

COUNCIL ORDINANCE No. 2186

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) TITLE 19 ZONING FOR THE PURPOSE OF COMPLIANCE WITH OREGON HOUSE BILL 2001 (FILE #ZA-2019-002).

WHEREAS, the proposed amendments to MMC Title 19 make changes required by Oregon House Bill 2001 and void the existing deed restrictions and off-street parking requirements for accessory dwelling units; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, on November 12, 2019, the Milwaukie Planning Commission conducted a public hearing, as required by MMC 19.1008.5 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 amendments are adopted by the City Council and are attached as Exhibit A.

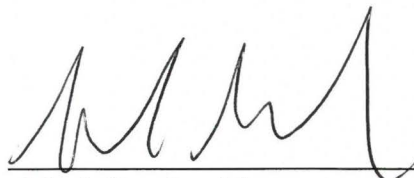
Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (Title 19 Zoning underline/strikeout version), and Exhibit C (Title 19 Zoning clean version).

Section 3. Effective Date. The amendments shall become effective on January 1, 2020.

Read the first time on 12/17/19 and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 12/17/19

Signed by the Mayor on 12/17/19



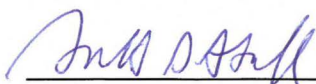
Mark Gamba, Mayor

APPROVED AS TO FORM:



Justin D. Gericke, City Attorney

ATTEST:



Scott Stauffer, City Recorder

**Recommended Findings in Support of Approval
File #ZA-2019-002, Accessory Dwelling Units Code Amendments**

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

1. The applicant, the City of Milwaukie, proposes to amend regulations that are contained in Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2019-002.
2. The purpose of the proposed code amendments is to amend code language related to accessory dwelling units (ADUs) so that Title 19 complies with Oregon House Bill 2001. The amendments affect the following title of the municipal code:

Zoning Ordinance:

- MMC 19.910.1 – Accessory Dwelling Units
 - Table 19.605.1 – Minimum to Maximum Off-Street Parking Requirements
3. The proposal is subject to the criteria and procedures outlined in the following sections of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures
 4. Sections of the MMC or Milwaukie Comprehensive Plan (MCP) not addressed in these findings are found to be not applicable to the decision on this land use application.
 5. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing was held on November 12, 2019 and December 17, 2019 as required by law.
 6. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on October 4, 2019.
 - b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
 - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. The current version of the draft amendments has been posted on the City's web site since October 10, 2019. On October 10, 2019 staff e-mailed NDA leaders with information about the Planning Commission hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's November 12, 2019, hearing was posted as required on October 10, 2019. A notice of the City Council's December 17, 2019 hearing was posted as required on November 15, 2019.

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

The Planning Director has determined that the proposal affects a large geographic area.

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

Notice of the proposed amendments was sent to DLCD on October 8, 2019.

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

Notice of the proposed amendments was sent to Metro on October 8, 2019.

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

The proposed amendments generally do not further restrict the use of property. In general, the proposed amendments add flexibility.

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

The Planning Commission held a duly advertised public hearing on November 12, 2019 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on December 17, 2019 and approved the amendments.

7. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on November 12, 2019. The City Council held a duly advertised public hearing on December 17, 2019. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.

- (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code.

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

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

The Goal statement of the Residential Land Use and Housing Element reads as follows:

To provide for the maintenance of existing housing, the rehabilitation of older housing and the development of sound, adequate new housing to meet the housing needs of local residents and the larger metropolitan housing market, while preserving and enhancing local neighborhood quality and identity.

Objective #5 – Housing Choice states:

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

The Planning Concept within Objective #5 states:

While the predominant housing type is expected to continue to be single family detached, the City will encourage a wide range of housing types and densities in appropriate locations within individual neighborhood areas including duplexes, rowhouses, cottage clusters, accessory dwelling units, live/work units, multifamily, manufactured housing, and mobile home parks.

Policy #1 within Objective #5 states:

The City will encourage the development of infill housing that uses innovative development techniques for the purpose of reducing housing costs as well as creating an attractive living environment. Such techniques may include the reduction of lot size standards in established neighborhoods; allowing duplex housing units in appropriate areas; and encouraging the

construction of small housing units. The Milwaukie Zoning Code has development and design standards that help ensure infill development is compatible with its surroundings.

The proposed amendments are required to comply with HB 2001, but are also consistent with the comprehensive plan goals and policies to encourage a variety of housing types to provide housing choice. The proposed amendments remove two barriers to development of ADUs, thereby providing more opportunity for their development.

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

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

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

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

Oregon Statewide Planning Goal 10: Housing

Goal 10 refers to the provision of housing to meet the needs of Oregon citizens, including the requirement for a buildable lands inventory (BLI) and a Housing Needs Assessment (HNA) that insures the provision of land suitable for housing that meets the housing needs of households of all income levels.

The City's 2016 Housing and Residential Land Needs Assessment includes a BLI and needed housing projections, and identifies multiple strategies for providing housing as required by Goal 10. The document identifies ADUs as a type of housing that would address future trends in needed housing, due to the developed nature of the city and the limited ability to expand into undeveloped areas. Single-family units are expected to make up less of the overall new housing development over the next 20 years. ADUs represent a form of in-fill housing that can be accommodated on existing lots as well as a moderate form of density.

The City's 2018-2023 Housing Affordability Strategy (MHAS) supports the work of the HNA and is intended as an action plan for providing equitable affordable housing opportunities in Milwaukie. The MHAS specifically recommends revising development standards to facilitate ADU development, including "right-sizing" off-street parking requirements. ADUs can provide an income stream

for existing homeowners, increase the supply of affordable housing, and increase opportunities for residents to remain in their neighborhoods as their needs change. Removing barriers to the development of ADUs, such as the proposed amendments, addresses this strategy.

The proposed amendments, required by House Bill 2001, remove barriers to constructing ADUs by removing two requirements that could impact their development. By removing these requirements, opportunities to develop ADUs increase, thereby increasing the potential for additional needed housing units.

The city will be amending Title 19 in 2020 to expand middle housing opportunities throughout Milwaukee, consistent with House Bill 2001 and the comprehensive plan. As part of those efforts, the city will likely propose additional amendments to its ADU standards and requirements. More detailed findings will be included with those code amendments.

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

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

Underline/Strikeout Amendments

Title 19 Zoning Ordinance

19.900 LAND USE APPLICATIONS

19.910 RESIDENTIAL DWELLINGS

This section contains applications for types of residential dwellings that require land use approval.

19.910.1 Accessory Dwelling Units

F. Additional Provisions

~~1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.~~

~~The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 of the dwelling units.~~

12. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.

23. Additional home occupations are allowed for a property with an accessory dwelling unit.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per <u>primary</u> dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing).		
a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone.	1 space per dwelling unit.	2 spaces per dwelling unit.
b. Dwelling units with more than 800 sq ft of floor area.	1.25 spaces per dwelling unit.	2 spaces per dwelling unit.

Proposed Code Amendment

3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory dwelling units (ADU) — Types I and II.	Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.
4. Accessory dwelling units (ADU) — Types I and II.	<u>No additional space required unless used as a vacation rental, which requires 1 space per rental unit.</u> Property containing an ADU and primary dwelling must have 2 spaces.	No maximum.

Clean Amendments

Title 19 Zoning Ordinance

19.900 LAND USE APPLICATIONS

19.910 RESIDENTIAL DWELLINGS

This section contains applications for types of residential dwellings that require land use approval.

19.910.1 Accessory Dwelling Units

F. Additional Provisions

1. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
2. Additional home occupations are allowed for a property with an accessory dwelling unit.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single-family dwellings, including rowhouses and manufactured homes.	1 space per primary dwelling unit.	No maximum.
2. Multifamily dwellings containing 3 or more dwelling units (includes senior and retirement housing). a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. Residential homes and similar facilities allowed outright in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. Accessory dwelling units (ADU)	No additional space required unless used as a vacation rental, which requires 1 space per rental unit.	No maximum.