

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

19.302 Medium and High Density Residential Zones

Overview

The following pages contain recommended amendments to the R-3, R-2.5, R-2, R-1 and R-1-B zones that are intended to streamline and simplify the use lists and development standards for the higher-density residential zones. 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 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 5 zones together into one section. Information for all 5 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recommending that the existing sections 19.304 (R-3), 19.305 (R-2.5), 19.306 (R-2), 19.307 (R-1) and 19.308 (R-1-B) be repealed and replaced with one new section 19.302 (Medium and High Density Residential Zones).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 10 to 8 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.

19.302.1 Purpose

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

19.302.2 Allowed Uses in Medium Density Residential Zones

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

Table 19.302.2

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 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.
- Rowhouses would be allowed as an outright use, subject to the standard listed in this section and the design standards in Section 19.505. This housing type was once allowed in Milwaukie, and then prohibited from the mid-1980s to the present. There would be a limit of no more than 4 consecutive units that share common walls.
- Cottage cluster housing would be a new type of housing allowed in Milwaukie. This type of housing typically has small individual houses that are built in one development and have shared open space and parking. This type of development would be subject to the standards in Subsection 19.505.4.
- "Personal/business services" would be allowed as a conditional use, requiring approval from the Planning Commission. This use category is not currently allowed in any of these zones. As defined in the code, these include uses such as "laundromats/dry

cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services, and blueprint services." This would slightly expand the scope of uses that could be conditionally permitted in these zones.

- Two types of uses currently listed in the code would be deleted. "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.

"Marina" would also be deleted as a conditionally allowed use in the R-2, R-1, and R-1-B zones. There are very few lots in these zones that could physically accommodate this type of use. Lots in these zones that do have frontage along the Willamette River and Kellogg Creek are in the Willamette Greenway Overlay, which allows for private, non-commercial docks.

- A phrase from the current R-1 zone would be deleted. It states that "allowed commercial uses" are limited to certain sizes and locations within a structure. This seems to be a vestigial regulation since commercial uses are not currently allowed outright or conditionally in this zone.
- The current language for office uses in most of these zones includes a caveat that office uses "generate a minimal amount of traffic". This language is vague and difficult to enforce and was therefore not included in the recommended amendments. The Public Facility Improvements required in Chapter 19.700 should be sufficient to address potential traffic concerns for these types of uses. The current language also includes a lengthy list of examples of allowed offices, and the proposed code simplifies this list considerably.

19.302.3 Use Limitations and Restrictions

B. The current code specifies a list of specific office uses that are allowed in each zone. The language is mostly consistent but does vary slightly from zone to zone. In addition, the R-1-B zone has two separate lists of permitted office uses; the intended difference between the lists is unclear. Listing specific office uses is not particularly useful and it is unclear if other office uses are prohibited or would require a Director's Determination. The proposed use table consistently uses the term "office, studio, or clinic".

Table 19.302.4 Medium Density Residential Development Standards

This proposed new table of development standards for the medium and high 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.

- 19.304.5.A.1. The existing lot size standards for the medium and high density zones are somewhat confusing. In order to clarify the standards and remove potential conflicts and inconsistencies, the proposed code provides 3 lot size standards: rowhouses, duplexes, and one for all other development.
- 19.302.5.A.3. The existing code does not provide a lot depth standard for the R-1-B zone. It's unclear if this was an intentional omission. The recommended amendments include a lot depth standard of 80 feet for this zone.
- 19.302.5.B.1.d. The existing code did not provide a rear setback standard for the R-2.5 zone. It's unclear if this was an intentional omission. The recommended amendments include a rear setback standard of 15 feet for this zone, which is the same as that required in the other zones in the section.
- Lot size per unit - the current code regulates multi-unit development with a density requirement (X units per acre) as well as a lot size requirement (at least X,000 sq ft per unit). This is necessary for the current code since the density requirement has limited applicability. In the proposed code, the density requirement will be more broadly applicable. As a result, lot size requirements based on the number of dwelling units would be eliminated.
- Rowhouse: Since allowing rowhouses would be a new policy, all the standards for this type of housing are new.

19.302.5 Additional Development Standards

- 19.302.5.A - side yard setbacks for single-family structures and duplexes would remain unchanged. Rowhouses would also be allowed to have no side yard so as to allow attached units.

Multifamily and other uses in the zone would be subject to new side yard setbacks that require increased setbacks based on the wall area, where larger wall requires an increased setback. Areas of a wall that have 5 ft offsets or stepback on upper floors are not counted toward the wall area. This encourages the building mass to be stepped back away from the property line while still allowing smaller portions of the building to be closer to other properties.

- 19.302.5.B.1 - 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 allowance would be allowed outright.

- 19.302.5.B.2 - Lot Coverage for Duplexes and Rowhouses. A duplex or rowhouse would be allowed an increase in lot coverage of 20 percentage points.
- 19.302.5.B.3 - allowed lot coverage would be increased for adding a detached accessory dwelling unit.
- 19.302.5.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.
- 19.302.5.E - 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 or multifamily developments in zones that allow them outright. It also 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.
- 19.302.5.G.2 - multifamily structures would be limited to 150 ft between end walls of a structure. This is a new regulation to prevent overly-large multifamily structures and encourage development to be broken up into smaller sized buildings.
- 19.302.5.H - these transition measure are adapted from the existing transition measures in 19.504.6. The current transition area measures relate to setbacks and open space. The proposed measures relate to building height. Staff has revised the setback requirements for multifamily zones and believe that these standards will adequately address building separation.

Proposed Code Amendment

THIS DRAFT WOULD REPEAL SECTIONS 19.304 – 308 AND REPLACE THEM WITH THE TEXT BELOW.

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

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

19.302.1 Purpose

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

19.302.2 Allowed Uses in Medium Density Residential Zones

Uses allowed, either outright or conditionally, in the medium density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. 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.

Table 19.302.2 Medium Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Comments/Standards
Residential						
Single-family detached dwelling	P	P	P	P	P	See 19.505.1
Duplex	P	P	P	P	P	See 19.505.1
Residential home	P	P	P	P	P	See 19.505.1
Accessory dwelling unit	P	P	P	P	P	See 19.910.1, Accessory Dwelling Units, for approval process and standards
Manufactured dwelling parks	III	NP	NP	NP	NP	See 19.910.3, Manufactured Dwelling Parks.
Rowhouse	P	P	P	P	P	See 19.302.3, Use Limitations and Restrictions See 19.505.1
Cottage Cluster Housing	P	P	P	P	P	See 19.505.4
Multifamily	CU	CU	P	P	P	See 19.302.4.A.2. See 19.905.9.G, Multifamily Condominium and Apartment Dwellings See 19.505.2
Congregate housing facility	CU	CU	P	P	P	
Senior and retirement housing	CU	CU	CU	P	P	See 19.905.9.G, Senior and Retirement Housing

Table 19.302.2 Medium Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Comments/Standards
Boarding, lodging and rooming house	CU	CU	CU	CU	CU	
Commercial						
Office	CU	CU	CU	CU	P	See 19.302.3, Use Limitations and Restrictions
Personal/business services	CU	CU	CU	CU	CU	
Hotel or motel	NP	NP	CU	CU	CU	
Bed and Breakfast	CU	CU	CU	CU	CU	
Accessory and Other Uses						
Accessory structures and uses	P	P	P	P	P	See 19.503, Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	See 19.302.3, Use Limitations and Restrictions
Community service uses	CSU	CSU	CSU	CSU	CSU	See 19.904, Community Service Uses
Home occupation	P	P	P	P	P	See 19.507, Home Occupation Standards

NP = Not permitted; P = Permitted, any required review noted in comments column; III = Type III Review required; 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

19.302.3 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 allowed in the medium and high density residential zones are offices, studios, clinics, and others similar professional offices.
- C. Limitations on Rowhouse Development.
 1. Rowhouse development is not allowed on lots with a lot width of more than 35 feet.
 2. Rowhouse development is allowed only where there are at least 2 abutting lots on the same street frontage that meet the minimum lot dimensions for rowhouses in Subsection 19.302.4.
 3. No more than 4 consecutive rowhouses that share a common wall(s) are allowed.
- E. Cottage Cluster Housing is allowed subject to the standards for cottage cluster housing per Subsection 19.505.4.

19.302.4 Development Standards

In the medium density residential zones, the development standards in Table 19.302.4 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.

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

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

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**Table 19.302.2
Medium Density Residential Development Standards**

Standard	R-3	R-2.5	R-2	R-1	R-1-B	Comments / Additional Provisions
A. Lot Standards						
1. Minimum lot size (in square feet)						See 19.501.1, Lot Size Exceptions. See 19.505.X for standards on lots in cottage clusters
a. Rowhouse	3,000	2,500	2,500	1,400	1,400	
b. Duplex	6,000	5,000	7,000	6,400	6,400	
c. All other lots	5,000	5,000	5,000	5,000	5,000	
2. Minimum lot width (feet)						
a. Rowhouse	30	25	25	20	20	
b. All other lots	50	50	50	50	50	
3. Minimum lot depth (feet)						
a. Rowhouse	80	75	80	70	70	
b. All other lots	80	75	80	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. Rowhouse	30	25	25	20	20	
b. Standard lot	35	35	35	35	35	
c. Flag lot	25	25	25	25	25	
d. Double flag lot	35	35	35	35	35	
B. Development Standards						
1. Minimum yard setbacks for primary structures (feet)						See 19.302.5.A. See 19.501.2, Yard Exceptions. See 19.302., Transition Area Measures.
a. Front yard	15					
b. Side yard	See 19.302.5.A					
c. Street side yard	15					
d. Rear yard	15					
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less		3 stories or 45 feet, whichever is less			See 19.501.3, Building Height Exceptions See 19.302.5.H
3. Maximum lot coverage (% of total lot area)	40%		45%		50%	See Lot Coverage definition in Subsection 19.201

Table 19.302.2 Medium Density Residential Development Standards						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Comments / Additional Provisions
4. Minimum vegetation (% of total lot area)	35%				15%	Area that must be covered in trees, grass, shrubs, bark dust for planting beds, or similar landscaping features. See 19.504.7, Minimum Vegetation.
C. Other Standards						
1. Density requirements (dwelling units per net acre) a. Minimum b. Maximum	11.6 14.5	11.6 17.4		25.0 32.0		See 19.302.5.C. See 19.501.4, Density Exceptions.

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19.302.5 Additional Development Standards

- A. Side yards. In the medium and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.
 - 1. The side yard for a single-family dwelling or duplex shall be at least 5 ft. There shall be 1 additional ft of side yard for each 3 feet of building height over 2 stories or 25 ft, whichever is less
 - 2. There is no required side yard for rowhouses that share a common side lot line.
 - 3. The required side yard for development other than a single-family dwelling or duplex is determined by the area of the wall planes along the side lot line per Table 19.302.5.

Table 19.302.5 R-3, R-2.5, R-2, R-1, and R-1-B Required Side Yard	
If the area of the plane of the building wall is:	The required side yard is
1,000 sq ft or less	5 ft
1,001 sq ft — 1,300 sq ft	6 ft
1,301 sq ft — 1,600 sq ft	7 ft
1,601 sq ft — 1,900 sq ft	8 ft
1,901 sq ft — 2,200 sq ft	9 ft
2,201 sq ft — 2,500 sq ft	10 ft
2,501 sq ft — 2,800 sq ft	11 ft
2,801 sq ft — 3,100 sq ft	12 ft
3,101 sq ft — 3,400 sq ft	13 ft
3,401 sq ft or greater	14 ft

Wall plane measurements are determined as follows:

- a. The wall plane area is the surface area of a building wall between the ground and the wall's intersection with the roof.
 - b. Wall offsets of at least 5 ft in depth shall be counted as separate wall planes and are individually subject to the required yard distances. This applies to offsets along the wall on the same floor as well as step backs between different floors.
 - c. The side yard distances specified in Table 19.302.5 apply to wall planes that are within [30-45] degrees from parallel to the side lot line. The required side yard for the intersection of two wall planes that exceed [30-45] degrees from parallel shall be at least 5 ft. A wall plane that exceeds [30-45] degrees from parallel and intersects with a wall plane within [30-45] degrees from parallel shall not encroach further than the side yard required for the wall plane that is within [30-45] degrees from parallel.
- B. Lot Coverage. The lot coverage standards in Subsection 19.302.4.B.3 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.
 - 1. 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 setback standards 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 setbacks.
 - 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.
2. The lot coverage percentage in Subsection 19.301.4.B.3 is increased by 20 percentage points for a duplex or rowhouse.
 3. 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. This requirement does not apply to rowhouse development.
- D. Height exceptions. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story.
- E. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land division and boundary change applications, and any development that would change the number of dwelling units on a lot. Development of a single-family detached dwelling or an accessory dwelling is exempt from the minimum and maximum density requirements.
- F. Accessory structure standards. Standards specific to accessory structures are contained in Section 19.502.
- G. Building limitations.
1. In the R-3 zone, only 1 single-family detached dwelling is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single-family detached dwelling, per Subsection 19.910.1.
 2. Multifamily buildings shall not have an overall horizontal distance exceeding 150 linear feet as measured from end wall to end wall.
- H. Transition measures. The following transition measures apply to multifamily development that abuts an R-10, R-7, or R-5 zoned property.
1. In the portion of the site within 25 feet of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.
 2. Where the boundary of the lower density zone lies within or on the edge of a right-of-way, the building height limit for the portion of the site within 15 ft of the lot line bordering the right-of-way is equal to the height limit of the lower density residential zone.
- I. Off-street parking and loading is required as specified in Chapter 19.600.

- J. Transportation requirements and public facility improvements are required as specified in Chapter 19.700.
- K. Additional Standards. Depending upon the type of use and development proposed, the following sections of Chapter 19.500, Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.
 - 1. Subsection 19.504.4, Buildings on the Same Lot.
 - 2. Subsection 19.504.9, Flag Lot Design and Development Standards.
 - 3. Subsection 19.504.10, On-Site Walkways and Circulation.
 - 4. Subsection 19.504.11, Setbacks Adjacent to Transit.
 - 5. Subsection 19.505.1, Design Standards for Single-Family Dwellings.
 - 6. Subsection 19.505.2, Garage Standards.
 - 7. Subsection 19.505.3, Multifamily Design Standards.
 - 8. Subsection 19.505.4, Design Standards for Cottage Cluster Housing
 - 9. Subsection 19.505.2, Building Orientation to Transit.
 - 10. Subsection 19.506.4, Manufactured Dwelling Siting and Design Standards, Siting Standards.