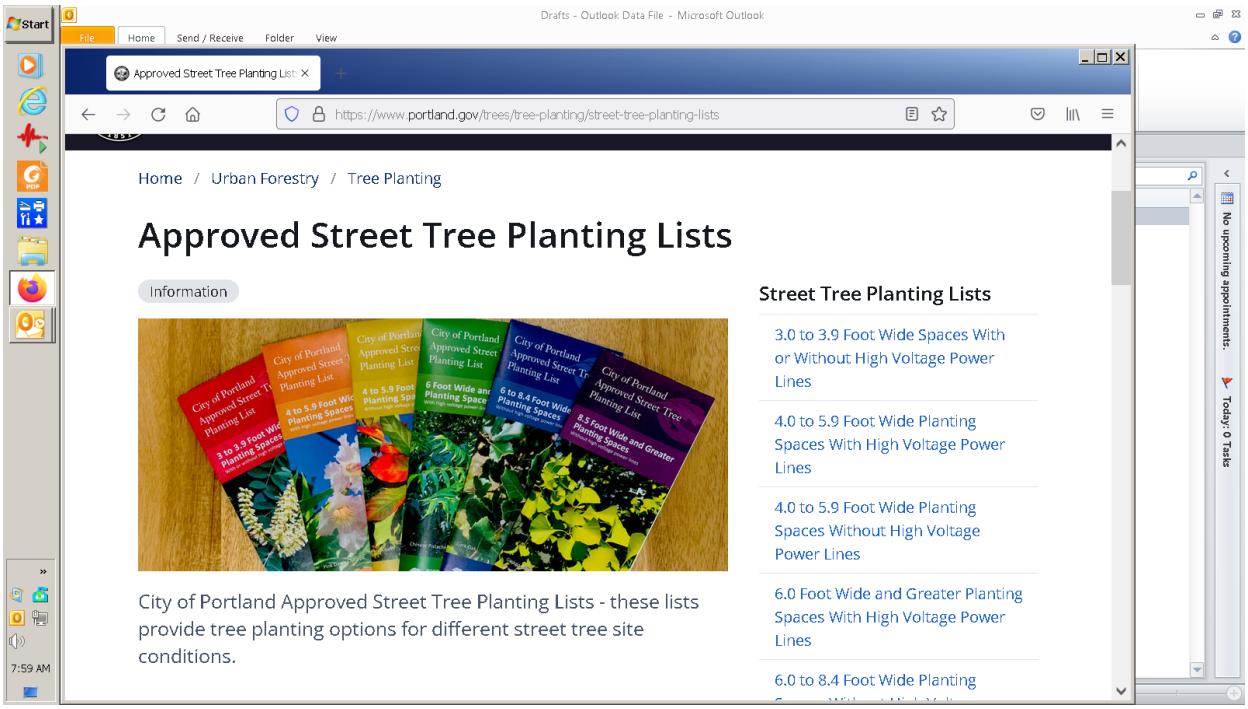
4. PORTLANDS HAS DEVELOPED MORE DETAILED FLYERS ABOUT VARIETIES.

   With changes in climate and severity of storms Milwaukie needs to consider future damage and the ability of the trees on the current list being able to tolerate severe conditions.

   Please see attached article -



https://www.milwaukieoregon.gov/engineering/approved-street-tree-list



Right Tree, Right Place - Find Your Tree!

The best street tree is one that fits well in the available space, or "right tree, right place." To help property owners choose the right tree, the City maintains Approved Street Tree Planting Lists based on the width of the planting strip and the presence or absence of overhead high voltage power lines. Click on any of the following links to explore street tree planting options for different sites:

- 3.0 to 3.9 Foot Wide Spaces **With** or **Without** High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces **With** High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces **Without** High Voltage Power Lines
- 6.0 Foot Wide and Greater Planting Spaces **With** High Voltage Power Lines
- 6.0 to 8.4 Foot Wide Planting Spaces **Without** High Voltage Power Lines
- 8.5 Foot Wide and Greater Planting Spaces **Without** High Voltage Power Lines

Street Tree Planting Lists

- 3.0 to 3.9 Foot Wide Spaces With or Without High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces With High Voltage Power Lines
- 4.0 to 5.9 Foot Wide Planting Spaces Without High Voltage Power Lines
- 6.0 Foot Wide and Greater Planting Spaces With High Voltage Power Lines
- 6.0 to 8.4 Foot Wide Planting Spaces Without High Voltage Power Lines
- 8.5 Foot Wide and Greater Planting Spaces Without High Voltage Power Lines
- Identifying High Voltage Power Lines
- Street Tree Planting List FAQs

https://www.portland.gov/trees/tree-planting/street-tree-planting-lists

Thank you,

Bernie Stout

Portland's big trees need water more than you may realize

Bill Gallagher
Friday, September 27, 2019

Despite heavy September rains, enduring drought impact and warming trend could be deadly for thirsty trees

The Pacific Northwest is better known for people who hug trees than for people who water them. But if you really love your coniferous companions, get out the hose.

A recent press release from a tree health specialist with the Oregon State University Extension Service offered a grim diagnosis for the ubiquitous Douglas firs in Southwest Portland: Because of drought conditions, they are dying. And noble firs, grand firs, western red cedars and Port Orford cedars aren't doing so well, either.

Should we be worried?



The SW Connection checked in with Southwest Portland certified arborist Peter Torres, owner of Multnomah Tree Experts, to find out.

Or is the question, "How worried should we be?"

"Basically, pretty worried," Torres said. I anticipate that we will lose 15% of native conifers within the metro area within the next 10 years if current trends continue."

Multnomah Tree Experts does 90% of it work in Southwest Portland and 30% of that work is removing tress that have died for one reason or another.

"The Douglas firs are dying quite a lot," Torres said. "Grand firs have been in trouble for quite a while but only recently have I seen whole trees die without evidence of a mass beetle attack. Cedar trees dying is the most surprising thing to me. I always found them to be more drought-resistant. I thought cedars and firs were bullet proof and we would never have any trouble with them because just imagine if they start to die en masse. It would change the city's landscape and bankrupt a lot of people.

Bankrupt people?

"Well, if you have a 120-foot Douglas fir in a small backyard and it dies you could spend $12,000 taking it out. Or even $24,000 if you need a crane or aerial lift," Torres said.

In the press release from OSU Ag Extension Services, it's recommended that between August and September you water your trees up to three hours per week through September.

Watering trees?

Sure," Torres said. "In fact, that's one of the things people don't worry about. We're always told to water a tree for the first two years after you plant it and it will take care of itself after that. But it doesn't always do so. With conditions getting drier and hotter, more trees are going to need irrigation."

To take full advantage of fall and winter rains when they arrive and give your water bill a break, Torres recommends "mulching" your thirsty trees.

Basically you buy some bags of mulch for $5 each and spread the mulch under your tree. Not right under it near the trunk, but out around the outer edge of branches. (That's why, when you take temporary shelter from rain under a tree, you don't stand near the outer branches.)

Torres explains, "It really worries me to see conifers that aren't mulched. Bare dirt or grass don't hold the moisture. So the farther out you can go with the mulch, the better.

"Think about the mechanics of the tree when the rain hits. It flows down the outside of the branches first, then it drips down at what is called the 'drip edge.' That's the end of the branch structure where most of the water is going into the soil," said Torres, who's been working around trees since 1978.

It seems logical but people aren't always anxious to be spreading circles of water-absorbing mulch under the big trees in their backyards.

"Sounds simple," Torres said, "but when someone's got a lawn they've just spent thousands of dollars on, they're not just going to bury it with mulch."

The solution to the problem of drought-weakened trees dying is obviously lots of rain. But even if that happens, the tall trees we take for granted will still be stressed and could use an occasional watering. And mulching.

"One thing I'm not looking forward to is taking down a lot of dead conifers. Taking down dead trees is the least rewarding thing we do," Torres said.

email: bgallagher@pamplinmedia.com

Learn more

www.multnomahtree.com

Article:

https://pamplinmedia.com/scc/103-news/439178-349445-portlands-big-trees-need-water-more-than-you-may-realize-pwoff