



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

January 30, 2008



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Milwaukie Plan Amendment  
DLCD File Number 001-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: February 14, 2008**

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Darren Nichols, DLCD Community Services Division Manager  
Katie Mangle, City of Milwaukie

<paa>

# FORM 2

## D L C D NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18

DEPT OF

JAN 25 2008

LAND CONSERVATION  
AND DEVELOPMENT

**Jurisdiction:** City of Milwaukie

**Local File No.:** ZA-07-02

**Date of Adoption:** January 15, 2008

**Date Mailed:** January 23, 2008

**Date the Notice of Proposed Amendment was mailed to DLCD:** September 7, 2007

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: \_\_\_\_\_

### Summarize the adopted amendment.

The Milwaukie City Council adopted zoning code amendments (housekeeping amendments) in order to clarify specific subsections of Title 14 and Title 19 of the Code (see Attachment 1, Exhibit B). All of the proposed changes are designed to: Reduce conflict between regulations within the Zoning Code or with other sections of the Milwaukie Municipal Code; clarify language that makes understanding and implementing the regulation difficult; and change incorrect references to other sections of the Milwaukie Municipal Code.

### Describe how the adopted amendment differs from the proposed amendment.

The revised amendments differ from those mailed to DLCD as follows:  
Staff removed all amendments having to do with interior single-family attached units. Staff originally categorized these amendments as not involving policy changes, but internal staff discussions revealed some questions about the implications of these amendments.

Section 19.701 Variances has also been removed from the packet for adoption for further discussion.

**Plan Map Changes:** Not Applicable.

**Zone Map Changes:** Not Applicable.

**Specified Change in Density:** Not Applicable.

**Location:** Citywide

**Applicable Statewide Planning Goals:** Goal 2 (Land Use Planning).

**Was an Exception Adopted?** No.

DLCD File No.: 001-08 (NOA)



Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: **X** No: \_\_\_\_\_  
If no, do the Statewide Planning Goals apply. Yes: \_\_\_\_\_ No: \_\_\_\_\_  
If no, did The Emergency Circumstances Require immediate adoption. Yes: \_\_\_\_\_ No: \_\_\_\_\_

**Affected State or Federal Agencies, Local Governments or Special Districts:** Metro.

**Local Contact:** Katie Mangle, Planning Director  
**Address:** 6101 SE Johnson Creek Blvd, Milwaukie, OR 97206  
**E-mail:** manglek@ci.milwaukie.or.us  
**Phone Number:** 503-786-7652

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### **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:  
**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**635 CAPITOL STREET NE, SUITE 150**  
**SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

ORDINANCE NO. 1977

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 14 SIGNS AND TITLE 19 ZONING, TO CORRECT AND CLARIFY THESE ORDINANCES TO MAKE THEM MORE EFFECTIVE (FILE #ZA-07-02).**

**WHEREAS**, the proposed amendments to Titles 14 and 19 make corrections 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

**WHEREAS**, on November 27, 2007, the Milwaukie Planning Commission conducted a public hearing, as required by Zoning Ordinance Section 19.1011.5, and adopted a motion in support of the amendment; 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 proposed amendment(s) are attached as Exhibit A.


Section 2. Title 14 Sign Ordinance Text Amendment. The Sign Ordinance text is amended as described in Exhibits B (strikeout version) and C (clean version).

Section 3. Title 19 Zoning Ordinance Text Amendment. The Zoning Ordinance text of is amended as described in Exhibits B (strikeout version) and C (clean version).

Read the first time on 1/15/08 and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 1/15/08

Signed by the Mayor on 1/15/08

  
\_\_\_\_\_  
Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis, LLP

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney



**Attachment 1, Exhibit A  
Findings in Support of Approval**

1. The City of Milwaukie fulfilled the requirements for an application for a zoning text amendment, as outlined in MMC sections and 19.901, 19.902 (see Attachment 4, Code Compliance Report).
2. Public notice has been provided and a public hearing has been conducted in accordance with MMC section 1011.5 (see Attachment 4, Code Compliance Report).
3. The proposed amendments fulfill the approval criteria found in MMC 19.904.1 and 19.905.1. They are consistent with the Comprehensive Plan, the Metro Urban Growth Management Functional Plan, and Oregon Statewide Planning Goals (see Attachment 1, Code Compliance Report).

**Exhibit B**

**Amendments to Milwaukie Municipal Code**

**Title 14 — Sign Ordinance and Title 19 — Zoning Ordinance (“strikeout” version)**

**Underlined text is to be inserted**

**Strikeout ~~text~~ is to be deleted**

**The following items are recommended minor text amendments to the City of Milwaukie Sign Ordinance (Title 14):**

**14.16.060 Downtown zones.**

H. Illumination. Illuminated signs may be permitted subject to the following:

3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the design and landmarks committee and approval by the planning commission, **as provided in subsection 19.1011.3, Minor Quasi-Judicial Review, and** according to the following criteria:
  - a. Sign lighting should be designed as an integral component of the building and sign composition.
  - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
  - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.

**14.32.020 ~~Variance~~ Adjustment procedure.**

The following procedures shall be followed in applying for and acting on ~~an variance~~ **adjustment**:

- A. A property owner may initiate a request for ~~an variance~~ **adjustment** by filing an application with the city manager, using forms required by the city manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be ~~varied~~ **adjusted** and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The review authority may request other drawings or material essential to an understanding of the ~~variance~~ **adjustment** request.
- B. The review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 19.1011.3, Minor Quasi-Judicial Review, for any ~~variance~~ **adjustment** request which is twenty-five percent (25%) or more of the required standard. ~~Variance Adjustment~~ requests of less than twenty-five percent (25%) from the standard required shall be reviewed by the community development director per the provisions outlined in Section 19.1011.2, Administrative Type II Review, of Ordinance 1712, the zoning ordinance. Within five (5) days after a decision has been rendered with reference to a request for ~~an variance~~ **adjustment**, the city manager or duly authorized representative shall provide the applicant with notice of the decision of the review authority. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)



**14.32.030 Circumstances for granting ~~variance~~ adjustment.**

The review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the ~~variance~~ adjustment will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
- E. That the granting of the ~~variance~~ adjustment will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)

**14.32.040 Time limit.**

- A. Authorization of an ~~an variance~~ adjustment shall be void if the building or work approved by such ~~variance~~ adjustment is not commenced within six (6) months of the date of approval.
- B. The review authority may, upon receiving a written request from the applicant prior to the ~~variance~~ adjustment expiration date, extend the ~~variance~~ adjustment for a period not to exceed one year. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)

**The following items are recommended minor text amendments to the City of Milwaukee Zoning Ordinance (Title 19):**

**19.103 Definitions.**

Lot Line, Front. "Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; ~~and~~ in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face, **and in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.**

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title:

1. Yard, Rear. "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right **angles** to the rear lot line from the rear lot line to the nearest point of a main building.

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure **to a use, or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.**

"Temporary or transitional facility" means a facility which may provide temporary **or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.** parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

**19.301 Residential zone R-10**

**19.301.3 Standards.** In an R-10 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least ten thousand (10,000) square feet, and the lot area shall be not less than an average of seven thousand (7,000) square feet for dwelling of a single-family attached **dwelling** ~~complex~~. Lot width shall be at least thirty (30) feet for an interior single-family attached unit. ~~Average~~ Lot depth shall be at least one hundred (100) feet. Lot width shall be at least seventy (70) feet.
- K. Minimum **and maximum** density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least three and five tenths (3.5) ~~to~~ **and not more than** four and four tenths (4.4) dwelling units per net acre.



**19.302 Residential zone R-7**

**19.302.3 Standards.** In an R-7 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least seven thousand (7,000) square feet. For a single-family attached ~~dwelling complex~~ the lot area shall be an average of at least seven thousand (7,000) square feet per unit. Lot width shall be at least sixty (60) feet. The minimum lot width shall be thirty (30) feet for interior single-family attached units. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- K. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 5.0 ~~to~~ and not more than 6.2 dwelling units per net acre.

**19.303 Residential zone R-5**

**19.303.3 Standards.** In an R-5 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least five thousand (5,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached dwellings the lot width shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 ~~to~~ and not more than 8.7 dwelling units per net acre.

**19.304 Residential zone R-3**

**19.304.3 Standards.** In an R-3 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ and not more than 14.5 dwelling units per net acre.

**19.305 Residential zone R-2.5**

**19.305.3 Standards.** In an R-2.5 zone the following standards shall apply:

- J. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission,

pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ **and not more than** 17.4 dwelling units per net acre.

### 19.306 Residential zone R-2

**19.306.3 Standards.** In an R-2 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average of two thousand five hundred (2500) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units lot width shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, and multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- L. Minimum **and maximum** density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ **and not more than** 17.4 dwelling units per net acre.

### 19.307 Residential—Business office—Commercial zone R-1-B.

**19.307.3 Standards.** In an R-1-B zone the following standards shall apply:

- L. Minimum **and maximum** density: ~~Minimum~~ Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.

### 19.308 Residential zone R-1

**19.308.3 Standards.** In an R-1 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than one thousand four hundred (1400) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. Lot width for single-family attached and condominium units shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- M. Minimum **and maximum** density: ~~Minimum~~ Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.



**19.309 Residential—Office—Commercial zone R-O-C**

**19.309.3 Standards. In an R-O-C zone the following standards shall apply:**

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Average Lot depth shall be at least eighty (80) feet.
- M. Minimum **and maximum** density: ~~Minimum~~ Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.

**19.311 Limited Commercial zone C-L.**

**19.311.3 Standards. In a C-L zone the following standards shall apply:**

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand (1000) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Average Lot depth shall be at least eighty (80) feet.

**19.312 .7 Design Review.**

- E. Application Procedure.
  - 3. Major exterior alterations, as defined in Section 19.312.6B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing **by** and decided by the **planning commission** ~~design and landmarks committee~~, except as follows.
  - 4. Residential.
    - b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.  
  
Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the ~~design and landmarks~~ **planning** commission.
- H. Report and Recommendation by Design and Landmarks ~~Commission~~ **Committee**.  
When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks ~~commission~~ **committee** for Minor Quasi-Judicial Reviews,

shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks ~~commission's~~ **committee's** recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

- I. Variances to Development Standards. The ~~design and landmarks~~ **planning** commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.
- J. Modification of Design Standards. The ~~design and landmarks~~ **planning** commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.

**19.322 Water Quality Resource Regulations.**

**19.322.3 Applicability.**

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections ~~19.322.6~~ **19.322.9** Application Requirements and 19.322.10 Development Standards.

**19.322.12 Map Administration.**

**Table 1**

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor <sup>6</sup>
Primary Protected Water Features <sup>1</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bank full flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
Primary Protected Water Features <sup>1</sup>	> 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
Primary Protected Water Features <sup>1</sup>	> 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in > 25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet

**Proposed Code Amendments**

<b>Secondary Protected Water Features<sup>2</sup></b>	> 25% <sup>3</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
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- <sup>1</sup> Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.
- <sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50—100 acres.
- <sup>3</sup> Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).
- <sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).
- <sup>5</sup> Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.
- 6 Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.**

**19.323.3 Definitions.**

~~“Committee” means the city of Milwaukee design and landmarks committee.~~

**19.323.7 Demolition.**

E. Approval of Demolition Request/Appeals. The commission may approve the demolition request after considering the criteria under subsection D above. Action by the commission approving the issuance of permit for demolition may be appealed to the city council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection ~~19.323.6(F)~~ **19.323.5(F)**. If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

**19.402 Accessory structures, limitations**

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are ~~to be provided by city public works~~ as part of the **regulations in Chapter 12.24 and** clear vision determination process specified in Chapter ~~19.1400~~ 19.1409.2.E. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

**19.426.5 Protection of Adjoining Properties.**

A. Flag 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 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

**19.503.19 Landscaping.** Parking area landscaping shall be required in all districts and for all uses other than single-family ~~detached~~ and ~~duplex~~ single-family attached residences. Landscaping shall be based on the following standards.

**19.503.21 Off-Street Vehicle Parking in Residential Zones.**

E. Commercial vehicles, as defined in Chapter 10.04.090, over one and one-half tons shall not be permitted to be parked or stored in residential zoning districts.

~~**19.602.2 Height Exception.** A church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of fifty (50) feet, except as provided in an L-F zone, if the total floor area of the building does not exceed one and one half (1 1/2) times the area of the site and if the yard dimensions in each case are equal to at least two thirds (2/3) of the height of the principal structure.~~

**19.701 Variances.**

The planning commission, design and landmarks commission as provided in Section 19.312.7.H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

**19.707.1 Purpose.** The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the zoning ordinance where it is desirable to sustain the integrity of or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the zoning ordinance for yards and lot coverage. ~~The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred fifty square feet and no more than one hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two hundred fifty square foot limit.~~ Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the zoning ordinance.

**19.707.2 Conditions to Qualify for a Home Improvement Exception.** All of the following conditions must be met to make application for a home improvement exception:

A. The home improvement exception is for an addition to an existing single-family residential ~~detached~~ dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones, or for an addition to an existing two-family residential unit single-family attached dwelling or attached garage in the R-5, R-3, R-2, or R-1 zones;

**B. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred fifty (250) square feet and no more than one hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two hundred fifty-square-foot limit;**

- ~~B. The home improvement exception is for an addition to an existing two-family residential unit or attached garage in the R-5, R-3, R-2, or R-1 zones;~~
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application;
- D. At least seventy-five percent of the exterior walls (linear feet) will remain;
- E. A yard requirement will not be reduced by more than fifty percent, and the addition will be located no closer than five feet from the property line (including landings, overhangs, and eaves). (Ord. 1849 (part), 1998).

**19.709 Home improvement exception procedures.**

Home improvement exceptions may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type ~~H~~ **II** Administrative Review, shall be followed. (Ord. 1849 (part), 1999)

**19.1011.2 Type II Administrative Review.** A type II procedure provides for an administrative decision with the option of a public hearing.

- A. Public notification. Within fifteen (15) days of the receipt of an application, the director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred (300) feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the design and landmarks ~~commission~~ **committee**. The names and addresses used for this purpose shall be those shown on the current records of the county assessor. At least fourteen (14) days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.
- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the community development department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a design and landmarks ~~commissioner~~ **committee member** may request the application be set for public hearing before the ~~design and landmarks commission~~ **planning commission**.
- E. Decision. The ~~planning commission or design and landmarks commission~~ shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.



**19.1012 Recess of hearing**

The planning commission, city council or design and landmarks ~~commission~~ **committee** may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

**19.1409.1 General Provisions.**

- C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section ~~19.1408~~ **19.1407**.

**19.1413.3 Number and Size of Driveways.**

- C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in ~~Title 17~~ **Section 19.426**.



**Exhibit C**  
**Amendments to Milwaukie Municipal Code**  
**Title 14 Sign Ordinance and Title 19 Zoning Ordinance (“clean” version)**

**Underlined text is to be inserted**  
**Strikeout text is to be deleted**

**The following items are recommended minor text amendments to the City of Milwaukie Sign Ordinance (Title 14):**

**14.16.060 Downtown zones.**

- H. Illumination. Illuminated signs may be permitted subject to the following:
3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the design and landmarks committee and approval by the planning commission, as provided in subsection 19.1011.3, Minor Quasi-Judicial Review, and according to the following criteria:
    - a. Sign lighting should be designed as an integral component of the building and sign composition.
    - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
    - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.

**14.32.020 Adjustment procedure.**

The following procedures shall be followed in applying for and acting on an adjustment:

- A. A property owner may initiate a request for an adjustment by filing an application with the city manager, using forms required by the city manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be adjusted and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The review authority may request other drawings or material essential to an understanding of the adjustment request.
- B. The review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 19.1011.3, Minor Quasi-Judicial Review, for any adjustment request which is twenty-five percent (25%) or more of the required standard. Adjustment requests of less than twenty-five percent (25%) from the standard required shall be reviewed by the community development director per the provisions outlined in Section 19.1011.2, Administrative Type II Review, of Ordinance 1712, the zoning ordinance. Within five (5) days after a decision has been rendered with reference to a request for an adjustment, the city manager or duly authorized representative shall provide the applicant with notice of the decision of the review authority.

**14.32.030 Circumstances for granting adjustment.**

The review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the adjustment will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
- E. That the granting of the adjustment will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**14.32.040 Time limit.**

- A. Authorization of an adjustment shall be void if the building or work approved by such adjustment is not commenced within six (6) months of the date of approval.
- B. The review authority may, upon receiving a written request from the applicant prior to the adjustment expiration date, extend the adjustment for a period not to exceed one year.

**The following items are recommended minor text amendments to the City of Milwaukee Zoning Ordinance (Title 19):**

**19.103 Definitions.**

Lot Line, Front. "Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title:

1. Yard, Rear. "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

**19.301 Residential zone R-10**

**19.301.3 Standards.** In an R-10 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least ten thousand (10,000) square feet, and the lot area shall be not less than an average of seven thousand (7,000) square feet for dwelling of a single-family attached dwelling. Lot width shall be at least thirty (30) feet for an interior single-family attached unit. Lot depth shall be at least one hundred (100) feet. Lot width shall be at least seventy (70) feet.
- K. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least three and five tenths (3.5) and not more than four and four tenths (4.4) dwelling units per net acre.

**19.302 Residential zone R-7**

**19.302.3 Standards.** In an R-7 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least seven thousand (7,000) square feet. For a single-family attached dwelling the lot area shall be an average of at least seven thousand (7,000) square feet



per unit. Lot width shall be at least sixty (60) feet. The minimum lot width shall be thirty (30) feet for interior single-family attached units. Lot depth shall be at least eighty (80) feet.

- K. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 5.0 and not more than 6.2 dwelling units per net acre.

### **19.303 Residential zone R-5**

**19.303.3 Standards.** In an R-5 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least five thousand (5,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached dwellings the lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 and not more than 8.7 dwelling units per net acre.

### **19.304 Residential zone R-3**

**19.304.3 Standards.** In an R-3 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 14.5 dwelling units per net acre.

### **19.305 Residential zone R-2.5**

**19.305.3 Standards.** In an R-2.5 zone the following standards shall apply:

- J. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 17.4 dwelling units per net acre.

### **19.306 Residential zone R-2**

**19.306.3 Standards.** In an R-2 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average

of two thousand five hundred (2500) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, and multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.

- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 17.4 dwelling units per net acre.

**19.307 Residential—Business office—Commercial zone R-1-B.**

**19.307.3 Standards.** In an R-1-B zone the following standards shall apply:

- L. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.308 Residential zone R-1**

**19.308.3 Standards.** In an R-1 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than one thousand four hundred (1400) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. Lot width for single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- M. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.309 Residential—Office—Commercial zone R-O-C**

**19.309.3 Standards.** In an R-O-C zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- M. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to



subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.311 Limited Commercial zone C-L.**

**19.311.3 Standards.** In a C-L zone the following standards shall apply:

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand (1000) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.

**19.312.7 Design Review.**

E. Application Procedure.

- 3. Major exterior alterations, as defined in Section 19.312.6B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing by and decided by the planning commission, except as follows:

- 4. Residential.

- b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

- Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the planning commission.

H. Report and Recommendation by Design and Landmarks Committee.

When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks committee for Minor Quasi-Judicial Reviews, shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks committee's recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

- I. Variances to Development Standards. The planning commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.
- J. Modification of Design Standards. The planning commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.



**19.322 Water Quality Resource Regulations.**

**19.322.3 Applicability.**

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections 19.322.9 Application Requirements and 19.322.10 Development Standards.

**19.322.12 Map Administration.**

**Table 1**

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor <sup>6</sup>
Primary Protected Water Features <sup>1</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bank full flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
Primary Protected Water Features <sup>1</sup>	> 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
Primary Protected Water Features <sup>1</sup>	> 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in > 25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet
Secondary Protected Water Features <sup>2</sup>	> 25% <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet

<sup>1</sup> Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.  
<sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50—100 acres.  
<sup>3</sup> Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).  
<sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

- <sup>5</sup> Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.
- <sup>6</sup> Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

**19.323.7 Demolition.**

E. Approval of Demolition Request/Appeals. The commission may approve the demolition request after considering the criteria under subsection D above. Action by the commission approving the issuance of permit for demolition may be appealed to the city council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection 19.323.5(F). If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

**19.402 Accessory structures, limitations**

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are provided as part of the regulations in Chapter 12.24 and clear vision determination process specified in Chapter 19.1409.2.E. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

**19.426.5 Protection of Adjoining Properties.**

A. Flag 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 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

**19.503.19 Landscaping.** Parking area landscaping shall be required in all districts and for all uses other than single-family detached and single-family attached residences. Landscaping shall be based on the following standards.

**19.503.21 Off-Street Vehicle Parking in Residential Zones.**

E. Commercial vehicles, as defined in Chapter 10.04.090, over one and one-half tons shall not be permitted to be parked or stored in residential zoning districts.

**19.602.2** Repealed by Ordinance # \_\_\_\_\_.

**19.701 Variances.**

The planning commission, design and landmarks commission as provided in Section 19.312.7.H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and

landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

**19.707.1 Purpose.** The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the zoning ordinance where it is desirable to sustain the integrity of or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the zoning ordinance for yards and lot coverage. Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the zoning ordinance.

**19.707.2 Conditions to Qualify for a Home Improvement Exception.** All of the following conditions must be met to make application for a home improvement exception:

- A. The home improvement exception is for an addition to an existing single-family detached dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones, or for an addition to an existing single-family attached dwelling or attached garage in the R-5, R-3, R-2, or R-1 zones;
- B. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two-hundred fifty (250) square feet, and no more than one-hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two-hundred fifty square-foot limit;
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application;
- D. At least seventy-five percent of the exterior walls (linear feet) will remain;
- E. A yard requirement will not be reduced by more than fifty percent, and the addition will be located no closer than five feet from the property line (including landings, overhangs, and eaves). (Ord. 1849 (part), 1998).

**19.709 Home improvement exception procedures.**

Home improvement exceptions may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type II Administrative Review, shall be followed. (Ord. 1849 (part), 1999)

**19.1011.2 Type II Administrative Review.** A type II procedure provides for an administrative decision with the option of a public hearing.

- A. **Public notification.** Within fifteen (15) days of the receipt of an application, the director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred (300) feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the design and landmarks committee. The names and addresses used for this purpose shall be those shown on the



current records of the county assessor. At least fourteen (14) days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.

- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the community development department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a design and landmarks committee member may request the application be set for public hearing before the planning commission.
- E. Decision. The planning commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.

**19.1012 Recess of hearing**

The planning commission, city council or design and landmarks committee may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

**19.1409.1 General Provisions.**

- C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1407.

**19.1413.3 Number and Size of Driveways.**

- C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in Section 19.426.

**Attachment 1, Exhibit A  
Findings in Support of Approval**

1. The City of Milwaukie fulfilled the requirements for an application for a zoning text amendment, as outlined in MMC sections and 19.901, 19.902 (see Attachment 4, Code Compliance Report).
2. Public notice has been provided and a public hearing has been conducted in accordance with MMC section 1011.5 (see Attachment 4, Code Compliance Report).
3. The proposed amendments fulfill the approval criteria found in MMC 19.904.1 and 19.905.1. They are consistent with the Comprehensive Plan, the Metro Urban Growth Management Functional Plan, and Oregon Statewide Planning Goals (see Attachment 1, Code Compliance Report).

**Exhibit B**

**Amendments to Milwaukie Municipal Code**

**Title 14 — Sign Ordinance and Title 19 — Zoning Ordinance (“strikeout” version)**

**Underlined text is to be inserted**

**Strikeout ~~text~~ is to be deleted**

**The following items are recommended minor text amendments to the City of Milwaukie Sign Ordinance (Title 14):**

**14.16.060 Downtown zones.**

H. Illumination. Illuminated signs may be permitted subject to the following:

3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the design and landmarks committee and approval by the planning commission, **as provided in subsection 19.1011.3, Minor Quasi-Judicial Review, and** according to the following criteria:
  - a. Sign lighting should be designed as an integral component of the building and sign composition.
  - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
  - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.

**14.32.020 ~~Variance~~ Adjustment procedure.**

The following procedures shall be followed in applying for and acting on an ~~variance~~ **adjustment**:

- A. A property owner may initiate a request for an ~~variance~~ **adjustment** by filing an application with the city manager, using forms required by the city manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be ~~varied~~ **adjusted** and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The review authority may request other drawings or material essential to an understanding of the ~~variance~~ **adjustment** request.
- B. The review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 19.1011.3, Minor Quasi-Judicial Review, for any ~~variance~~ **adjustment** request which is twenty-five percent (25%) or more of the required standard. ~~Variance~~ **Adjustment** requests of less than twenty-five percent (25%) from the standard required shall be reviewed by the community development director per the provisions outlined in Section 19.1011.2, Administrative Type II Review, of Ordinance 1712, the zoning ordinance. Within five (5) days after a decision has been rendered with reference to a request for an ~~variance~~ **adjustment**, the city manager or duly authorized representative shall provide the applicant with notice of the decision of the review authority. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)



**14.32.030 Circumstances for granting ~~variance~~ adjustment.**

The review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the ~~variance~~ adjustment will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
- E. That the granting of the ~~variance~~ adjustment will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)

**14.32.040 Time limit.**

- A. Authorization of an ~~an~~ adjustment shall be void if the building or work approved by such ~~variance~~ adjustment is not commenced within six (6) months of the date of approval.
- B. The review authority may, upon receiving a written request from the applicant prior to the ~~variance~~ adjustment expiration date, extend the ~~variance~~ adjustment for a period not to exceed one year. (Ord. 1917 § 3 (Exh. B) (part), 2003; Ord. 1916 § 3 (Exh. B) (part), 2003; Ord. 1733 § 1(1)(Exh. A) (part), 1993)

**The following items are recommended minor text amendments to the City of Milwaukie Zoning Ordinance (Title 19):**

**19.103 Definitions.**

Lot Line, Front. "Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; ~~and~~ in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face, **and in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.**

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title:

1. Yard, Rear. "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right **angles** to the rear lot line from the rear lot line to the nearest point of a main building.

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure **to a use, or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.**

"Temporary or transitional facility" means a facility which may provide temporary **or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.** parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

**19.301 Residential zone R-10**

**19.301.3 Standards.** In an R-10 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least ten thousand (10,000) square feet, and the lot area shall be not less than an average of seven thousand (7,000) square feet for dwelling of a single-family attached **dwelling complex**. Lot width shall be at least thirty (30) feet for an interior single-family attached unit. ~~Average~~ Lot depth shall be at least one hundred (100) feet. Lot width shall be at least seventy (70) feet.
- K. Minimum **and maximum** density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least three and five tenths (3.5) ~~to~~ **and not more than** four and four tenths (4.4) dwelling units per net acre.

**19.302 Residential zone R-7**

**19.302.3 Standards.** In an R-7 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least seven thousand (7,000) square feet. For a single-family attached ~~dwelling complex~~ the lot area shall be an average of at least seven thousand (7,000) square feet per unit. Lot width shall be at least sixty (60) feet. The minimum lot width shall be thirty (30) feet for interior single-family attached units. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- K. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 5.0 ~~to~~ **and not more than** 6.2 dwelling units per net acre.

**19.303 Residential zone R-5**

**19.303.3 Standards.** In an R-5 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least five thousand (5,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached dwellings the lot width shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 ~~to~~ **and not more than** 8.7 dwelling units per net acre.

**19.304 Residential zone R-3**

**19.304.3 Standards.** In an R-3 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ **and not more than** 14.5 dwelling units per net acre.

**19.305 Residential zone R-2.5**

**19.305.3 Standards.** In an R-2.5 zone the following standards shall apply:

- J. Minimum and maximum density: ~~Minimum~~ Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission,



pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ **and not more than** 17.4 dwelling units per net acre.

### 19.306 Residential zone R-2

19.306.3 **Standards.** In an R-2 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average of two thousand five hundred (2500) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units lot width shall be at least thirty (30) feet. ~~Average~~ **Lot** depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, and multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- L. Minimum **and maximum** density: ~~Minimum~~ **Development** densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 ~~to~~ **and not more than** 17.4 dwelling units per net acre.

### 19.307 Residential—Business office—Commercial zone R-1-B.

19.307.3 **Standards.** In an R-1-B zone the following standards shall apply:

- L. Minimum **and maximum** density: ~~Minimum~~ **Residential** densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.

### 19.308 Residential zone R-1

19.308.3 **Standards.** In an R-1 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than one thousand four hundred (1400) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. Lot width for single-family attached and condominium units shall be at least thirty (30) feet. ~~Average~~ **Lot** depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- M. Minimum **and maximum** density: ~~Minimum~~ **Residential** densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.

**19.309 Residential—Office—Commercial zone R-O-C**

**19.309.3 Standards. In an R-O-C zone the following standards shall apply:**

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.
- M. Minimum **and maximum** density: ~~Minimum~~ Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) ~~to~~ **and not more than** thirty-two (32) dwelling units per net acre.

**19.311 Limited Commercial zone C-L.**

**19.311.3 Standards. In a C-L zone the following standards shall apply:**

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand (1000) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. ~~Average~~ Lot depth shall be at least eighty (80) feet.

**19.312.7 Design Review.**

- E. Application Procedure.
  - 3. Major exterior alterations, as defined in Section 19.312.6B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing **by** and decided by the planning commission ~~design and landmarks committee~~, except as follows:
    - 4. Residential.
      - b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.

Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the ~~design and landmarks~~ planning commission.
- H. Report and Recommendation by Design and Landmarks ~~Commission~~ Committee.

When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks ~~commission~~ committee for Minor Quasi-Judicial Reviews,

shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks ~~commission's~~ **committee's** recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.

- I. Variances to Development Standards. The ~~design and landmarks~~ **planning** commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.
- J. Modification of Design Standards. The ~~design and landmarks~~ **planning** commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.

**19.322 Water Quality Resource Regulations.**

**19.322.3 Applicability.**

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections ~~19.322.6~~ **19.322.9** Application Requirements and 19.322.10 Development Standards.

**19.322.12 Map Administration.**

**Table 1**

<b>Protected Water Feature Type (see definitions)</b>	<b>Slope Adjacent to Protected Water Feature</b>	<b>Starting Point for Measurements from Water Feature</b>	<b>Width of Vegetated Corridor<sup>6</sup></b>
<b>Primary Protected Water Features<sup>1</sup></b>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bank full flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
<b>Primary Protected Water Features<sup>1</sup></b>	> 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
<b>Primary Protected Water Features<sup>1</sup></b>	> 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in > 25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
<b>Secondary Protected Water Features<sup>2</sup></b>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet



**Proposed Code Amendments**

<b>Secondary Protected Water Features<sup>2</sup></b>	$> 25\%$ <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
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- <sup>1</sup> Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.
- <sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50—100 acres.
- <sup>3</sup> Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the  $> 25\%$  slope (see slope measurement in Appendix).
- <sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).
- <sup>5</sup> Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.
- 6 Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.**

**19.323.3 Definitions.**

~~“Committee” means the city of Milwaukee design and landmarks committee.~~

**19.323.7 Demolition.**

E. Approval of Demolition Request/Appeals. The commission may approve the demolition request after considering the criteria under subsection D above. Action by the commission approving the issuance of permit for demolition may be appealed to the city council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection ~~19.323.6(F)~~ **19.323.5(F)**. If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

**19.402 Accessory structures, limitations**

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are ~~to be provided by city public works~~ as part of the **regulations in Chapter 12.24 and** clear vision determination process specified in Chapter ~~19.1400- 19.1409.2.E~~. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

**19.426.5 Protection of Adjoining Properties.**

A. Flag 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 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

**19.503.19 Landscaping.** Parking area landscaping shall be required in all districts and for all uses other than single-family **detached** and duplex **single-family attached** residences. Landscaping shall be based on the following standards.

**19.503.21 Off-Street Vehicle Parking in Residential Zones.**

E. Commercial vehicles, as defined in Chapter 10.04.090, over one and one-half tons shall not be permitted to be parked or stored in residential zoning districts.

~~**19.602.2 Height Exception.** A church or public building may be built to exceed the height limitations of the zone in which it is located to a maximum height of fifty (50) feet, except as provided in an L-F zone, if the total floor area of the building does not exceed one and one-half (1 1/2) times the area of the site and if the yard dimensions in each case are equal to at least two thirds (2/3) of the height of the principal structure.~~

**19.701 Variances.**

The planning commission, design and landmarks commission as provided in Section 19.312.7.H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

**19.707.1 Purpose.** The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the zoning ordinance where it is desirable to sustain the integrity of or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the zoning ordinance for yards and lot coverage. ~~The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred fifty square feet and no more than one hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two hundred fifty square-foot limit.~~ Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the zoning ordinance.

**19.707.2 Conditions to Qualify for a Home Improvement Exception.** All of the following conditions must be met to make application for a home improvement exception:

A. The home improvement exception is for an addition to an existing single-family residential **detached** dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones, or for an addition to an existing two-family residential unit **single-family attached dwelling or attached garage in the R-5, R-3, R-2, or R-1 zones;**



**B. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two hundred fifty (250) square feet and no more than one hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two hundred fifty-square-foot limit;**

- ~~B. The home improvement exception is for an addition to an existing two-family residential unit or attached garage in the R-5, R-3, R-2, or R-1 zones;~~
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application;
- D. At least seventy-five percent of the exterior walls (linear feet) will remain;
- E. A yard requirement will not be reduced by more than fifty percent, and the addition will be located no closer than five feet from the property line (including landings, overhangs, and eaves). (Ord. 1849 (part), 1998).

**19.709 Home improvement exception procedures.**

Home improvement exceptions may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type ~~H~~ **II** Administrative Review, shall be followed. (Ord. 1849 (part), 1999)

**19.1011.2 Type II Administrative Review.** A type II procedure provides for an administrative decision with the option of a public hearing.

- A. Public notification. Within fifteen (15) days of the receipt of an application, the director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred (300) feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the design and landmarks ~~commission~~ **committee**. The names and addresses used for this purpose shall be those shown on the current records of the county assessor. At least fourteen (14) days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.
- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the community development department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a design and landmarks ~~commissioner~~ **committee member** may request the application be set for public hearing before the ~~design and landmarks commission~~ **planning commission**.
- E. Decision. The ~~planning commission or design and landmarks commission~~ shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.



**19.1012 Recess of hearing**

The planning commission, city council or design and landmarks ~~commission~~ **committee** may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

**19.1409.1 General Provisions.**

- C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section ~~19.1408~~ **19.1407**.

**19.1413.3 Number and Size of Driveways.**

- C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in ~~Title 17~~ **Section 19.426**.

**Exhibit C**

**Amendments to Milwaukie Municipal Code**

**Title 14 Sign Ordinance and Title 19 Zoning Ordinance (“clean” version)**

**Underlined text is to be inserted**

**Strikeout text is to be deleted**

**The following items are recommended minor text amendments to the City of Milwaukie Sign Ordinance (Title 14):**

**14.16.060 Downtown zones.**

H. Illumination. Illuminated signs may be permitted subject to the following:

3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the design and landmarks committee and approval by the planning commission, as provided in subsection 19.1011.3, Minor Quasi-Judicial Review, and according to the following criteria:
  - a. Sign lighting should be designed as an integral component of the building and sign composition.
  - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
  - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.

**14.32.020 Adjustment procedure.**

The following procedures shall be followed in applying for and acting on an adjustment:

- A. A property owner may initiate a request for an adjustment by filing an application with the city manager, using forms required by the city manager or duly authorized agent. The application shall be accompanied by a site plan drawn to approximate scale showing the condition to be adjusted and the dimensions and arrangement of the proposed sign, support structure, buildings and real property. The review authority may request other drawings or material essential to an understanding of the adjustment request.
- B. The review authority shall hold a public hearing per the provisions of Ordinance 1712, the zoning ordinance, Section 19.1011.3, Minor Quasi-Judicial Review, for any adjustment request which is twenty-five percent (25%) or more of the required standard. Adjustment requests of less than twenty-five percent (25%) from the standard required shall be reviewed by the community development director per the provisions outlined in Section 19.1011.2, Administrative Type II Review, of Ordinance 1712, the zoning ordinance. Within five (5) days after a decision has been rendered with reference to a request for an adjustment, the city manager or duly authorized representative shall provide the applicant with notice of the decision of the review authority.

**14.32.030 Circumstances for granting adjustment.**

The review authority shall consider and make findings with respect to each of the following:

- A. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the sign ordinance;
- B. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district;
- C. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;
- D. That the granting of the adjustment will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
- E. That the granting of the adjustment will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**14.32.040 Time limit.**

- A. Authorization of an adjustment shall be void if the building or work approved by such adjustment is not commenced within six (6) months of the date of approval.
- B. The review authority may, upon receiving a written request from the applicant prior to the adjustment expiration date, extend the adjustment for a period not to exceed one year.



**The following items are recommended minor text amendments to the City of Milwaukie Zoning Ordinance (Title 19):**

**19.103 Definitions.**

Lot Line, Front. "Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title:

1. Yard, Rear. "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is sixty (60) days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

**19.301 Residential zone R-10**

**19.301.3 Standards.** In an R-10 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least ten thousand (10,000) square feet, and the lot area shall be not less than an average of seven thousand (7,000) square feet for dwelling of a single-family attached dwelling. Lot width shall be at least thirty (30) feet for an interior single-family attached unit. Lot depth shall be at least one hundred (100) feet. Lot width shall be at least seventy (70) feet.
- K. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least three and five tenths (3.5) and not more than four and four tenths (4.4) dwelling units per net acre.

**19.302 Residential zone R-7**

**19.302.3 Standards.** In an R-7 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least seven thousand (7,000) square feet. For a single-family attached dwelling the lot area shall be an average of at least seven thousand (7,000) square feet

per unit. Lot width shall be at least sixty (60) feet. The minimum lot width shall be thirty (30) feet for interior single-family attached units. Lot depth shall be at least eighty (80) feet.

- K. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 5.0 and not more than 6.2 dwelling units per net acre.

### **19.303 Residential zone R-5**

**19.303.3 Standards.** In an R-5 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least five thousand (5,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached dwellings the lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 7.0 and not more than 8.7 dwelling units per net acre.

### **19.304 Residential zone R-3**

**19.304.3 Standards.** In an R-3 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5,000) square feet. For single-family attached dwellings the lot area shall be an average of at least three thousand (3,000) square feet per dwelling unit. Lot width shall be at least fifty (50) feet. For interior single-family attached units the lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 14.5 dwelling units per net acre.

### **19.305 Residential zone R-2.5**

**19.305.3 Standards.** In an R-2.5 zone the following standards shall apply:

- J. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 17.4 dwelling units per net acre.

### **19.306 Residential zone R-2**

**19.306.3 Standards.** In an R-2 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than an average



of two thousand five hundred (2500) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. For interior single-family attached and condominium units lot width shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, and multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.

- L. Minimum and maximum density: Development densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least 11.6 and not more than 17.4 dwelling units per net acre.

**19.307 Residential—Business office—Commercial zone R-1-B.**

**19.307.3 Standards.** In an R-1-B zone the following standards shall apply:

- L. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.308 Residential zone R-1**

**19.308.3 Standards.** In an R-1 zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and there shall be not less than one thousand four hundred (1400) square feet for each dwelling unit over one. Lot width shall be at least fifty (50) feet. Lot width for single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet. Single-family attached, multifamily condominium, multifamily apartment dwellings are permitted with less than three thousand (3000) square feet per unit provided that traffic does not move through adjacent lower density areas.
- M. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.309 Residential—Office—Commercial zone R-O-C**

**19.309.3 Standards.** In an R-O-C zone the following standards shall apply:

- A. Lot size: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand four hundred (1400) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.
- M. Minimum and maximum density: Residential densities for subdivision, planned development, mixed use development, and other proposals reviewed by the planning commission, pursuant to



subsection 19.1011.3, Minor Quasi-Judicial Review, shall be at least twenty-five (25) and not more than thirty-two (32) dwelling units per net acre.

**19.311 Limited Commercial zone C-L.**

**19.311.3 Standards.** In a C-L zone the following standards shall apply:

- A. Lot size: None, except as follows for dwelling: Lot area shall be at least five thousand (5000) square feet. Lot area for the first dwelling unit shall be at least five thousand (5000) square feet and for dwelling units over one there shall be not less than an average of one thousand (1000) square feet. Lot width shall be at least fifty (50) feet. Lot width for interior single-family attached and condominium units shall be at least thirty (30) feet. Lot depth shall be at least eighty (80) feet.

**19.312.7 Design Review.**

- E. Application Procedure.
3. Major exterior alterations, as defined in Section 19.312.6B.3 shall be processed as Minor Quasi-Judicial Review in accordance with the procedures in Section 19.1011.3. Applications for major exterior alterations shall be heard in a public hearing by and decided by the planning commission, except as follows:
4. Residential.
- b. Mixed-use Buildings. The residential portion of mixed-use buildings shall be subject to the clear and objective standards under Section 19.312.6. The nonresidential portion of the building is subject to design review as provided in this section. Applicants may elect to process the entire mixed-use building through design review.
- Any change in use of the residential portion of a mixed-use building that elected only to apply clear and objective standards, and where exterior changes to the building are proposed shall require approval by the planning commission.
- H. Report and Recommendation by Design and Landmarks Committee.
- When an application also requires planning commission approval, the planning director for Type II Reviews, or design and landmarks committee for Minor Quasi-Judicial Reviews, shall make a written report of its recommendation concerning the design to the planning commission. After receiving the planning director's or design and landmarks committee's recommendation, the planning commission shall consider the design review recommendation and integrate it with the land use application process applicable to the project.
- I. Variances to Development Standards. The planning commission may authorize variances to the development standards under subsection 19.312.4 in accordance with procedures of Chapter 19.700.
- J. Modification of Design Standards. The planning commission may authorize modification of the design standards under subsection 19.312.6(C), in accordance with the following procedures.

**19.322 Water Quality Resource Regulations.**

**19.322.3 Applicability.**

Water quality resource area regulations apply to all properties containing protected water features as shown on the adopted Water Quality Resource and Flood Hazard Map. Application for development activity shall be made in accordance with Title 19, this chapter, and Sections 19.322.9 Application Requirements and 19.322.10 Development Standards.

**19.322.12 Map Administration.**

**Table 1**

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor <sup>6</sup>
Primary Protected Water Features <sup>1</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bank full flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet
Primary Protected Water Features <sup>1</sup>	> 25% for 150 feet or more <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	200 feet
Primary Protected Water Features <sup>1</sup>	> 25% for less than 150 feet <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	Distance from starting point of measurement to top of ravine (break in > 25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	15 feet
Secondary Protected Water Features <sup>2</sup>	> 25% <sup>5</sup>	<ul style="list-style-type: none"> <li>• Edge of bankful flow or 2-year storm level;</li> <li>• Delineated edge of Title 3 wetland</li> </ul>	50 feet

<sup>1</sup> Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and springs.

<sup>2</sup> Secondary Protected Water Features include intermittent streams draining 50—100 acres.

<sup>3</sup> Where the Protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the > 25% slope (see slope measurement in Appendix).

<sup>4</sup> A maximum reduction of 25 feet may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

- <sup>5</sup> Vegetated corridors in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.
- <sup>6</sup> Vegetated corridor width shall be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

**19.323.7 Demolition.**

E. Approval of Demolition Request/Appeals. The commission may approve the demolition request after considering the criteria under subsection D above. Action by the commission approving the issuance of permit for demolition may be appealed to the city council by any aggrieved party, by filing a notice of appeal, in the same manner as provided in subsection 19.323.5(F). If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

**19.402 Accessory structures, limitations**

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are provided as part of the regulations in Chapter 12.24 and clear vision determination process specified in Chapter 19.1409.2.E. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

**19.426.5 Protection of Adjoining Properties.**

A. Flag 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 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

**19.503.19 Landscaping.** Parking area landscaping shall be required in all districts and for all uses other than single-family detached and single-family attached residences. Landscaping shall be based on the following standards.

**19.503.21 Off-Street Vehicle Parking in Residential Zones.**

E. Commercial vehicles, as defined in Chapter 10.04.090, over one and one-half tons shall not be permitted to be parked or stored in residential zoning districts.

**19.602.2** Repealed by Ordinance # \_\_\_\_\_.

**19.701 Variances.**

The planning commission, design and landmarks commission as provided in Section 19.312.7.H or planning director may authorize variances from the standards and requirements of this title within the limitations prescribed in Section 19.702. In granting a variance, the planning commission, design and



landmarks commission or planning director may, in addition to the time limitations of Section 19.1013, attach conditions which it finds necessary to lessen the impact of the variance on nearby property, protect the general welfare of the city, and achieve the purposes of this title. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1849 (part), 1999)

**19.707.1 Purpose.** The purpose of a home improvement exception is to allow, under special circumstances, relief from the requirements of the zoning ordinance where it is desirable to sustain the integrity of or enhance an existing residential design concept or the neighborhood character. A home improvement exception may be approved to grant relief from the strict provisions of the zoning ordinance for yards and lot coverage. Home improvement exceptions may not be granted to allow a use, activity, or an increased number of dwelling units that are not permitted by the zoning ordinance.

**19.707.2 Conditions to Qualify for a Home Improvement Exception.** All of the following conditions must be met to make application for a home improvement exception:

- A. The home improvement exception is for an addition to an existing single-family detached dwelling or attached garage in the R-10, R-7, R-5, or R-3 zones, or for an addition to an existing single-family attached dwelling or attached garage in the R-5, R-3, R-2, or R-1 zones;
- B. The total floor area approved through home improvement exceptions on a given parcel shall not be more than two-hundred fifty (250) square feet, and no more than one-hundred square feet may extend into a side yard. If the addition will not result in a visible change to the exterior shape and size of the residential unit, exceptions may apply to projects that exceed the two-hundred fifty square-foot limit;
- C. The date of the granting of a certificate of occupancy for the subject residential unit is five or more years before the date of application;
- D. At least seventy-five percent of the exterior walls (linear feet) will remain;
- E. A yard requirement will not be reduced by more than fifty percent, and the addition will be located no closer than five feet from the property line (including landings, overhangs, and eaves). (Ord. 1849 (part), 1998).

**19.709 Home improvement exception procedures.**

Home improvement exceptions may be reviewed and approved or denied by the planning director. Procedures per subsection 19.1011.2, Type II Administrative Review, shall be followed. (Ord. 1849 (part), 1999)

**19.1011.2 Type II Administrative Review.** A type II procedure provides for an administrative decision with the option of a public hearing.

- A. **Public notification.** Within fifteen (15) days of the receipt of an application, the director will mail a notice of tentative decision. This notice shall contain a description of the request and shall describe the tentative decision made by the director, including findings and conclusions based on the applicable criteria. It will specify the deadline for submission to request a public hearing and provide for potentially affected persons to communicate concerns to the director, who will take them into account in reaching a final decision on the application. The notice shall be mailed to the owner, applicant, and all property owners within three hundred (300) feet of the outer boundaries of the site. For applications in the downtown zones, notice shall also be given to the design and landmarks committee. The names and addresses used for this purpose shall be those shown on the

current records of the county assessor. At least fourteen (14) days shall be given from the date of the notice to state objections or request a public hearing. The notice shall also contain a listing of the applicable criteria upon which the decision was based.

- C. Public Hearing. If any interested person or notified property owner responds and requests an opportunity to testify at a public hearing, a hearing shall be scheduled according to the "Public Hearing Schedule" outlined by the community development department and shall follow procedures outlined in subsection 19.1001.3, Minor Quasi-Judicial Review. For applications in the downtown zones, a design and landmarks committee member may request the application be set for public hearing before the planning commission.
- E. Decision. The planning commission shall conduct the public hearing and render a decision on the matter including findings, conclusions, and conditions, if necessary, based on compliance with the applicable comprehensive plan goals and policies and other applicable implementing ordinances. Community development staff shall notify the applicant, the property owner if different, and any individual who testified, either in person or in writing, at the hearing, within five (5) days after the final decision.

**19.1012 Recess of hearing**

The planning commission, city council or design and landmarks committee may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to resume shall be announced. (Ord. 1917 § 2 (Exh. A) (part), 2003; Ord. 1916 § 2 (Exh. A) (part), 2003; Ord. 1762 (part), 1994)

**19.1409.1 General Provisions.**

- C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1407.

**19.1413.3 Number and Size of Driveways.**

- C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in Section 19.426.

**Attachment 2  
Commentary**

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**Title 14 – Sign Ordinance and Title 19 – Zoning Ordinance  
Commentary on the Proposed Amendments in Attachment 1**

**14.16 Sign Districts**

**14.16.060 Downtown zones.**

(H)(3). The December 2006 Sign Code revision permitted externally illuminated awning signs subject to review by the design landmarks committee. The proposed revision further clarifies that such signs are subject to design review and approval by the planning commission through the Minor Quasi-Judicial procedure under subsection 19.1011.3.

**14.32.020 Variance procedure.**

(A and B). Subsection 14.32.010 stipulates that adjustments, not variances, are authorized by the planning commission. In keeping with this subsection, the proposed revisions clarify that adjustments, not variances, to the Sign Code, may be considered and granted by the planning commission.

**14.32.030 Circumstances for granting variance.**

(D and E). Subsection 14.32.010 stipulates that adjustments, not variances, are authorized by the planning commission. In keeping with this subsection, the proposed revisions clarify that adjustments, not variances, to the Sign Code, may be considered and granted by the planning commission.

**14.32.040 Time limit.**

(A and B). Subsection 14.32.010 stipulates that adjustments, not variances, are authorized by the planning commission. In keeping with this subsection, the proposed revisions clarify that adjustments, not variances, to the Sign Code, may be considered and granted by the planning commission.



**Attachment 2  
Commentary**

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**CHAPTER 19.100 INTRODUCTORY PROVISIONS:**

**Section 19.103 Definitions.**

**"Front Lot Line"**

This amendment revises the definition of "Front Lot Line" to include through lots in the same category as corner lots. The definition is revised to include through lots, since their lot lines separate the lot from the public street on two sides (as with corner lots). Currently the definition does not include through lot ("double frontage") situations. Although through lots are discouraged by the Land Division process, they do exist and require guidelines for identifying lot lines.

**"Rear Yard"**

The definition of "Rear Yard" is revised to clarify that it is measured at right angles to the rear lot line. The new definition is revised to include "angles," a previously omitted word.

**"Structured Parking and Temporary Transitional Facility"**

The definition of "Structured Parking" has language clearly intended to be in the "Temporary or transitional facility" definition. The definition of "Temporary or transitional facility" contains language that defines a temporary parking or loading area. The purpose of this amendment is to correct the transposed language in both definitions so that the terms and definitions agree.

**CHAPTER 19.300 USE ZONES:**

**19.301.3-19.311.3 Standards**

Under Sections 19.301.3, 19.304.3, 19.306.3, 19.309.3, and 19.311.3, "average" lot depth is proposed to be revised to remove "average" from the lot depth requirements. Since "lot depth" is defined under Section 19.103 as "the average horizontal distance between the front lot line and the rear lot line" the current code language is redundant.

Proposed amendments to Sections 19.301.3 through 19.309.3 would change the Minimum Density standards subsection to clarify that each residential district requires a minimum development density and a maximum permitted density based on lot area. In keeping with these proposed changes, the proposed amendment revises the section heading from "Minimum density" to "Minimum and maximum density" to better capture the allowable range of developable density in each residential zoning district. Changes to these

## Attachment 2 Commentary

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subsections would clarify, not amend, existing policy related to lot depth and residential minimum and maximum density standards.

### **19.312.7 Design Review**

The proposed revisions clarify that the planning commission is the decision-maker for Minor Quasi-Judicial applications. The Design and Landmarks Committee advises the planning commission on these decisions. Amendments within each subsection also clarify that the Design and Landmarks Commission (DLC) is a "committee" instead of a "commission."

### **19.322.3 Applicability**

This revision corrects a Scrivener's error, which incorrectly states that the application requirements in the Water Quality Resource Zone are listed as 19.322.6. Section 19.322.9 is the correct reference.

### **19.322.12 Map Administration.**

Table 1

Vegetated Corridor Width

Table 1 does not specify if width of a vegetated corridor is centered on a river, or applied on both sides of the outer banks of the river. Based on the map of the Water Quality Resource zones, it appears that the corridor is applied to the outer boundaries of a water feature (i.e. both sides of a stream have a 25-foot buffer). The proposed code revision would add a footnote to the table to clarify how width is measured to indicate that the corridor width is applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

### **19.323.3 Definitions**

This amendment removes the definition of "Committee" (in reference to the Design and Landmarks Committee) from this section because it is not referenced in any other subsection in the Historic Preservation Overlay Zone.

### **19.323.7 Demolition**

(E) & (F)(3). The appeals process for demolition of an historic property is the same for appeals alteration, described in 19.323.5.F. These code sections reference 19.323.6.F. Revision of these code sections corrects the inaccurate reference.

**Attachment 2  
Commentary**

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**CHAPTER 19.400 SUPPLEMENTARY REGULATIONS:**

**19.402 Accessory Structures, Limitations.**

(B). Regulations for fences, walls and shrubs do not reference the section of the code where clear vision standards exist. The proposed text modification would change this section to include the correct chapters and sections of the municipal and zoning code for clear vision standards.

**19.426.5 Protection of Adjoining Properties**

(A). The standards for flag lot fencing and screening do not reference the clear vision standards of the municipal and zoning code. This amendment will revise this section to specifically reference Chapter 12.24 of the municipal code and Section 19.1409.2.E of the zoning code. Additionally, this revision adds a reference to Section 19.402.B to alert the reader to specific development standards for fencing and screening.

**CHAPTER 19.500 OFF-STREET PARKING AND LOADING:**

**19.503.19 Landscaping.**

This revision clarifies that single-family detached and attached residences are exempt from parking area landscaping requirements. The revision also replaces "duplexes" with "single-family attached" to better reflect the range of dwellings that may constitute single-family attached dwellings.

**19.503.21 Off-Street Vehicle Parking in Residential Zones.**

(E). This section prohibits parking or storing commercial vehicles over 1.5 tons in residential zones. This section, however, does not reference an existing definition of "commercial vehicle" in 10.04.090. The proposed code amendment would reference the definition of "commercial vehicle" found in Chapter 10.04.090.

**CHAPTER 19.600 CONDITIONAL USES:**

**19.602 Standards governing conditional uses.**

**19.602.2 Height Exception.**

This revision deletes this subsection from the code. This code section is a remnant of the time when such buildings were conditional uses. Churches and other public buildings used to be permitted as a conditional use, but are now governed by Chapter 19.321, which provides procedures and standards (including height) for Community Service Uses.



**Attachment 2  
Commentary**

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**CHAPTER 19.700 VARIANCES, EXCEPTIONS, AND HOME IMPROVEMENT EXCEPTIONS**

**19.701 Variances**

The proposed revision clarifies that the Design and Landmarks Commission (DLC) is a "committee" instead of a "commission."

**19.707.1 Purpose & 19.707.2 Conditions to Qualify for a Home Improvement Exception.**

This subsection contains an embedded standard for Home Improvement Exceptions (HIEs) within the purpose statement of Chapter 19.701.1. The standard is that no more than 250 square feet of floor area can be approved through a home improvement exception and no more than 100 square feet may extend into a side yard. The importance of this standard is diminished by its location. The proposed revision would remove the embedded language from the purpose statement to a newly created subsection of Chapter 19.707.2. The placement of this language under 19.707.2 would clarify the language as a code standard for Home Improvement Exceptions.

Home Improvement Exceptions (HIEs) are allowed for single-family detached dwellings and for two-family residential units in specified zoning districts. HIE applications must meet all conditions under subsection 19.707.2 in order to qualify for an exception. These conditions currently require that in order for an application to qualify for a home improvement exception, the application must be for both a single-family detached and single-family attached dwelling because the subsection splits out each type of dwelling as two separate conditions in Section 19.707.2. The proposed revision of this section would combine Section 19.707.2(B) with 19.707.2(A) to correct this discrepancy, thereby providing the option to applicants to qualify for a Home Improvement Exception for either a single-family detached or single-family attached home.

**19.709 Home Improvement Exception Procedures**

This revision corrects a discrepancy in the listed review procedure for a Home Improvement Exception. This correct review procedure should be listed as a Type II review.

**CHAPTER 19.1000 ADMINISTRATIVE PROVISIONS**

**19.1011.2 Type II Administrative Review**

(A, C, E) The proposed revisions of the above-listed sections of the Zoning Code correct multiple incorrect references to the Design and Landmarks Commission (DLC) as a "Commission" instead of a "Committee." The DLC is a committee and is a misleading designation because the code defines "Commission" as the Planning Commission.

## **Attachment 2 Commentary**

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Additionally, the design and landmarks committee is proposed to be removed from subsection 19.1011.2 (E), since the planning commission is the final decision making authority for Type II applications.

### **19.1012 Recess of hearing.**

The proposed revision clarifies that the Design and Landmarks Commission (DLC) is a "committee" instead of a "commission."

## **CHAPTER 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, PROCEDURES:**

### **19.1409.1 General Provisions**

(C) This revision corrects a reference to transportation facility adequacy requirements in 19.1408. These requirements are found in Section 19.1407.

### **19.1413.3 Number and Size of Driveways**

(C) This subsection incorrectly references flag lot standards. The proposed revision will correctly reference the flag lot standards found in Section 19.426.

**Attachment 3**  
**Zoning Amendment Criteria Checklist**  
ZA-07-02

This document sets out the applicable criteria for Zoning Text amendments and addresses how each criterion is met. Any provision not included is found to be not applicable to the proposed amendment.

**A. COMPLIANCE WITH MILWAUKIE MUNICIPAL CODE (MMC)**

**Section 19.901 Initiation of amendments**, requires that an amendment to the Milwaukie zoning text be initiated by the city council, planning commission, or by a property owner.

This text amendment is proposed by the City of Milwaukie, initiated by the Planning Commission.

**Section 19.902 Amendment procedure**, requires that proposed amendment applications be heard at a public hearing and follow the procedures outlined in subsection 19.1011.5, Legislative actions.

The Planning Commission held a public hearing at the earliest practicable meeting after the application was determined to be complete. The City Council is holding a public hearing within 40 days of the Commission's recommendation to approve.

**19.1011.5 Legislative Actions**, outlines the procedures for processing legislative land use policies and plans. Specifically, it requires the City to do the following:

A. *Public Notification.* Publish a notice of a hearing once each week for two (2) consecutive weeks in a newspaper of general circulation in the city. The second publication shall not be less than five (5) days prior to the date of the hearing.

The City has provided the required published notice. The amendments are posted on the City website. Property owner notifications required when zoning amendments change allowed uses in a zone will be mailed to properties in the Commercial and Downtown Zones, in compliance with ORS 215.503 and 227.186.

B. *Decision.* The planning commission shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The planning commission shall prepare a recommendation to the city council. If the proposal is approved by the commission, a report and recommendation, including findings and conclusions, shall be forwarded to council. The city council shall conduct a public hearing.

The Planning Commission conducted a public hearing and made a recommendation to the Council. The Council is holding a public hearing.



*B. Notice to Metro. The planning department shall provide notice to Metro of any proposed amendment to the comprehensive plan or zoning ordinance.*

Staff provided notice to Metro on September 7, 2007.

**19.904.1 Proposals for zoning text amendments must provide written evidence that the following requirements are satisfied:**

*A. Applicable requirements of Section 19.1003, which specify the form of petitions, applications, and appeals.*

The City submitted an application on the prescribed form on August 29, 2007. Because the application is for a zoning code text amendment and no development is proposed, the other portions of MMC Section 19.1003 are not applicable. The application therefore complies with applicable requirements of Section 19.1003, and therefore satisfies Section 19.904.1. This criterion has been met.

*B. Reasons for requesting the proposed text amendments.*

The proposed code amendments focus on revisions to Title 14, the City of Milwaukie Sign Code, and Title 19, the City of Milwaukie Zoning Code. The proposed revisions are intended to correct and clarify miscellaneous subsections of the code to improve its administration without changing basic policy or intent. As part of the 2006 Planning Commission Work Plan, Commissioners directed staff to prepare a list of "paramedic" code fixes to track needed changes to the code. Over the past year staff developed a list of these fixes. Staff selected the proposed revisions for inclusion in this report because they:

- Reduce conflict between regulations within the Zoning Code or with other sections of the MMC.
- Clarify language that makes understanding and implementing the regulation difficult.
- Change incorrect references to other sections of the MMC.

This criterion has been met.

*C. Explanation of how the proposed text amendment is consistent with other provisions of this title.*

The proposed text amendments are consistent with the provisions of Title 19 because they do not change the relationship between the land use zones and the sign districts. No policy changes are proposed that conflict with the intent or policy of Title 14, 17, or 19. Staff is recommending several revisions to clarify specific subsections of Title 14 and Title 19 of the Code that will in fact reduce conflict between regulations within the Zoning Code or other sections of the MMC. This criterion has been met.

*D. The approval criteria of Section 19.905.*

Applicant has submitted a narrative addressing the approval criteria of Section 19.905. As described in detail below, the approval criteria of Section 19.905 have been met.

**19.905.1 For all proposals, the applicant shall have the burden of proof regarding the following criteria:**

*A. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.*

The amendments are consistent with applicable comprehensive plan goals, policies and objectives. Specifically, the following Comprehensive Plan goals apply:

**Chapter 1 – Citizen Involvement, Objective 3 - Communication**

*Promote informed public participation in planning decisions by providing readily available publications and printed materials regarding current issues and proposed policies and providing for two-way communication between policy-makers and citizens.*

*Policy 1. Make planning documents available through City offices and public libraries. This includes, but is not limited to Plan inventories, planning background information, Staff reports and minutes of Planning Commission and Comprehensive Plan Review Committee meetings.*

The staff report and the proposed amendments are available through City offices and public libraries. The proposed amendments and staff reports have been posted on the City website.

*Policy 2. Advertise all public hearings regarding land use issues in the newspaper and on the local cable television station.*

Public hearings of the proposed amendments have been advertised in the newspaper and on the City website.

**Objective 2 – Implementing the Plan** *Implement this Plan through appropriate ordinances and action.*

*Policy 1. Amend existing ordinances and adopt new ordinances to carry out the policies of this Plan as necessary.*

The City is adopting text amendments to ensure that the City's Sign Code and Zoning Code are easier to understand and implement. Staff is recommending several revisions to clarify specific subsections of Title 14 and Title 19 of the Code (see Attachment 2). The proposed revisions for inclusion in this amendment will accomplish the following:

- Reduce conflict between regulations within the Zoning Code or with other sections of the MMC.
- Clarify language that makes understanding and implementing the regulation difficult.
- Change incorrect references to other sections of the MMC.

The amendments are consistent with applicable sections of Metro's Urban Growth Management Functional Plan. Cities are required to comply with policies in the Functional Plan, as required by Section 5(e) (2) of the Metro Charter. The City's Zoning Ordinance is currently in compliance with each of the following Titles in the Framework Plan. Specifically, the following titles apply:

***Title 1: Requirements for Housing and Employment Accommodation***

The proposed amendments will not change the City's housing or employment capacity.

***Title 2: Regional Parking Policy***

The proposed amendments will not change the City's parking standards. Proposed revisions to three subsections of MMC section 19.500 clarify existing standards or correct references to other standards (see Attachment 2).

***Title 6: Central City, Regional Centers, Town Centers, and Station Communities***

The proposed amendments will not change the City's regulation of land and development in downtown Milwaukie, which is a Town Center.

***Title 8: Compliance Procedures***

The City of Milwaukie's Comprehensive Plan and land use regulations are in compliance with the Functional Plan. The proposed amendments shall be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by MMC Section 3.07.820.A, the City of Milwaukie is providing notice of the proposed amendments to Metro's Chief Operating Officer at least 45 days prior to the City Council hearing on the proposed amendments.

In processing the proposed amendments, the City of Milwaukie is following its own requirements for Citizen Involvement. The proposed amendments have been reviewed at public Planning Commission work sessions, and will be referred to the City's Neighborhood District Associations for review. The City will conduct public hearings on the proposed amendments before the Planning Commission and City Council, and public notice will be published prior to each hearing.

This criterion has been met.

*C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.*

The City has complied with all applicable procedural and substantive standards imposed by the State and Metro, as discussed in other portions of this document. The primary



purpose of the proposed amendments is to clarify language and revise incorrect references to other sections of the MMC. The proposed code revisions to Title 14 and 19 will not change current City land use policy.

The Oregon Statewide Planning Goals apply to the proposed amendments as follows:

**Goal 1 – Citizen Involvement**

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City has an adopted and acknowledged amendment process and is following that process in making these amendments. The proposed amendments are part of the Planning Commission's work plan. Public hearings on the proposed amendments will be held, and public notice was published twice prior to each hearing, as required by the Milwaukie Comprehensive Plan (Chapter 2, policy 1). The Planning Commission members are appointed by an elected City Council, following an open and public selection process.

**Goal 2 – Land Use Planning**

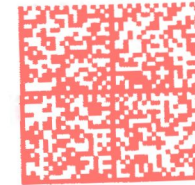
*To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The proposed amendments to MMC Title 14 and Title 19 clarify language and revise incorrect references to other sections of the MMC. These changes strengthen the City's existing policies that implement Goal 2.

**Guideline E.2: Minor Changes in the Plan and Implementation Measures**

Public notice was published prior to the hearing. The public need and justification for the change is addressed in the applicant's narrative.

This criterion has been met.



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