

## Commentary

### On Proposed Amendments to Milwaukie Municipal Code (MMC)

Commentary at the front of this document summarizes the key changes in the proposed amendments. The actual text of the proposed amendments follows the commentary section.

## 19.300 BASE ZONES

### 19.301 Low Density Residential Zones

#### Overview

The following pages contain recommended amendments to the base zone use and development standards for the City's low density zones: R-10, R-7 and R-5 zones. The amendments are intended primarily to streamline and simplify the lists of allowed uses and development standards. In addition to some proposed changes in the regulations, staff believes that it is critical to change the formatting of the current code, for the reasons described below.

The most significant changes proposed for these zones pertain to organization and formatting. The current code lists each of the zones individually, and describes the policies for each zone in a repetitive narrative format. The proposed amendments group the three zones together into one "Low Density Residential Zones" section. Information for all three zones is presented in tables; one table lists allowed uses and the other contains basic development standards.

Due to the significant re-formatting of this section of the code, staff is recommending that the existing sections 19.301 (R-10), 19.302 (R-7), and 19.303 (R-5) be repealed and replaced with one new section 19.301 (Low Density Residential Zones). Therefore the proposed amendments for this section do not include underline/ strikeout notations. The policy changes included in the proposal are instead described in detail in this Commentary document.

This reformatting solves multiple problems with the current code:

1. Each zone occupies 2 pages of its own section in the MMC. The reformatting reduces the same amount of regulations from 6 to 4 pages.
2. The development standards are described in a series of paragraphs. The reformatting puts these standards in a table so they are easier to read.

3. Comparing the uses and standards in multiple zones requires leafing through multiple pages. The reformatted code groups similar zoning categories together so that uses and standards can be compared on the same page.
4. The base zone standards presented in these zones are the key standards applied to a development. However, there are other sections which are not referenced within the base zones that exempt, modify, or augment these standards. It is difficult to find these sections without an exhaustive review of hundreds of pages of code or talking to Planning Department staff.

This problem is addressed by adding references to these other code sections. The references do not change the number of regulations that apply. Instead, they 'daylight' related sections of code that were previously hidden.

### **19.301.1 Purpose**

This is proposed new language to clarify the purpose of the low density residential zones, as generally established by the Comprehensive Plan.

### **19.301.2 Allowed Uses in Low Density Residential Zones**

New language states that similar uses may be allowed through a Director's Determination.

#### **Table 19.301.2**

- This new table of allowed uses lists the uses allowed outright or conditionally in each zone, and includes a column for comments or cross reference to applicable standards. No changes are proposed to the use categories or allowances except as described below.
- Four uses that have always been allowed in residential zones, but were not listed in the base zone sections, have been added to the use list to present a more complete list of uses that may be allowed in these zones. These uses are: home occupations, accessory uses and structures, mobile home parks, and community services uses.
- The table uses the term "Duplex" where the current code uses "single-family attached dwelling". In the current code, all residential base zones include lot and development standards for interior single-family attached dwellings. "Single-family attached dwellings," however, is defined as a duplex, which logically eliminates the possibility of an interior single-family unit. The reformatted code does not include the standards for interior single-family attached dwellings since they are effectively prohibited by the current definitions.
- The review process for permitting accessory dwelling units (ADU) would change. Currently, a small ADU requires a Type II Review and a larger ADU requires a Type III Review as a conditional use, including a Planning Commission hearing. The proposed code would allow make an ADU an outright allowed use. See the code and commentary for Chapter 19.900 for further details.

- A new type of use is added: Office. The proposed new policy would allow some offices to be approved as conditional uses if located on major streets (e.g., King Rd, Harrison St. and Lake Rd). Milwaukie is unique in that the areas adjacent to its arterial streets are generally zoned for low-density residential uses rather than higher density residential, mixed-use, or commercial uses. Because arterial streets are generally unattractive locations for SFR development, some of the City's arterials are lined with legal and illegal nonconforming office uses. Large churches and government office buildings could be (and have been) approved in these areas through the Community Service Use permitting process. The City's Home Occupation policy allows for home offices and small businesses to exist throughout the city. This policy change would create a path to approval for a small office or business to open on a site that appropriately limits neighborhood impacts.
- "Temporary real estate office in a subdivision" has been deleted from the list of conditionally allowed uses. Given the lack of large sub-divisible property in and around the city, it seems highly unlikely that there would ever be a subdivision sizeable enough to need its own real estate office.

#### **19.301.4 Development Standards**

##### **Table 19.301.4 Low Density Residential Development Standards**

This proposed new table of development standards for the low density residential zones summarizes the development standards for each zone, and includes a column of commentary and/or additional provisions is provided to link this section with other relevant sections or chapters of the code. No changes are proposed to the use categories or allowances except as described below.

- 19.301.4.A.2 - current side yard setbacks for the R-10 and R-7 zone do not take building height into account. The default side yard setbacks for these zones would remain unchanged. However, the required setbacks would be increase for structures that are more than 25 ft / 2.5 stories tall. This height-dependent setback currently applies to all other residential zones in the city.
- 19.301.4.B.1 - Lots that are more than 2.5 times the minimum lot size would have a smaller allowable lot coverage. This is to prevent very large structures that are out of scale with development on smaller lots in the zone.
- 19.301.4.B.2 - allowed lot coverage is increased for additions to an existing single-family dwelling, residential home or duplex. The allowance is intended to make it easier for homeowners to expand and upgrade their current residences. The allowed increase is 10 percentage points over the base zone standard. However, the portions of the building that exceed the allowed lot coverage are limited to 17 ft in height/ 1-story. All other vegetation and setback standards must be met.

This allowance is similar to what was allowed by the Home Improvement Exception variance. The cost for the variance was approximately \$800 and took 4-6 weeks for approval. The proposed lot coverage increase would be allowed outright.

- 19.301.4.B.3 - Lot Coverage for Duplexes. A duplex would be allowed an increase in lot coverage of 20 percentage points.
- 19.301.4.B.4 - allowed lot coverage would be increased for adding a detached accessory dwelling unit.
- 19.301.5.C - a property would be required to have a certain percentage of its front yard area as vegetation. There is an existing limit that no more than 50% of a front yard can be used for parking, but no requirement that any portions needs to have vegetation.
- Currently, the density regulations apply only to applications reviewed by the Planning Commission. This exempts some applications that should be reviewed, such as partitions of 3 or fewer lots, and captures other applications for which density should not be reviewed, such as building a single structure in the Willamette Greenway. The proposed code would apply to any land division or boundary change application in the low density zones.
- The standards pertaining to "single-family attached interior unit" are deleted because they are not relevant in the low density residential zones. No more than 2 units could be built on one lot.

Note:

- 1) The R-10 - R-5 zones currently include a reference to transition area measures. This is not included in the reformat because these zones do not allow the uses that are subject to the transition area measures.

THIS DRAFT WOULD REPEAL SECTIONS 19.301 – 303 AND REPLACE THEM WITH THE TEXT BELOW.

**19.301 LOW DENSITY RESIDENTIAL ZONES**

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

**19.301.1 Purpose**

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

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

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

See Section 19.201, Definitions, for a specific description of the uses listed in the table.

<b>Table 19.301.2 Low Density Residential Uses Allowed</b>				
<b>Use</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Comments/Standards</b>
<b>Residential Uses</b>				
Single-family detached dwelling	P	P	P	See 19.505.1 for design standards.
Duplex	P/II	P/II	P	See 19.910.2, Duplexes, for approval process and standards
Residential home	P	P	P	See 19.505.1 for design standards.
Accessory dwelling unit	P	P	P	See 19.910.1, Accessory Dwelling Units, for approval process and standards
Manufactured dwelling park	NP	III	III	See 19.910.3, Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	See 19.905.9.G, Senior and Retirement Housing
<b>Commercial Uses</b>				
Office	CU	CU	CU	See 19.301.3.B, Use Limitations and Restrictions.
<b>Accessory and Other Uses</b>				
Accessory structures and uses	P	P	P	See 19.503, Accessory Uses; 19.502.2, Specific Provisions for Accessory Structures
Agricultural or horticultural use	P	P	P	See 19.301.3.B, Use Limitations and Restrictions.
Community service uses	CSU	CSU	CSU	See 19.904, Community Service Uses
Home occupation	P	P	P	See 19.507, Home Occupation Standards

P = Permitted, any required review noted in comments column; II = Type II Review required; III = Type III Review required; NP = Not permitted; CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904; CU = Permitted with conditional use approval subject to the provisions of Section 19.905

**19.301.3 Use Limitations and Restrictions**

- A. Agricultural or horticultural uses are permitted, provided that the two following conditions are met.
  - 1. A retail or wholesale business sales office is not maintained on the premises.
  - 2. Poultry or livestock other than usual household pets are not housed or kept within 100 feet of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 square feet per head of livestock.
- B. Office uses are allowed as a conditional use, subject to the following limitations:
  - 1. The office use is limited to no more than 2,000 sq ft of floor area. The Planning Commission may approve an office use with more than 2,00 sq ft of floor area when the use would occupy an existing building.
  - 2. The site is located on an arterial street, as identified by the Milwaukie Transportation System Plan.

**19.301.4 Development Standards**

In the low density residential zones, the development standards in Table 19.301.4 apply. Important notes and/or cross references to other applicable code sections are listed in the “Comments/Additional Provisions”. Additional standards are provided in Section 19.301.5.

See Section 19.201, Definitions, and 19.202, Measurements, for a specific description of standards and measurements listed in the table.

<b>Table 19.301.4</b>				
<b>Low Density Residential Development Standards</b>				
<b>Standard</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Comments/Additional Provisions</b>
<b>A. Lot Standards</b>				
1. Minimum lot size (square feet)				See 19.501.1, Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (feet)	70	60	50	
3. Minimum lot depth (feet)	100	80	80	
4. Minimum street frontage requirements (feet)				Every lot shall abut a public street other than an alley, except as provided in Tile 17, Land Division.
a. Standard lot	35	35	35	
b. Flag lot	25	25	25	
c. Double flag lot	35	35	35	
<b>B. Development Standards</b>				
1. Minimum yard requirements for primary structures (feet)				See 19.301.5.A See 19.501.2, Yard Exceptions See 19.504.9 for flag lot development standards.
a. Front yard	20	20	20	
b. Side yard	10	5 / 10	5	
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less			See 19.501.3, Building Height Exceptions;

<b>Table 19.301.4 Low Density Residential Development Standards</b>				
<b>Standard</b>	<b>R-10</b>	<b>R-7</b>	<b>R-5</b>	<b>Comments/Additional Provisions</b>
3. Maximum lot coverage (% of total lot area)	30%	30%	35%	See Lot Coverage definition in Section 19.201. See Lot Coverage Adjustments in 19.301.5.B.
4. Minimum vegetation (% of total lot area)	35%	30%	25%	See 19.301.5, Front Yard Vegetation, and see 19.504.7, Minimum Vegetation.
<b>C. Other Standards</b>				
1. Density requirements (dwelling units per net acre)				See 19.301.5.B. See 19.501.4, Density Exceptions.
a. Minimum	3.5	5.0	7.0	
b. Maximum	4.4	6.2	8.7	

**19.301.5 Additional Development Standards**

- A. Side yards. The following additional provisions apply to required side yard setbacks.
  - 1. In the R-7 zone, one side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on a corner lot the street side yard shall be 20 feet.
  - 2. In the R-10, R-7, and R-5 zones, 1 additional foot of side yard beyond what is identified in Subsection 19.301.4.B.1.b is required for each 3 feet of building height over 2 stories or 25 feet, whichever is less. This requirement does not apply to the required street side yards.
- B. Lot Coverage. The lot coverage standards in Subsection 19.301.4.B.3 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for lots that are described more than one of the situations below.
  - 1. The lot coverage percentage in Subsection 19.301.4.B.3 is reduced by [5-10] percentage points for a single-family detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.
  - 2. The lot coverage percentage in Subsection 19.301.4.B.3 is increased by 10 percentage points for development of a single-family detached dwelling or an addition to an existing single-family detached dwelling if the following standards below are met.
 

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

    - a. The minimum vegetation standard of Subsection 19.301.4.B.4 is met.
    - b. The yard requirements of Subsection 19.301.4.B.1 are met. A variance per Section 19.911 may be approved to allow a decrease in the required yards.
    - c. The portions of the structure that are in excess of [17-20] feet in height or in excess of 1 story are limited to the lot coverage standard listed in Subsection 19.301.4.B.3. Only portions of the structure that are less than [17-20] and no taller than 1 story are allowed to exceed the listed lot coverage standard.

3. The lot coverage percentage in Subsection 19.301.4.B.3 is increased by 20 percentage points for a duplex.
  4. The lot coverage percentage in Subsection 19.301.4.B.3 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.
- C. Front Yard Minimum Vegetation. At least [25-40]% of the required front yard shall be vegetated. The required front yard vegetation area counts toward the minimum required vegetation for the lot.
- D. The minimum and maximum development densities in Subsection 19.301.4.C.1 are applicable for any proposal to create new units of land or modify the boundaries of existing property.
- E. Accessory structure standards. Standards specific to accessory uses and accessory structures are contained in Section 19.502.
- F. In the low density residential zones, only 1 building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.
- G. Off-street parking and loading is required as specified in Chapter 19.600.
- H. Transportation requirements and public facility improvements are required as specified in Chapter 19.700.
- I. Additional Standards. Depending upon the type of use and development proposed, the following sections of Chapter 19.500, Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.
1. Subsection 19.504.4, Buildings on the Same Lot.
  2. Subsection 19.504.9, Flag Lot Design and Development Standards.
  3. Subsection 19.505.1, Design Standards for Single-Family Dwellings.
  4. Subsection 19.505.2, Garage Standards.
  5. Subsection 19.506.4, Manufactured Dwelling Siting and Design Standards, Siting Standards.