



CITY OF MILWAUKIE

October 23, 2023

Land Use File(s): ZA-2023-002

NOTICE OF DECISION

This is official notice of action taken by the Milwaukie City Council on October 17, 2023.

Traducciones de este documento e información sobre este proyecto están disponibles en español. Para solicitar información o preguntar en español, favor de email espanol@milwaukieoregon.gov.

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| Applicant(s): | Laura Weigel, Planning Manager |
| Location(s): | City-wide |
| Tax Lot(s): | N/A |
| Application Type(s): | Municipal Code Amendment |
| Decision: | Approved |
| Review Criteria: | Milwaukie Zoning Ordinance: <ul style="list-style-type: none">• MMC Section 19.902 Amendments to Maps and Ordinances• MMC Chapter 19.1008 Type V Review |
| Neighborhood(s): | All |

This notice is issued in accordance with Milwaukie Municipal Code (MMC) Section 19.1008 Type V Review. The complete case file for this application is available for review by appointment between 8:00 a.m. and 5:00 p.m. on regular business days at City Hall, located at 10501 SE Main St. Please contact Vera Kolas, Senior Planner, at 503-786-7653 or koliasv@milwaukieoregon.gov, if you wish to view this case file or visit the project webpage at www.milwaukieoregon.gov/planning/ZA-2023-002.

The amendments were adopted by Milwaukie City Council as Ordinance #2236 on October 17, 2023. The ordinance amended various sections of the municipal code with substantial code fixes for clarification and increased effectiveness. A copy of the final ordinance, which includes the amendments and findings in support of approval, is available at https://www.milwaukieoregon.gov/sites/default/files/fileattachments/ordinance/125043/or2236_substantive_code_2.pdf.

Appeals of Type V decisions are handled by the Oregon Land Use Board of Appeals (LUBA) at: 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552, 503-373-1265, <http://luba.state.or.us>. They can provide information regarding the timeline for filing an appeal and the proper forms and procedures.



Laura Weigel, AICP
Planning Manager

Exhibits

cc: Planning Commission (via email)
Joseph Briglio, Community Development Director (via email)
Jennifer Garbely, City Engineer (via email)
Engineering Development Review (via email)
Patrick McLeod, Building Official (via email)
Stephanie Marcinkiewicz, Inspector/Plans Examiner (via email)
Harmony Drake, Permit Technician (via email)
Tim Salyers, Code Enforcement Coordinator (via email)
Shawn Olson, CFD#1 (via email)
NDA(s): All (via email)

Land Use File(s): ZA-2023-002

COUNCIL ORDINANCE No. 2236

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES, TITLE 17 LAND DIVISION, AND TITLE 19 ZONING, TO MAKE CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF CLARIFICATION AND IMPROVED EFFECTIVENESS (FILE #ZA-2023-002).

WHEREAS the proposed amendments to Milwaukie Municipal Code (MMC) Titles 12, 17, and 19 to make changes and clarifications that will more effectively communicate and implement existing policy; and

WHEREAS legal and public notices have been provided as required by law, and opportunities for public review and input has been provided; and

WHEREAS on April 25, 2023, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

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

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

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

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

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

Read the first time on **10/3/23** and moved to second reading by **4:1** vote of the City Council.

Read the second time and adopted by the City Council on **10/17/23**.

Signed by the Mayor on **10/17/23**.



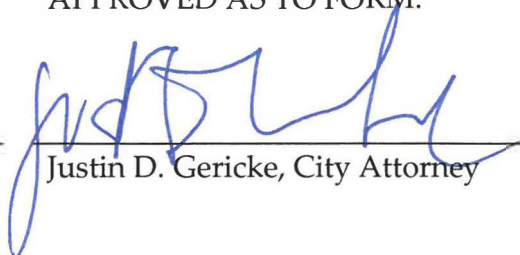
Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder



Justin D. Gericke, City Attorney

**Recommended Findings in Support of Approval
File #ZA-2023-002, Substantive Code Fix Amendments**

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

1. The applicant, the City of Milwaukie, proposes to amend various regulations that are contained in Title 12 Streets, Sidewalks, and Public Places, Title 17 Land Division, and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2023-002.
2. The purpose of the proposed code amendments is as a collection of substantive amendments that are clarifications, streamline processes, or address recent variance applications, that are not intended to significantly affect the meaning or intent of existing regulations; they are not intended to be a change in policy. The amendments are located in several titles of the municipal code:
 - Municipal Code –
 - MMC 12.16 – Access Management – Revise modification process
 - Municipal Code –
 - MMC 17.28 – Land Division – Design Standards
 - Zoning Ordinance –
 - MMC 19.201 – Add a definition for plexes
 - MMC 19.301 and 19.302 – Revise the lot size range for townhouses on corner lots
 - MMC 19.312 – NMIA zone – Revise the applicability of design standards
 - MMC 19.501 – General Exceptions – Revise the list of exceptions
 - MMC 19.502 – Accessory Structures – Revise design standards
 - MMC 19.505 – Cottage Cluster Design Standards – Allow attached cottages
 - MMC 19.600 – Clarification regarding EV charging requirements
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1000 Review Procedures
4. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on April 25, 2023, October 3, 2023, and October 17, 2023 as required by law.
5. MMC 19.902 Amendments to Maps and Ordinances
 - a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
 - (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on April 25, 2023. Public hearings before City Council were held on October 3, 2023 and October 17, 2023. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.
- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

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

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

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

- (i) Goal 11.1 for Economic Development reads as follows:

Provide a diverse range of uses, services, and amenities that contribute to a sustainable, equitable, and resilient economy and are adaptable to changing land uses and technology.

Policy 11.1.2 states:

Adapt to industry trends and emerging technologies that have the potential to affect employment, land use, and infrastructure needs, such as automation, the sharing economy, autonomous vehicles, and other future technological advances.

The proposed amendments revise the applicability of design standards for new construction in the North Milwaukie Innovation Area Zone.

- (ii) Goal 7.1 for Housing (Equity) states:

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. To continue to encourage an adequate and diverse range of housing types and the optimum utilization of housing resources to meet the housing needs of all segments of the population.

Policy 7.1.2 states:

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

Goal 8.3 for Urban Design and Land Use states:

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

The intent of the proposed amendments is to revise the minimum lot size for townhouses on corner lots. The proposed amendments would allow townhouses on corner lots up to 3,500 sq ft in size. Currently, townhouses are only allowed on lots that are between 1,500 – 2,999 sq ft. The amendment is necessary because the street-side-yard setback, which is 15 ft, combined with the maximum lot size of 2,999 sq ft has the effect of disallowing townhouses on a standard corner lot in the city. This is because a typical townhouse is at least 20 ft wide; if you add in the required 15-foot street-side-yard setback, the true minimum width required to accommodate a townhouse is 35 ft. A typical depth for many lots in the city is 100 ft. A lot that is 35 x 100 feet deep exceeds the maximum lot size for a townhouse. The intent of the minimum lot size was not to disallow townhouses on corner lots, so the proposed amendments are limited to corner lots so that these developments are possible.

The proposed amendments also revise the development standards to allow attached cottages in the R-MD zone. The proposed amendment would allow up to three attached cottages, providing an opportunity for a more efficient design and construction of cottage developments in addition to the more traditional single unit cottage. All other size standards for each individual dwelling unit would remain.

The proposed amendments revise the development standards to limit the number of attached cottages in the R-HD zone to four. This ensures that a cottage cluster development proposal will not conflict with the multi-unit residential definition of five or more units in a building

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

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies.

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

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

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

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

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

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

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

The amendments were initiated by the Planning Manager on February 1, 2023.

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

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

Opportunity for public comment and review has been provided. The Planning Commission had a work session about the proposed amendments on February 28, 2023. The City Council had a study session on the proposed amendments on June 20, 2023.

The current version of the draft amendments has been posted on the City's website since March 23, 2023. On March 27, 2023 staff emailed NDA leaders with information about the Planning Commission hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's April 25, 2023, hearing was posted as required on March 23, 2023. A notice of the City Council's September 19, 2023 public hearing was posted as required on August 17, 2023. On September 6, this hearing was rescheduled to October 3, 2023. A notice of the City Council's rescheduled October 3,

2023 public hearing was posted on September 6, 2023. The second reading of the ordinance was done at a public hearing on October 17, 2023. Ample public notice and information about the proposed amendments was provided.

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

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

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

Notice of the proposed amendments was sent to DLCD on March 20, 2023.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on March 21, 2023.

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

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

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

The Planning Commission held a duly advertised public hearing on April 25, 2023 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on October 3, 2023 and October 17, 2023, and approved the amendments.

Underline/Strikeout Amendments

TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property ~~shall~~ must be provided street access with the use of accessways. Driveway approaches ~~shall~~ must be constructed as set forth in the Milwaukie Public Works Standards.

B. ~~Access Spacing~~ Accessway Location

Spacing and location 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

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~~ must be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, ~~shall~~ must be a minimum of three hundred (300) feet.

~~c. For middle housing development, access spacing requirements may be modified by the City Engineer per Subsection 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. Double Frontage

When a lot has frontage on two (2) or more streets, access must be provided first from the street with the lowest classification. For example, access must be provided from a local street before a collector or arterial street.

3. 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.

4. Distance from Property Line

The nearest edge of the driveway apron must 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.

5. Distance from Intersection – Public Streets and Private Access Drives

To protect the safety and capacity of street intersections, the following minimum distances from the nearest intersecting street face of curb to the nearest edge of driveway apron must be maintained. Where intersecting streets do not have curbs, the distances must be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified as described in MMC Section 12.16.050. Distance from private access drives will be reviewed by the City Engineer on a case-by-case basis, and will include factors such as volume of traffic on both the private access drive and public street it is connected to, clear sight distance, and accident history.

a. At least forty-five (45) feet for single detached residential properties, plex development (i.e., a duplex, triplex, or quadplex), cottage clusters with four (4) or fewer units, and townhouses of four (4) or fewer units accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron must be located as far from the nearest intersection street face of curb as practicable; in such cases a formal modification is not required.

b. At least one hundred (100) feet for multi-unit residential properties, or cottage cluster developments of five (5) or more units 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.

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 or middle housing developments of four (4) or fewer units 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 or middle housing developments of five (5) or more units 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.~~

DC. Number of Accessway Locations

1. Safe Access

Accessway locations ~~shall~~must 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~~must 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~~must be established by means of common access easements.

3. Single Detached Residential and Middle Housing

One accessway per property is allowed for single detached residential uses, plex development, cottage cluster development up to four units, and townhouses and middle housing developments up to four (4) units.

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~~must 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 and Middle Housing

The number of accessways for uses other than single detached residential and middle housing developments up to four (4) units 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~~2~~₂.

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~~D. Accessway Design

1. Design Guidelines

Driveway approaches ~~shall~~must 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~~must 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~~E. 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~~must 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 attached and detached residential uses ~~shall~~must have a minimum driveway apron width of twelve (12) feet and a maximum width of twenty (20) feet.
3. Plex development, cottage cluster developments with up to four units, or townhouse developments ~~Multi-unit residential or middle housing development~~ comprised of up to four (4) units, ~~shall~~must have a minimum driveway apron width of twelve (12) 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 or ~~middle housing~~cottage cluster developments with between five (5) and eight (8) units ~~shall~~must 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 or ~~middle housing~~cottage cluster developments with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, ~~shall~~must 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~~must have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.
7. Industrial uses ~~shall~~must 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. 2218 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

12.16.050 VARIANCE MODIFICATIONS

~~Relief from any access management requirement or standard of Section 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Section 19.911. (Ord. 2025 § 3, 2011; Ord. 2004 § 1, 2009)~~

Access management standards 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, when required by the City Engineer based on street classification. The Access Study must 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 must include the following:

1. Review of site access spacing and design;
2. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;
3. Traffic Safety: provide ODOT crash data (for the most recent five-year period for which data is available) adjacent to the site within a distance equal to the access spacing distance from the project site;
4. Review of all modes of transportation to the site;
5. Evaluation of traffic volume, traffic type, and speed of existing traffic on street(s) where access is proposed to be taken;
6. Mitigation measures where access 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.
7. Evidence of consistency with the Transportation System Plan.

12.16.060 RIGHT OF APPEAL

If the applicant is dissatisfied with the written decision of the City Engineer for a modification request submitted pursuant to Subsection 12.16.050, the applicant may file a written appeal with the Community Development Director no later than thirty (30) days from the date that the decision was mailed. The appeal must contain a statement of the reasons why the applicant is dissatisfied with the written decision, and must be signed by the applicant, or by someone authorized to sign on the applicant's behalf. A notice of receipt must be mailed to the applicant by registered mail within five (5) days of the receipt of the appeal. The Community Development Director must act upon the appeal no later than sixty (60) days after receipt, and a copy of the written decision must be mailed to the applicant by registered mail no later than five (5) days after preparation of the decision. The decision of the Community Development Director shall be final.

~~Appeal of the decision of the City Engineer for a modification request submitted pursuant to Subsection 12.16.050 any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Section 19.1006 Type III Review. (Ord. 2025 § 3, 2011; Ord. 2004 § 1, 2009)~~

12.16.070 VIOLATION PENALTY

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars (\$250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted. (Ord. 2004 § 1, 2009)

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

C. Limits on Compound Lot Line Segments

Changes in direction alongside and rear lot lines ~~shall~~must be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding ~~40%~~ 20% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction ~~shall~~must be measured from a straight line drawn between opposing lot corners.

Title 19 Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

Residential Uses and Structures

“Plex development” means a duplex, triplex, or quadplex.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONE

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 ² | 7,000 and up | |
| A. Permitted Dwelling Type | | | | | |
| | Townhouse ¹ , Cottage ¹ | Cottage ¹ , Duplex, Triplex, Quadplex | Single Detached Dwelling, Single Detached Dwelling, | Single Detached Dwelling, Single Detached Dwelling, | Subsection 19.501.1 Lot Size Exceptions |

| | | | | | |
|--|--|--|---|--|--|
| | | | with up to 2 ADUs, Cottage ¹ , Duplex, Triplex, Quadplex Quadplex | with 2 ADUs, Cottage ¹ , Duplex, Triplex, Quadplex, Cottage Cluster | |
|--|--|--|---|--|--|

1 ~~For a cottage within a cottage cluster only.~~ A townhouse is permitted on a corner lot up to 3,500 sq ft in area.

19.302 HIGH DENSITY RESIDENTIAL ZONE

19.302.4 Development Standards

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

Between 1,500 to 2,999 sq ft: Townhouse; a townhouse is permitted on a corner lot up to 3,500 sq ft in area. ; ~~Cottage in a cottage cluster~~

| Table 19.302.2 High Density Residential Uses Allowed | | |
|---|------|---|
| Use | R-HD | Standards/ Additional Provisions |
| Residential Uses | | |
| Mixed Use | P | Subsection 19.505.7 Nonresidential Development |

19.302.5 Additional Development Standards

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 and Middle Housing

19.312 NORTH MILWAUKIE INNOVATION AREA

19.312.7 Design Standards for All Uses in the MUTSA and on NME Key Streets

The following development standards apply to all uses in the MUTSA Zone and in the NME Zone on properties located on the following key streets and key corners: McBrod Avenue, Main Street, 17th Avenue, and Ochoco Street (see Figure 312.7.1).

A. Design Standards for All New Construction and Major Exterior Alterations

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards in this section ~~generally~~ apply to the street-facing façades of new, and major alterations to, commercial, institutional, manufacturing, and mixed-use buildings when the closest wall of the street-facing façade is within 50 ft of a front or street-side lot line. Exterior maintenance and repair and minor exterior alterations are not subject to these standards. Subsection 19.312.7.B below defines exterior maintenance and repair and major/minor exterior and interior alterations.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.2 Yard Exceptions

C. A covered porch or deck on a single detached dwelling or middle housing unit may extend 6 ft into a required front or rear yard if all of the following standards are met:

1. The porch or deck 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 or deck does not exceed 18 in high above the average grade.
3. The porch or deck is at least 5 ft from the front and/or rear lot line.

19.502 ACCESSORY STRUCTURES

19.502.2 Specific Provisions for Accessory Structures

A. The following standards apply to ~~for~~ residential accessory structures on single detached unit, townhouse, cottage cluster, and plex development properties. ~~family detached, duplex, rowhouse, and cottage cluster properties.~~ The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these standards is to allow accessory structures that accommodate the typical needs of a ~~single family detached residence. while protecting the character of single family neighborhoods.~~

1. Development Standards

b. Other Development Standards

~~(3) A minimum of 5 ft is required between the exterior wall of an accessory structure and the exterior wall of any other structure on a site, excluding a fence or similar structure.~~

~~(4)~~ (3) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space, and is all of the following, which results in an addition and is not an accessory structure:

2. Design Standards

a. Metal siding is prohibited on structures more than ~~40~~ 15 ft high or with a footprint greater than ~~200~~ 600 sq ft, unless the siding replicates the siding on the primary dwelling or has the appearance of siding that is commonly used for residential structures.

~~b. Structures located in a front, side, or street side yard that are visible from the right-of-way at a pedestrian level shall use exterior siding and roofing materials that are commonly used on residential structures.~~

19.505 BUILDING DESIGN STANDARDS

19.505.4 Cottage Cluster Housing

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-HD |
| A. Home Structure Types | | |
| 1. Building types allowed, minimum and maximum number per cluster | Detached <u>and Attached</u> cottages 3 minimum 12 maximum dwelling units <u>Maximum number of attached units = 3</u> | Detached and Attached <u>cottages</u> 3 minimum 12 maximum dwelling units <u>Maximum number of attached units = 4</u> |
| B. Home Dwelling Unit Size | | |
| 1. Max building footprint per <u>home dwelling unit</u> | 900 sf | |
| 2. Max average floor area per dwelling unit | 1,400 sf | |

E. Site Design and Other Standards

4. Off-Street Parking

2 f. Off-street parking may be arranged in clusters, subject to the following standards:

- i. (1) Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five contiguous spaces.
- ii. (2) Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight contiguous spaces.
- iii. (3) Parking clusters must be separated from all other areas by at least 4 ft of landscaping.
- iv. (4) Clustered parking areas may be covered.

g. Off-street parking spaces and vehicle maneuvering areas must not be located:

- i. (1) Within of 20 ft from any street property line, except alley property lines;
- ii. (2) 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. (3) Off-street parking spaces must not be located within 10 ft of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 ft of other property lines.

h. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.

i. Garages and carports (whether shared or individual) must not abut common courtyards.

j. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

k. Individual detached garages must not exceed 400 square feet in floor area.

l. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.602.3 Applicability for Development and Change in Use Activity

The provisions of Chapter 19.600 apply to development and changes of use as described in Subsection 19.602.3.

- A. Development of a vacant site shall have off-street parking and off-street loading areas that conform to the requirements of Chapter 19.600. Development of a site that results in an increase of 100% or more of the existing floor area and/or structure footprint on a site shall also conform to the requirements of Chapter 19.600. The construction of new off-street parking spaces may be subject to the electric vehicle charging requirements of Subsection 19.605.5. The floor area and/or footprint of structures demolished prior to development or redevelopment on the site shall not be considered when calculating the increase in floor area and/or structural footprints.

19.602.4 Applicability not Associated With Development or Change in Use

- A. Any parking or loading area developed to serve an existing use(s) that is not associated with development activity or a change in use described in Subsection 19.602.3 shall conform to

the requirements of Sections 19.604 and 19.606-19.611, as well as to the electric vehicle (EV) charging requirements of Subsection 19.605.5 as applicable. The total number of spaces in the existing parking area and new parking area shall not exceed the maximum allowed quantity of parking as established in Section 19.605.

- B. Any parking or loading area that is not developed to serve an existing use and is not associated with development activity or a change in use as described in Subsection 19.602.3 shall conform to the requirements of Sections 19.604 and 19.606-19.611. The requirements of Section 19.605 do not apply to parking areas described under Subsection 19.602.4.B.
-

19.605 Vehicle Parking Quantity Requirements

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Subsection 19.605.5 details requirements for installing electric vehicle (EV) charging infrastructure in new multi-unit, mixed-use, commercial, and industrial developments. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

19.605.5 Electric Vehicle (EV) Charging Requirements

Required EV charging spaces. All new buildings that are commercial, industrial, multi-unit with 5 or more dwelling units, or mixed-use with 5 or more dwelling units and that provide new off-street parking must include sufficient space for electrical service capacity to support at least a Level 2 EV charger at required EV charging spaces as outlined below. For terms not defined elsewhere in Title 19, see applicable sections of the state building code and/or OAR 918-460-0200.

- A. **Commercial and Industrial ~~Parking Buildings~~.** For new commercial and industrial buildings ~~that provide off-street parking,~~ where new off-street parking spaces are constructed, choose one of the following:
- 1) At least 50% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;
- OR**
- 2) At least 20% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.
- B. **Multi-Unit and Mixed-Use Residential ~~Parking Buildings~~.** For new multi-unit and mixed-use buildings with five or more dwelling units, where new off-street parking spaces are provided constructed, choose one of the following:

- 1) All (100%) of the newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 40% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 10% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 40% minimum requirement.

C. **Structured Parking Facilities.** For new structured parking facilities, where new off-street parking spaces are constructed, choose one of the following:

- 1) At least 50% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 20% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.
-

Clean Amendments**TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES****CHAPTER 12.16 ACCESS MANAGEMENT****12.16.040 ACCESS REQUIREMENTS AND STANDARDS****A. Access**

Private property must be provided street access with the use of accessways. Driveway approaches must be constructed as set forth in the Milwaukie Public Works Standards.

B. Accessway Location

Spacing and location 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. Spacing Between Accessways

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, must be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, must be a minimum of three hundred (300) feet.

2. Double Frontage

When a lot has frontage on two (2) or more streets, access must be provided first from the street with the lowest classification. For example, access must be provided from a local street before a collector or arterial street.

3. 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.

4. Distance from Property Line

The nearest edge of the driveway apron must 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.

5. Distance from Intersection – Public Streets and Private Access Drives

To protect the safety and capacity of street intersections, the following minimum distances from the nearest intersecting street face of curb to the nearest edge of driveway apron must be maintained. Where intersecting streets do not have curbs, the distances must be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified as described in MMC Section 12.16.050. Distance from private access drives will be reviewed by the City Engineer on a case-by-case basis, and will include factors such as volume of traffic on both the private access drive and public street it is connected to, clear sight distance, and accident history.

- a. At least forty-five (45) feet for single detached residential properties, plex development (i.e., a duplex, triplex, or quadplex), cottage clusters with four (4) or fewer units, and townhouses of four (4) or fewer units accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron must be located as far from the nearest intersection street face of curb as practicable; in such cases a formal modification is not required.
- b. At least one hundred (100) feet for multi-unit residential properties, or cottage cluster developments of five (5) or more units 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.

C. Number of Accessway Locations

1. Safe Access

Accessway locations must 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 must 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 must be established by means of common access easements.

3. Single Detached Residential and Middle Housing

One accessway per property is allowed for single detached residential uses, plex development, cottage cluster development up to four units, and townhouses up to four (4) units.

- 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 must 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 and Middle Housing

The number of accessways for uses other than single detached residential and middle housing developments up to four (4) units 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.

D. Accessway Design

1. Design Guidelines

Driveway approaches must 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 must 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.

E. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways must 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 attached and detached residential uses must have a minimum driveway apron width of twelve (12) feet and a maximum width of twenty (20) feet.
3. Plex development, cottage cluster developments with up to four units, or townhouse developments comprised of up to four (4) units, must have a minimum driveway apron width of twelve (12) 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 or cottage cluster developments with between five (5) and eight (8) units must 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 or cottage cluster developments with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, must 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 must have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.
7. Industrial uses must 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. 2218 § 2 (Exh. B), 2022; Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

12.16.050 MODIFICATIONS

Access management standards 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, when required by the City Engineer based on street classification. The Access Study must 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 must include the following:

1. Review of site access spacing and design;
2. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;
3. Traffic Safety: provide ODOT crash data (for the most recent five-year period for which data is available) adjacent to the site within a distance equal to the access spacing distance from the project site;
4. Review of all modes of transportation to the site;
5. Evaluation of traffic volume, traffic type, and speed of existing traffic on street(s) where access is proposed to be taken;
6. Mitigation measures where access 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.

12.16.060 RIGHT OF APPEAL

If the applicant is dissatisfied with the written decision of the City Engineer for a modification request submitted pursuant to Subsection 12.16.050, the applicant may file a written appeal with the Community Development Director no later than thirty (30) days from the date that the decision was mailed. The appeal must contain a statement of the reasons why the applicant is dissatisfied with the written decision, and must be signed by the applicant, or by someone authorized to sign on the applicant's behalf. A notice of receipt must be mailed to the applicant by registered mail within five (5) days of the receipt of the appeal. The Community Development Director must act upon the appeal no later than sixty (60) days after receipt, and a copy of the written decision must be mailed to the applicant by registered mail no later than five (5) days after preparation of the decision. The decision of the Community Development Director shall be final.

12.16.070 VIOLATION PENALTY

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars (\$250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted. (Ord. 2004 § 1, 2009)

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.040 GENERAL LOT DESIGN

This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature. Lots and tracts created for cottage cluster housing development, per Subsection 19.505.4, are also exempt from the requirements of this section.

C. Limits on Compound Lot Line Segments

Changes in direction alongside and rear lot lines must be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding 20% of the distance between opposing lot corners along a given lot line may only be permitted through the variance provisions of MMC Subsection 19.911. Changes in direction must be measured from a straight line drawn between opposing lot corners.

Title 19 Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

Residential Uses and Structures

“Plex development” means a duplex, triplex, or quadplex.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONE

| 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 ² | 7,000 and up | |
| A. Permitted Dwelling Type | | | | | |
| | Townhouse ¹ | Duplex, Triplex, Quadplex | Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADUs, Duplex, Triplex, Quadplex | Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster | Subsection 19.501.1 Lot Size Exceptions |

¹ A townhouse is permitted on a corner lot up to 3,500 sq ft in area.

19.302 HIGH DENSITY RESIDENTIAL ZONE

19.302.4 Development Standards

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

Between 1,500 to 2,999 sq ft: Townhouse; a townhouse is permitted on a corner lot up to 3,500 sq ft in area.

| Table 19.302.2 High Density Residential Uses Allowed | | |
|---|------|--|
| Residential Uses | | |
| Use | R-HD | Standards/ Additional Provisions |
| Mixed Use | P | Subsection 19.505.7 Nonresidential Development |

19.303 COMMERCIAL MIXED-USE ZONES

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

B. Building Height

1. Intent

Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is three stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone must provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- c. The maximum building height in the NMU Zone is three stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components, increase area vibrancy, and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to two of the development incentive bonuses in Subsection 19.303.4.B.3.a. and Section 19.510, for a total of two stories or 24 ft of additional height, whichever is less. Buildings that elect to use both height bonuses for a 5-

story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

a. Residential

Buildings that devote at least one story or 25% of the gross floor area to residential uses are permitted one additional story or an additional 12 ft of building height, whichever is less.

b. Green Building

Project proposals that receive approvals and certification as identified in Section 19.510 are permitted one additional story or an additional 12 ft of building height, whichever is less.

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

19.312 NORTH MILWAUKIE INNOVATION AREA

19.312.7 Design Standards for All Uses in the MUTSA and on NME Key Streets

The following development standards apply to all uses in the MUTSA Zone and in the NME Zone on properties located on the following key streets and key corners: McBrod Avenue, Main Street, 17th Avenue, and Ochoco Street (see Figure 312.7.1).

A. Design Standards for All New Construction and Major Exterior Alterations

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards in this section apply to the street-facing façades of new, and major alterations to, commercial, institutional, manufacturing, and mixed-use buildings when the closest wall of the street-facing façade is within 50 ft of a front or street-side lot line. Exterior maintenance and repair and minor exterior alterations are not subject to these standards. Subsection 19.312.7.B below defines exterior maintenance and repair and major/minor exterior and interior alterations.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.2 Yard Exceptions

C. A covered porch or deck on a single detached dwelling or middle housing unit may extend 6 ft into a required front or rear yard if all of the following standards are met:

1. The porch or deck 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 or deck does not exceed 18 in high above the average grade.
3. The porch or deck is at least 5 ft from the front and/or rear lot line.

19.502 ACCESSORY STRUCTURES

19.502.2 Specific Provisions for Accessory Structures

A. The following standards apply for residential accessory structures on single detached unit, townhouse, cottage cluster, and plex development properties. The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these standards is to allow accessory structures that accommodate the typical needs of a residence.

1. Development Standards
 - b. Other Development Standards
 - (3) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space, and is all of the following, which results in an addition and is not an accessory structure:
2. Design Standards
 - a. Metal siding is prohibited on structures more than 15 ft high or with a footprint greater than ~~200~~ 600 sq ft, unless the siding replicates the siding on the primary

dwelling or has the appearance of siding that is commonly used for residential structures.

19.505 BUILDING DESIGN STANDARDS

19.505.4 Cottage Cluster Housing

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-HD |
| A. Structure Types | | |
| 1. Building types allowed, minimum and maximum number per cluster | Detached and Attached cottages 3 minimum 12 maximum dwelling units Maximum number of attached units = 3 | Detached and Attached cottages 3 minimum 12 maximum dwelling units Maximum number of attached units = 4 |
| B. Dwelling Unit Size | | |
| 1. Max building footprint per dwelling unit | 900 sf | |
| 2. Max average floor area per dwelling unit | 1,400 sf | |

E. Site Design and Other Standards

4. Off-Street Parking

f. Off-street parking may be arranged in clusters, subject to the following standards:

- (1) Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five contiguous spaces.
- (2) Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight contiguous spaces.
- (3) Parking clusters must be separated from all other areas by at least 4 ft of landscaping.
- (4) Clustered parking areas may be covered.

- g. Off-street parking spaces and vehicle maneuvering areas must not be located:
 - (1) Within of 20 ft from any street property line, except alley property lines;
 - (2) 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.
 - (3) Off-street parking spaces must not be located within 10 ft of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 ft of other property lines.
- h. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
- i. Garages and carports (whether shared or individual) must not abut common courtyards.
- j. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.
- k. Individual detached garages must not exceed 400 square feet in floor area.
- l. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.602.3 Applicability for Development and Change in Use Activity

The provisions of Chapter 19.600 apply to development and changes of use as described in Subsection 19.602.3.

- A. Development of a vacant site shall have off-street parking and off-street loading areas that conform to the requirements of Chapter 19.600. Development of a site that results in an increase of 100% or more of the existing floor area and/or structure footprint on a site shall also conform to the requirements of Chapter 19.600. The construction of new off-street parking spaces may be subject to the electric vehicle charging requirements of Subsection 19.605.5. The floor area and/or footprint of structures demolished prior to development or redevelopment on the site shall not be considered when calculating the increase in floor area and/or structural footprints.

19.602.4 Applicability not Associated With Development or Change in Use

- A. Any parking or loading area developed to serve an existing use(s) that is not associated with development activity or a change in use described in Subsection 19.602.3 shall conform to the requirements of Sections 19.604 and 19.606-19.611, as well as to the electric vehicle (EV) charging requirements of Subsection 19.605.5 as applicable. The total number of

spaces in the existing parking area and new parking area shall not exceed the maximum allowed quantity of parking as established in Section 19.605.

- B. Any parking or loading area that is not developed to serve an existing use and is not associated with development activity or a change in use as described in Subsection 19.602.3 shall conform to the requirements of Sections 19.604 and 19.606-19.611. The requirements of Section 19.605 do not apply to parking areas described under Subsection 19.602.4.B.

19.605 Vehicle Parking Quantity Requirements

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Subsection 19.605.5 details requirements for installing electric vehicle (EV) charging infrastructure in multi-unit, mixed-use, commercial, and industrial developments. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

19.605.5 Electric Vehicle (EV) Charging Requirements

Required EV charging spaces. All new buildings that are commercial, industrial, multi-unit with 5 or more dwelling units, or mixed-use with 5 or more dwelling units and that provide new off-street parking must include sufficient space for electrical service capacity to support at least a Level 2 EV charger at required EV charging spaces as outlined below. For terms not defined elsewhere in Title 19, see applicable sections of the state building code and/or OAR 918-460-0200.

- A. **Commercial and Industrial Buildings.** For new commercial and industrial buildings where new off-street parking spaces are constructed, choose one of the following:

- 1) At least 50% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 20% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.

- B. **Multi-Unit and Mixed-Use Residential Buildings.** For new multi-unit and mixed-use buildings with five or more dwelling units, where new off-street parking spaces are constructed, choose one of the following:

- 1) All (100%) of the newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 40% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 10% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 40% minimum requirement.

C. **Structured Parking Facilities.** For new structured parking facilities, where new off-street parking spaces are constructed, choose one of the following:

- 1) At least 50% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 20% of the total number of newly constructed parking spaces must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of newly constructed parking spaces must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.