

ORDINANCE NO. 1936

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS TO CHAPTER 2.10 BOARDS AND COMMISSIONS GENERALLY; CHAPTER 2.16 PLANNING COMMISSION; CHAPTER 2.18 DESIGN AND LANDMARKS COMMISSION; AND CHAPTER 19.323 HISTORIC PRESERVATION OVERLAY ZONE.

WHEREAS, the Design and Landmarks Commission conducted an advisory public hearing on July 22, 2004; and

WHEREAS, on the Planning Commission conducted a public hearing on September 14, 2004, in accordance with Milwaukie Municipal Code Chapter 19.900 and adopted a resolution recommending the City Council adopt the proposed code changes; and

WHEREAS, the City Council conducted a public hearing on October 5, 2004, in accordance with Milwaukie Municipal Code Chapter 19.900; and

WHEREAS, The code amendments implement the following:

1. Removal of the local contract review board from the list of city boards and commissions subject to Milwaukie Municipal Code Chapter 2.10.
2. New municipal code definition for "committee".
3. Dissolution of the Design and Landmarks Commission and creation of the Design and Landmarks Committee.
4. Transfer authority to administer Chapter 19.323 from the Community Development Director to the Planning Director.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The amendments to the Milwaukie Municipal Code Chapter 2.10 as described in Exhibit 1 are hereby adopted and incorporated into the Milwaukie Municipal Code.

Section 2. The amendments to the Milwaukie Municipal Code Chapter 2.16 as described in Exhibit 1 are hereby adopted and incorporated into the Milwaukie Municipal Code.

Section 3. The amendments to the Milwaukie Municipal Code Chapter 2.18 as described in Exhibit 1 are hereby adopted and incorporated into the Milwaukie Municipal Code.

Section 4. The amendments to the Milwaukie Municipal Code Chapter 19.323 as described in Exhibit 1 are hereby adopted and incorporated into the Milwaukie Municipal Code.

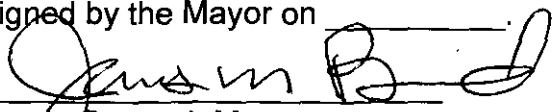
Section 5: All changes to section citations and references required by adoption of the amendments are automatically adopted.

Section 6. Findings of fact and conclusions in support of these amendments as described in Exhibit 2 are hereby adopted.

Read for the first time on October 5, 2004 and moved to a second reading by
5 - 0 vote of the City Council.

Read for the second time and adopted by the City Council on October 5, 2004.

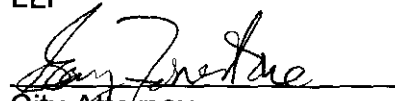
Signed by the Mayor on


James Bernard, Mayor

ATTEST

Pat Duval, City Recorder

APPROVED AS TO FORM
Ramis Crew Corrigan Baccrach,
LLP


City Attorney

Ordinance No. 1936

Exhibit 1¹

October 5, 2004

1. Amend Section 2.10.010 Applicability.

(Explanatory Note: No changes are made to 2.10.010 other than as shown below.)

D. Design and Landmarks Committee (MMC 2.18)

2. Amend Section 2.10.020 Definitions.

(Explanatory Note: This amendment adds the definition of "committee" to the municipal code.)

"Committee" means a public body other than a board or commission. Each committee has the authority and responsibility established for it by this code and by state law as applicable.

3. Amend Section 2.10.030 Board, Committee, and Commission Appointments.

- D. Reappointments to a board, committee, or commission shall be considered in accordance with the guidelines listed in this section, together with the type of service the individual has already given to the board, committee, or commission and his/her stated willingness to continue. No person may serve more than two (2) successive terms on any board or commission unless there is an interval of at least one (1) term prior to the reappointment; provided, that the council may waive this limitation if it is in the public interest to do so.
- E. Consideration should be given to residents outside the city when the board, committee or commission or function serves residents outside city boundaries.
- F. No individual should be considered for appointment to a position on any board, committee, or commission where a conflict of interest may result. Board, committee, or commission members shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member; any business in which the member is serving or has served within the previous two (2) years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential conflict of interest shall be disclosed at the meeting of the board or commission where the action is being taken.

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- a. There shall be no change to unmarked existing text and to any text that is not specifically included herein.
- b. "Explanatory notes" that appear in this exhibit do not amend the code.

- G. Board, committee, or commission vacancies are filled by appointment of the mayor with the consent of council. Appointments are made for terms not to exceed four (4) years and will expire the last day of March unless mandated otherwise by state statute. All board and committee members or commissioners shall serve without compensation.
- H. Individuals appointed to one (1) board or commission shall not serve on any other city board or commission during the term of their appointment. (Ord. 1810 § 1, 1996; Ord. 1793 § 3 (part), 1996)

4. Amend Section 2.10.040 Removal.

(Explanatory Note: "committee" is added)

Members of a board, committee, or commission serve at the pleasure of the governing body. (Ord. 1793 § 3 (part), 1996)

5. Amend Section 2.10.050 Organization and operation.

- A. Bylaws. The council shall adopt bylaws for each board, committee, or commission's meetings and the performance of its duties. These bylaws shall be reviewed and updated annually by each board, committee or commission. Bylaw revisions shall be reviewed and accepted by the city council.
- B. Annual Work Plan. Each board, committee, and commission shall prepare an annual work plan which will have elements of the city vision and city council goals. These work plans shall be discussed with an approved by the city council in a joint work session.
- C. Staff Support. The city will provide for necessary staff support for the board or commission including postage, meeting place, secretarial service and new member orientation and training.
- D. Meetings. Each board or commission should meet at least once each month and shall meet on the call of the chairperson or on call by a majority of its members. All meetings shall be subject to the requirements of ORS 192.610 to 192.690 (Open Meeting Law). A majority of the voting members shall constitute a quorum for the conduct of business and the concurrence of a majority of those members present shall be required to decide any matter. These meetings shall be an opportunity for public involvement in the discussion of issues relating to that particular board, committee, or commission. The provision of 2.010.050 (D) that requires monthly meetings shall not apply to the Design and Landmarks Committee. All other provisions of 2.010.050 (D) apply to the Design and Landmarks Committee.
- E. Authority to Bind. Neither a board, committee, or commission, as a whole, or any member or members individually or collectively, shall exercise authority to bind the city, its officers or agents to financial commitment or obligations. Any funding for projects must be budgeted by the council, and authorized expenditures presented to the staff for payment. The city may enter into agreements with other public agencies, associations and individuals for services which will assist the board, committee, or commission.

- F. Annual Reports and Minutes. Each board or commission shall report on its activities in a work session with the city council at least annually. The written minutes for each board or commission shall be submitted to council for information.
- G. Ethics Law. Board, committee, and commission members appointed by the city are considered "public officials." As such, they are expected to abide by the Government Standards and Practices Laws of the State of Oregon currently codified as ORS 244.010 to 244.400.
- H. Boards, committees, and commissions may be asked to provide comments to other advisory bodies and staff when matters under consideration relate to their functional area of expertise. (Ord. 1793 § 3 (part), 1996)

6. Section 2.16.010 Established—Purpose, Planning Commission.

- A. The planning commission is lawfully established for the purpose of reviewing and advising on matters of planning and zoning according to the provisions of the comprehensive plan, zoning ordinance, and other planning implementation documents. The commission shall be responsible for, but is not limited to, the following activities:
 - 1. Keeping current the comprehensive plan and implementing ordinances for the city and urban growth boundary as applicable;
 - 2. Preparing as necessary legislation that will implement the purposes of the comprehensive plan;
 - 3. Recommending to the city council plans for regulating future growth, development and beautification of the city, and to review and recommend on regional issues and concerns;
 - 4. Recommending and making suggestions to the council concerning;
 - a. The laying out, widening, extending, and locating of public thoroughfares, parking of vehicles and relief of traffic congestion,
 - b. Betterment of housing and sanitation conditions,
 - c. Establishment of districts for limiting the use, height, area, bulk, and other characteristics of buildings and structures related to land development,
 - d. Protection and assurance of access to incident solar radiation, and
 - e. Protection and assurance of access to wind for potential future electrical generation or mechanical application;
 - 5. Recommending to the city council plans for regulating the future growth, development and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants' sanitation, proper service of public utilities and telecommunications utilities, including appropriate

public incentives for overall energy conservation and harbor, shipping and transportation facilities;

6. Recommending to the city council plans for promotion, development and regulation of industrial and economic needs of the community with respect to business and industrial pursuits;
7. Considering and conducting public hearings on the comprehensive plans and zoning ordinances and similar matters which may include, but are not limited to, zone changes, condition uses, subdivisions and partitions;
8. Performing all other acts and things necessary to properly carry out the provisions of ORS Chapter 227 that are not specifically addressed by local ordinances and procedures;
9. The Commission shall be responsible for the following historic preservation activities:
 - a. Carry out the duties described for it in this section and otherwise assist the City Council on historic preservation matters;
 - b. Review and make recommendations on all partitions and subdivisions of historic properties designated in Comprehensive Plan Appendix 1- Historic Resources Property List;
 - c. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places;
 - d. Act as a coordinator for local preservation groups such as the Milwaukie Historical Society, educational workshops, signing and monumentation projects, and other similar programs;
 - e. Assist the Milwaukie Historical Society in advising interest groups, agencies, boards, commissions and citizens on matters relating to historic preservation within the city;
 - f. Review and make recommendation on all applications requesting designation or deletion of a landmark and placement or removal on the cultural resources inventory, as provided under Zoning Ordinance 19.323.5;
 - h. Review and make recommendation on all applications requesting designation or deletion of an historic district as provided under Zoning Ordinance 19.323.5;
 - i. Review all development, which proposes to alter a landmark, subject to the procedures and criteria set forth in this section;
 - j. Review all demolition permits affecting landmarks, as provided under Zoning Ordinance 19.323.8;
 - k. Review and make recommendation on all conditional use applications related to landmarks;
 - l. Maintain an historic and cultural resources inventory and map of landmarks;

- m. Develop regulations for the protection of landmarks, such as design guidelines for adoption by the City Council.
- 10. Reviewing the historic resources element of the comprehensive plan;
- 11. Providing decisions and/or recommendations to the city council regarding compliance with applicable design guidelines for development projects subject to design review under the zoning ordinance;
- 12. Reviewing and recommending appropriate design guidelines and design review processes and procedures to the City Council; and.13. Such other activities as the council may assign. (Ord. 1802 § 1 (part), 1996)
- B. Coordination with the Design and Landmarks Committee
The Planning Commission shall meet at least twice annually with the Design and Landmarks Committee for reviewing prospective work program tasks related to urban design, architecture and design guidelines, historic preservation and other areas of responsibility assigned to the committee in 2.18.010 (A).

7. Amend Chapter 2.18.010 as follows

(Explanatory Note: Existing paragraphs 2.18.101(D) and 2.18.010(E) are retained.)

Established— Design and Landmarks Committee, Purpose , Appointment and Composition, Coordination with Planning Commission.

- A. The design and landmarks committee is established to advise the planning commission on all matters specified in 2.16.010(A)(9) through 2.16.010 (A)(12);
- B. Appointment and Composition. The Design and Landmarks Committee shall have five members appointed by the City Council for three-year terms. The City Council shall have discretion to reappoint or remove committee members. One committee member shall have demonstrated special interest, experience, training or knowledge in the field of historic preservation or history. One committee members shall have demonstrated special interest, experience, training, or knowledge in the field of architecture, planning, landscape design or similar field; and.
- C. Annual Meetings. The Design and Landmarks Committee shall meet with the Planning Commission in accordance with 2.16.010 (B).

8. Repeal Section 2.18.020 Membership--Qualifications.9.

9. Amend Section 2.18.020 Statement of economic interest.

Committee members are required to file annual statements of economic interest as required by ORS 244.050 with the Oregon Government Standards and Practices Commission. (Ord. 1799 § 2 (part), 1996)

10. Amend Chapter 19. 323.3 as follows:

- 323.3 (B) Commission. Means the City of Milwaukie Planning Commission.

- 323.3 (C) Committee. Means the City of Milwaukie Design and Landmarks Committee.
(Explanatory Note: subsequent definition to be automatically adjusted due to the new subsection "C" being added.)
- Replace all instances of "Community Development Director" with "Planning Director" in Chapter 19.323.
- 323.3 (J) "Unrankable" means historic resources that lack sufficient information to be ranked. When that information is available, those found to be "Significant" or "Contributing" shall be recommended by the Planning Commission for designation as "Landmarks."
- Repeal Section 323.4 and renumber all subsequent sections.

11. Amend Chapter 19. 323.5 as follows

323.5 Process for Designation or Deletion of a Landmark.

- A. Application Request. The owner of record, contract purchaser, or an agent of any of the foregoing, of property within the city may make application for resource designation or deletion. The application shall be in such form and detail as the planning director prescribes and will be the same as the major quasi-judicial review process of subsection 19.1011.4 of this title. . The application shall be submitted to the planning director. The Planning Commission or the city council may also initiate such proceedings on their own motion.

- B. Planning Commission. The Commission shall conduct a public hearing to evaluate the request. The commission shall enter findings and make a written recommendation to the city council.

City Council. The city council shall conduct a public hearing to consider the recommendation of the Planning Commission on the request and shall either approve, approve with conditions, or deny the request.

12. Amend Chapter 19.323.6 (D) as follows:

- D. Other Requests. All requests that do not meet the provisions of subsection C above shall be forwarded to the commission. The commission's decision will be final after notice and public hearing held the same as subsection 19.1011.3 of this title (Minor Quasi-Judicial Review). The commission shall approve or disapprove issuance of the permit. The commission may attach conditions to the approval for permit which must be adhered to for the permit to remain valid.

13 Amend Chapter 19. 323.8 (C) as follows:

- C. Public Hearing Review. The commission shall hold a public hearing within forty-five days of application. The procedures shall be the same as those in subsection 19.1011.3, Minor Quasi-Judicial Review.

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Exhibit 2

Findings of Fact and Conclusions

October 5, 2004

1. The City Council approved the staff proposal to convert the Design and Landmarks Commission to a committee of the Planning Commission due to staff reductions in the Planning Department.
2. The City Attorney advised the City Council to dissolve the local contract review board created under 2.10.010(I), as that function is performed by the City Council.
3. Advance consideration of the proposed amendments was made by the Design and Landmarks Commission, Planning Commission, and City Council at a number of public meetings.
4. Milwaukie Municipal Code Chapter 19.900 applies to proposed amendments of the Zoning Ordinance. The amendments contained in this ordinance are consistent with Chapter 19.900 as follows:²
 - a. The City Council initiated the amendments in accordance with 19.902.1 via direction to staff.
 - b. An application was prepared in accordance with Chapter 19.904.1(A) and public hearing was conducted by the Planning Commission in accordance with procedures specified in Chapter 19.1011.5.
 - c. The amendments have no substantive bearing on, or relationship to provisions or requirements the Metro Urban Growth Management Plan and Statewide Planning Goals. Accordingly, notice was not made to Metro or the Department of Land Conservation Development.
 - d. The reasons for the code amendments, which must be stated in accordance with Chapter 19.904.1(B), are contained in paragraphs 1 and 2 above.

² It has been determined that the following provisions do not apply to the adopted amendments: MMC 19.902.1(B) Notice to Metro; 19.905.1(B), 19.905.1(D), and 19.905.1(E) since the proposal does not affect development; and 19.905.1(C) as there are no directly applicable regional, state, or federal policies.

- e. The amendments have been coordinated with other provisions of the Municipal Code. There are no conflicts between the amendments and other code provisions.
- f Chapter 19.905.1(A) requires that proposed amendments conform to applicable comprehensive plan goals, policies, and objectives; be consistent with the provisions of city ordinances, the Metro Urban Growth Management Functional Plan, and applicable regional policies. Comprehensive Plan Chapter 3 specifies policies for Historic Resources. There are no Comprehensive Plan policies that relate to or are affected by the conversion of the Design and Landmarks Commission to a committee. There are no directly applicable functional plan or other regional policies.