

A Self-Guided Tour
of the City of Milwaukie's ...
Land Use & Development
Review Code Tune-Up Project



Welcome to the Tour ...

- The function of this presentation is to provide you with an overview of the Land Use and Development Review Tune-Up project.
- Links are provided throughout to direct you to more information should you wish to learn more.
- Thank you for taking the time to learn more about this important project. Please contact Milwaukie Planning staff if you have any questions. We would be happy to help you! (Contact information provided on last page.)



The functions of Milwaukie's Zoning Code

- The land use and development review process is a basic and important City function that regulates development.
- Generally speaking, the City's zoning code prescribes what kinds of development projects can take place where.
- The amendments proposed by this project focus on the City's review procedures, including approval criteria and level of review.
- The focus does not include amendments to existing development standards or change what kinds of uses are allowed where.



Why the City is Tuning-Up its Zoning Code

- Milwaukie's Zoning Code is over 60 years old and is in need of an update. It suffers from more than a half century of incremental changes that have made it complicated, inconsistent, and cumbersome.
- In 2007, the City Council directed Planning staff to engage in a multi-year effort to address the long list of problems with the zoning code. The purpose of this project is to modernize and improve the effectiveness of the City's land use and development review process.
- The project aims to draft amendments that provide fair and timely review of development proposals, allow for meaningful public involvement, and facilitate quality development.
- The project includes amendments to the existing Zoning Code ([Title 19 of the Milwaukie Municipal Code](#)) and [Comprehensive Plan](#).



Project Values

- While drafting the amendments, staff has worked closely with the Planning Commission to craft policies that reflect the following values:^[1]
 - **Effectiveness** – focus limited City resources on solving problems, eliminating ineffective or outdated steps and regulations
 - **Responsiveness** – provide predictable ways for people to participate in decisions, and decision criteria that reflect the long term goals in the Comprehensive Plan
 - **Fairness** – ensure that decisions are made appropriately (staff make administrative decisions, while the Planning Commission has more discretion), ensure that similar applications are held to similar review processes
 - **Efficiency** – simplify review procedures as much as possible, while still maintaining responsiveness and flexibility
 - **Understandability** – organize the regulations so people can find what they need, reduce confusing language, and fill gaps that create confusion
 - **Predictable Flexibility** – recognize the need for judgment, but provide defined ranges of flexibility and a clear process for seeking more flexibility

[1] For more discussion of why these values should form the basis for a modern zoning code, see chapter 4 from *A Better Way to Zone* by Donald L. Elliott. Staff recommends this book as a great overview of what zoning is, how it originally evolved as a way to solve problems, and how it can change to address the needs of 21st century cities.



Summary of Proposed Changes

- The project will overhaul five existing chapters of the Zoning Code
 - Conditional Uses
 - Variances
 - Nonconforming Uses
 - Amendments to maps and Ordinances
 - Review Procedures
- It also adds new applications and procedures for processing development permits and handling requests for extensions and modifications to existing approvals.
- In addition, the entire zoning code is being reorganized (even where no policy changes are proposed) to result in a document that will be easier for customers and citizens to use.



Zoning Code Table of Contents

(New and Improved)

Re-structuring the zoning code will make it a better tool for everyone to use and create space for the needed new sections.

- 19.100 Introductory Provisions
- 19.200 Definitions
- 19.300 Base Zones
- 19.400 Overlay Zones
- 19.500 Supplementary Development Regulations
- 19.600 Off-Street Parking and Loading
- 19.700 Public Facility Improvements
- 19.800 Nonconforming Uses and Development
- 19.900 Land Use Applications
- 19.1000 Review Procedures and Administration
- 19.1100 Annexations and Boundary Changes
- 19.1200 Solar Access Protection



Guide to some key changes proposed by this package of amendments...

- The following pages summarize some of the key changes that are proposed in this package of amendments.
- It is meant to give you an overview of some of the most important changes; it is not meant to be an exhaustive list of the changes proposed.

For a detailed summary of each of these areas, please click here:

http://www.ci.milwaukie.or.us/sites/default/files/fileattachments/ludr_commentary_v1_10-dec-2010_0.pdf



Key Changes

Review Procedures

What is this? Review procedures provide the basic framework for how the City conducts land use and development permit review. They determine what kinds of projects trigger land use review, who receives notices about hearings and decisions, and who makes the final decision.

- The proposed code clarifies and streamlines the City’s review procedures, ensuring consistency with state statutes and best practices and efficient use of public resources. Replaces the City’s existing Administrative Provisions chapter (19.1000) in its entirety.
- Streamline the Type II review process while allowing the same amount of time for public comment.
- Renames the minor quasi-judicial review process to “Type III review.”
- Clarifies the Design and Landmarks Committee’s process for conducting a Design Review meeting.
- Requires the applicant, not the City, to post a sign on-site, and increases the signage requirement as necessary to provide adequate public notice. Deletes the costly, and largely ineffective, requirement to provide newspaper notice of a hearing.



Review Procedures (cont.)

- Renames the legislative review process to “Type IV review.” Adds additional public notice requirements.
- Changes the appeal process for Type I and Type II applications. Those decided by the Planning Director may only be appealed to the Planning Commission at a “de novo” hearing. The Commission, not the City Council will issue the City’s final decision.
- Changes how the City Council will review appeals of Planning Commission decisions. Instead of a “de novo” hearing, the Council appeal hearing will be a “review of record” hearing – new arguments, but no new evidence is allowed to be entered into the record.
- Provides a new Application Table that lists all of the City’s land use applications, including the level of review each one requires. Currently, applications are scattered throughout the code, and the required review process isn’t always clear.
- Eliminates and consolidates some applications to make the process more effective and fair.



Key Changes

Development Review (NEW application)

What is this? Under the current code the City processes a sizeable number of permits on an ad hoc basis at the staff level. This sometimes includes decisions on discretionary criteria that should occur with some public notice. The proposal would introduce a new application to correct this gap in our process.

- The proposed Development Review application formalizes most of the City's current practices and allows for public notice where appropriate.
- The City will use the proposed Development Review application as an organizing tool to evaluate a proposal against existing applicable development standards.
- It is not meant to add additional process, expense, or time to the permit approval process any more than is necessary to adequately implement the City's land use and development standards. The average homeowner who is seeking permits from the City will likely not experience any change in the way the City issues permits.
- Some types of projects that currently only require a building permit will trigger Type II Development Review. This includes construction of new buildings in the industrial areas (outside of downtown), because the M and BI zones contain more subjective development standards that require more discretion to approve.



Key Changes

Variances

What is this? Variances are meant to provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. The City's current variance criteria are almost impossible to meet, even if everyone agrees that the variance will allow for a better project.

- The proposed code replaces the City's existing variance chapter in its entirety.
- Allows for Planning Commission approval of variances that improve the function or design of a project.
- Continues to provide a process for approving a variance because the regulations have the unintended effect of making the property undevelopable.
- Allows for staff level approval of small variances that are not detrimental to surrounding properties. This process will replace the existing "Home Improvement Exception".
- Creates new approval criteria that allow for an appropriate amount of discretion based on the associated level of review.



Key Changes

Nonconforming Uses and Development

What is this? Nonconforming use and development policies describe property owners' rights to maintain, alter, expand, demolish, and rebuild a nonconforming use, structure, or site improvement.

- The proposed code replaces the City's existing chapter governing nonconformities in its entirety.
- Continues to address all of the property owners' rights listed above and adds a process whereby the City may amortize high-impact nonconforming uses.
- Adds more flexibility for replacement of uses or structures destroyed by accident or natural hazard.
- Increases the time frame within which unused nonconforming uses lose their rights (from 6 months to 12).
- Does not change to a property owner's rights to rebuild if a structure is accidentally destroyed.

Amendments to Maps and Ordinances

What is this? This section establishes the criteria and process for changing the Zoning Code and the Comprehensive Plan.

- The proposed code replaces the City's existing chapter governing map and ordinance amendments in its entirety.
- Allows Planning Commission, not Council, to decide some map change requests, such as a zone change affecting 4 or fewer properties.



Key Changes

Conditional Uses

What is this? Every lot in the cite has a designated zone that determines how the lot can be used and developed. For each zone there is a list of “allowed uses” and “conditional uses”. Conditional uses are only allowed after a public hearing and approval by the Planning Commission.

- The proposed code clarifies and revises the City’s existing policies for permitting conditional uses. It authorizes the Planning Commission to impose conditions necessary to make a conditional use compatible with its surroundings
- Adds a new permit process for the City to review and permit major and minor modifications to existing conditional uses.
- Adds a new policy whereby a conditional use that has been discontinued (for 3+ years) loses its right to continue without getting a new permit.
- Does not change the types of uses that require conditional use review and approval.



Key Changes

Code Interpretations and Director Determinations

What is this? The current code includes provisions for both Planning Director interpretations of the zoning code and Planning Director determinations of the legal status of structures, uses, and lots.

- The proposed code places both of these provisions in the same section because they are similar in nature and level of review.
- Adds a requirement for the Director to notify the Planning Commission and City Council when a formal Code Interpretation is issued.
- Expands the existing “Director Determination” process so the City can use it in more situations to help property owners resolve problems.



Key Changes

Extensions to Expiring Approvals (NEW application)

What is this? Currently, some types of approvals (like Conditional Use approvals) come with expiration dates, but an awkward process for granting extensions. Most approvals never expire.

- The proposed code provides for the automatic expiration of approvals that have not been utilized within a specified period of time.
- The proposed code also adds a formal process for reviewing and extending approvals on a case-by-case basis.

Modifications to Existing Approvals (NEW application)

What is this? It is common for development plans to change after land use approval and during development permit review as more detailed design and engineering is completed for a specific development proposal.

- The proposed code creates a formal process for reviewing changes that take place after land use approval and during development permit review.
- The proposed code codifies staff's existing practice of reviewing some modifications administratively and sending others back to Planning Commission for review.



Key Changes

Comprehensive Plan (Chapters 1 & 2)

What is this? The Comprehensive Plan is a long range policy document that includes land use designations and public involvement policies.

- The proposed amendments to the Comprehensive Plan affect limited procedural aspects of public notice and the Comprehensive Plan amendment process.
- The focus of these amendments is to remove procedures and criteria from the Comprehensive Plan that are more appropriately located in the zoning code and to keep the broader policies that will continue to drive the City's land use and development review process in the Comprehensive Plan.

For a detailed summary on each of these topics, please click here:

http://www.ci.milwaukie.or.us/sites/default/files/fileattachments/ludr_code_amendments_14-jan-2011_0.pdf



The Conversation To Date

- The Code Tune-Up project has been discussed by the Planning Commission (7 meetings) and City Council (3 meetings) at a series of meetings.
- The materials and minutes on these meetings are an excellent source of background information on the project.
- For the summaries and links to agendas and minutes of these meetings, click here:
<http://www.ci.milwaukie.or.us/planning/code-tune-background-meeting-materials-and-minutes>



Project Schedule

- All property owners potentially affected by the draft amendments were mailed a Property Owner Notification on January 5, 2011.
- Staff will take comments on the proposal throughout the hearing process.
- The first public hearing on the draft amendments will be on January 25, 2011.
- If the Planning Commission recommends approval, City Council will hold a public hearing on the amendments in March 2011.
- To subscribe to receive the Planning Commission and City Council packets visit:

<http://www.ci.milwaukie.or.us/generalpage/sign-subscriptions-and-notifications>



Thank You!

Thank you for taking the time to learn about this project. The Milwaukie planning staff and Planning Commission have worked diligently and ruthlessly over the past year to craft a set of amendments that will serve the Milwaukie community and its investors well. We welcome your questions and comments as we finalize the proposal.

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