

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
NOVEMBER 15, 2011**

CALL TO ORDER

Mayor Ferguson called the 2114th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Chaimov, and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Attorney Tim Ramis, City Recorder Pat DuVal, Public Affairs Coordinator Grady Wheeler, Planning Director Katie Mangle, and Assistant Planner Ryan Marquardt

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Student of the Month

Mayor Ferguson and Milwaukie High School Principal Mark Pinder introduced the November Student of the Month Shelby Sharron.

B. Presentation by Amy Edwards on Youth M.O.V.E. Program

Ms. Edwards described the national organization and more specifically the Milwaukie location where support was provided to at-risk youth.

C. Comcast Internet Services for Low-Income Families

Andrea Sergant reported on Comcast's broad band internet service for families in need that met certain low income qualifications.

CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the consent agenda as presented. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [5:0]

A. City Council Minutes of the October 18, 2011 Work Session:

AUDIENCE PARTICIPATION

Les Poole, Clackamas County, discussed the neighborhood and businesses in the final leg of the Portland Milwaukie Light Rail line. He asked when Kellogg Lake Park would be on the maps and when it would be combined with Kronberg Park.

PUBLIC HEARING -- None scheduled.

OTHER BUSINESS

A. Sign Code Amendments: Electronic Display Signs (File #ZA-11-02)

Mr. Marquardt gave a brief overview of the revisions staff made based on City Council direction at the November 1, 2011 meeting. First, exempt signs on properties along the McLoughlin Boulevard corridor north of Hwy 224 from limitations on the size of electronic display signs and allow them to change messages no more than once every 10 seconds. Second, remove the clause making certain rules retroactive to existing signs. Third, allow electronic display signs 20 square feet or smaller to change once

CITY COUNCIL REGULAR SESSION – NOVEMBER 15, 2011

DRAFT MINUTES

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every 10 seconds and signs over 20 square feet to change messages no more than once every 2 minutes. Fourth, bolster the language addressing coordination with Oregon Department of Transportation (ODOT) permits. Fifth, adopt the ordinance with an emergency clause. City Council directed the staff to prepare an informational flyer for downtown businesses upon which it had begun working. Essentially, this ordinance would allow for small display signs on a limited portion of the downtown area along McLoughlin Boulevard and limited sizes except in the North Industrial Area.

Councilor Hedges had understood there were size limitations in the North Industrial area as to the LED portion of the sign and would be the same as anywhere else. He thought it was the hold times that would not be disputed.

Mayor Ferguson understood City Council desired the area on McLoughlin Boulevard north of Hwy 224 would be unaffected by the change.

Councilor Miller thought there was some misunderstanding about signs along Hwy 224 and asked if ODOT regulated that.

Mr. Marquardt replied the code amendments addressed signs on private property and not in the right-of-way that should only have to do with traffic control devices.

It was moved by Council President Chaimov and seconded by Councilor Loomis for the first and second readings by title only and adoption of the ordinance amending Title 14, Sign Ordinance; to revise standards and regulations related to electronic display signs, file ZA-11-02.

Although he still had some concerns, **Councilor Hedges** would vote in favor in that not doing so would probably make things worse.

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [5:0]

ORDINANCE 2040:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 14, SIGN ORDINANCE; TO REVISE STANDARDS AND REGULATIONS RELATED TO ELECTRONIC DISPLAY SIGNS (FILE #ZA-11-02)

Mayor Ferguson provided the LUBA appeal information.

B. Council Reports

Mayor Ferguson and Councilors provided updates on meetings they attended on behalf of the City and announced upcoming community events.

ADJOURNMENT

It was moved by Council President Chaimov and seconded by Councilor Miller to adjourn the meeting. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [5:0].

Mayor Ferguson adjourned the regular session at 7:59 p.m.

Respectfully submitted,



Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL NOVEMBER 15, 2011

MILWAUKIE CITY HALL
10722 SE Main Street

2114th MEETING

REGULAR SESSION – 7:00 p.m.

- | | Page
No. |
|---|-------------|
| 1. CALL TO ORDER
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Milwaukie High School Student of the Month Shelby Sharron | |
| 3. CONSENT AGENDA <i>(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)</i> | 1 |
| A. City Council Minutes of October 18, 2011 Work Session | 2 |
| 4. AUDIENCE PARTICIPATION <i>(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, "all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)</i> | |
| 5. PUBLIC HEARING <i>(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)</i> | |
| A. None scheduled | |
| 6. OTHER BUSINESS <i>(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)</i> | 6 |
| A. Sign Code Amendments: Electronic Display Signs (File #ZA-11-02) – Ordinance
Staff: Ryan Marquardt, Assistant Planner | 7 |
| B. Council Reports | |

7. INFORMATION

8. ADJOURNMENT

Public Information

- **Executive Session:** The Milwaukie City Council will meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

Date: NOV 15, 2011

I wish to address City Council on Agenda Item # #4 C. COMMUNICATION

Name: LES POOLE

Organization: _____

Address: _____

Phone: _____

E-mail: _____

Speaking in support _____

Speaking in opposition _____

Raising questions _____

Providing information _____

Comments: M.L. RAIL



MILWAUKIE
Dogwood City of the West



Memorandum

To: City Council

From: Kenny Asher, Community Development/Public Works Director
Katie Mangle, Planning Director

CC: Bill Monahan, City Manager
JoAnn Herrigel, Community Services Director

Date: November 15, 2011

Re: CD & Planning Active Projects: City Council Update for 11/15/11

Community Development

- Commercial Core Enhancement Program
- Dark Horse Relocation/Real Estate Study
- ODOT Yard/Minor League Baseball
- **Light Rail Project Management**
- South Downtown Implementation
- Light Rail Station Building
- **Kellogg for Coho Initiative**
- Lake Road Multimodal Improvements
- Walk Safely Milwaukie Program
- Street Surface Maintenance Program
- **Quiet Zones**

Planning

- Residential Development Standards
- Light Rail Urban Design
- Annexations
- **Land Use and Development Review**
- Downtown Facade Improvement Program
- Metro Population/Employment 2035 Forecast Data
- Electronic Signs Code Fix project
- Tacoma Station Area Planning
- **Light Rail Permitting**
- Zoning Code Enforcement

Community Development

Light Rail Project Management

TriMet's design team is working to complete the 90 percent plan set by November 29th. This will be followed by a cost estimate update (by December 19th). TriMet still anticipates receiving a full funding grant agreement from FTA in late March. An Open House is scheduled for January 23rd at Milwaukie High School.

Kellogg for Coho Initiative

Staff met with representatives from ODOT, the Army Corps and NOAA this afternoon to discuss the bridge structure modifications report and next steps for the Initiative. ODOT expressed interest in supporting a new bridge (or bridge design) that will improve fish passage. NOAA needs to evaluate how the bridge options affect fish passage. Based on this review, the agencies will identify a path forward, including funding options. Under the Army Corps program (should this program be selected), the city will be required to pay for half the costs of a feasibility study and 35 percent of construction.

Quiet Zones

90 percent light rail plans will trigger our application for FRA approval for the Tillamook Branch quiet zone. The Mainline Quiet Zone is making incremental progress, but requires resources for all the crossings (see memo).

Planning

Light Rail Permitting

On November 8, the Planning Commission opened two separate public hearings related to the light rail project: one on the application for the light rail bridge over Kellogg Creek and McLoughlin Blvd, and the other to approve modifications to the Trolley Trail. The entire 4 hour meeting was broadcast live on cable and the website for the first time. Four hours passed quickly; after staff presentations and public comment time elapsed.

- The commission continued the hearing on the bridge to a special meeting Thursday 11/17 to allow more time for commissioners' questions and deliberation. Staff anticipates that this hearing will be continued again to 11/22, the deadline by which the commission must make its decision.
- The hearing on the modifications to the Trolley Trail was continued to the next regular meeting on 11/22.

Land Use and Development Review

We are currently reviewing several interesting Type I (administrative) development permits:

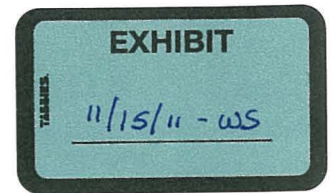
- Expansion of office space at the Baggalini facility on Milport Rd.
- Remodel and minor expansion of the McDonald's near Oak St.
- Establishment of a new student wellness center within Milwaukie High School
- Design review of new exterior building lighting of a building on 21st Ave in downtown (this is related to a Storefront Improvement grant).

Annexations

The next deadline for property owners to join the Assisted Annexation program is 11/30. The City has sent a letter describing the program and announcing this date to all affected property owners in the NESE area.



MILWAUKIE
Dogwood City of the West



Memorandum

To: Kenny Asher, CD/PW Director
From: Wendy Hemmen, Light Rail Design Coordinator
CC: Bill Monahan, City Manager
Date: November 15, 2011
Re: Update on Quiet Zones Progress

On the Mainline Quiet Zone, the city has already received FRA approval, ODOT Crossing Orders for the Harrison Street sidewalk, and funding for the Harrison sidewalk and pavement improvements. Those improvements are scheduled for 2012.

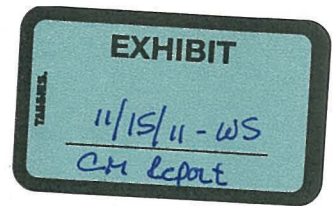
The city still needs the following:

- ODOT Crossing Orders for Harrison medians (to be submitted 12/2011)
- UPRR permits for Harrison (submit 12/2011) for construction
- ODOT Crossing Orders and final design for Oak medians (spring design and submittal)
- ODOT Crossing Orders and final design for 37th medians and street improvements (spring design and submittal)
- Funding for medians at Harrison, Oak, and 37th
- Funding for street improvements on 37th
- Staff resources for design of improvements in the spring of 2012
- UPRR permits for Oak, and 37th construction

The following steps are being undertaken to complete the Mainline Quiet Zone:

- Completing the ODOT Crossing Orders and UPRR permit for Harrison medians by 12/2011
- Complete Harrison Street waterline project in February/March 2012 (underway)
- Begin/complete Harrison Street sidewalk project with City Council approval in March/April 2012
- If funding available and crossing orders approved, complete and install medians with paving project in May 2012
- Complete ODOT Crossing Orders, design, UPRR permit for Oak & 37th medians and street improvements in spring/summer 2012
- Secure funding for remainder of project (estimated \$300k or more)

On the Tillamook Branch Quiet Zone, the application will be completed and submitted to FRA in January, based on TriMet's 90% light rail plans. Staff recently completed the required diagnostic on 21st/Adams due to changes in safety measures design. All parties (FRA, ODOT Rail, UPRR, TriMet, and COM) are in agreement about safety measures required for all TB intersections



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November 11, 2011

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DONNA L. MITCHELL

David Ford & Mark Rauch
CITY COUNTY INSURANCE SERVICES
PO Box 1469
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Bill Monahan, City Manager
CITY OF MILWAUKIE
10722 SE Main Street
Milwaukie, Oregon 97222

Re: *Sharon Dunn v. City of Milwaukie*
Supreme Court No. S059316
Our File No. 7067

Dear Gentlemen:

Oral argument of our appeal to the Oregon Supreme Court was conducted on November 10, at the Supreme Court Building in Salem, Oregon. Mr. Monahan was in attendance and he may have a different opinion about the proceedings than mine, but I felt the Court was very receptive to our arguments, and I came away from the hearing with the impression that we have a good chance that the case will be reversed.

I did not think the judges were particularly impressed with the points made by plaintiff's counsel, and in fact I thought some of the points were considered downright ridiculous.

There was one rather perplexing series of questions by Judge Martha Walters concerning why we have an intent requirement to establish a taking under the Constitution. That somewhat threw me offstride because the Supreme Court has said on many occasions most recently in 2002 in the *Vokoun v. City of Lake Oswego* case that a plaintiff must show the public body intended to take the property in order to establish a taking claim. Judge Walters wanted to know the source of the intent requirement. I argued that it is implicit in the language of Article I, Section 18 of the Constitution. I was helped out in that regard by Justice Balmer, who agreed that the Constitution requires that the taking of property be intentional for it to be a Constitutional violation.

In any event, I thought the argument went very well, but we can do nothing further but wait for the written opinion. One cannot predict when the Supreme Court will issue an opinion, but my prediction is that we will have an opinion from the Court within the next six months.

DAVID (503) 226-2225

LEHNER & RODRIGUES, P.C.

Mr. Ford, Mr. Rauch & Mr. Monahan
November 11, 2011
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I will, of course, report promptly as soon as I hear anything further from the Court.

Very truly yours,

LEHNER & RODRIGUES, PC



Michael A. Lehner

MAL/cs

FIGURE 3-1

**City of Milwaukie
2010 Water System Master Plan**

2010 WATER SYSTEM

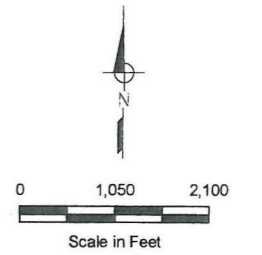
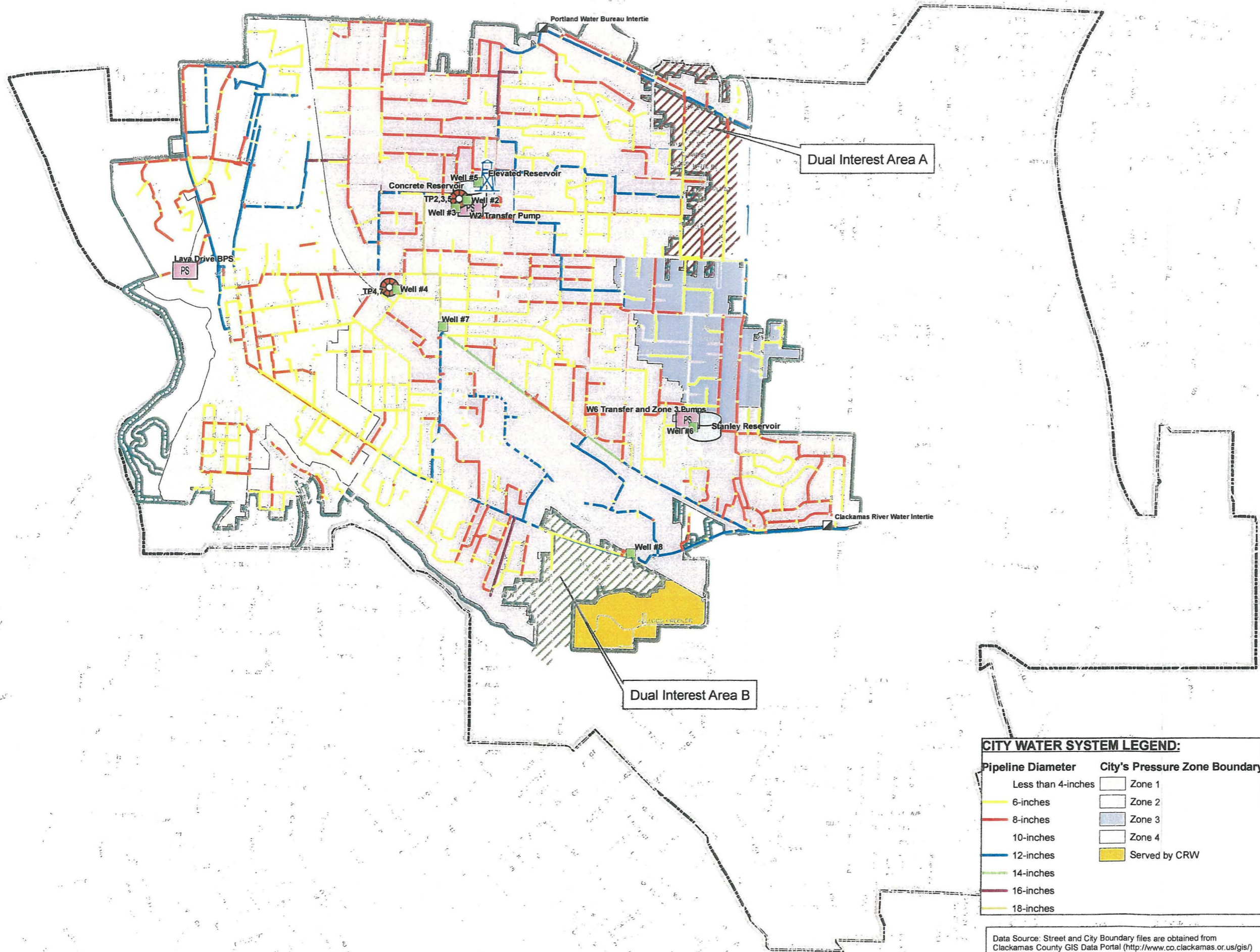


EXHIBIT
11/15/11 - WS
#3 - water Utility



CITY WATER SYSTEM LEGEND:

Pipeline Diameter	City's Pressure Zone Boundary
Less than 4-inches	Zone 1
6-inches	Zone 2
8-inches	Zone 3
10-inches	Zone 4
12-inches	Served by CRW
14-inches	
16-inches	
18-inches	

- LEGEND**
- Pump Station
 - At Grade Reservoir
 - Elevated Reservoir
 - Treatment Tower
 - Well
 - Emergency Interties
 - Dual Interest Area B
 - Dual Interest Area A
 - City Boundary
 - Urban Growth Boundary

Data Source: Street and City Boundary files are obtained from Clackamas County GIS Data Portal (<http://www.co.clackamas.or.us/gis/>)

ATTACHMENT 1

FIGURE 9-1 City of Milwaukie 2010 Water System Master Plan

EXISTING SYSTEM IMPROVEMENTS

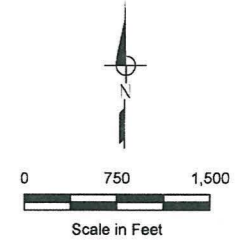
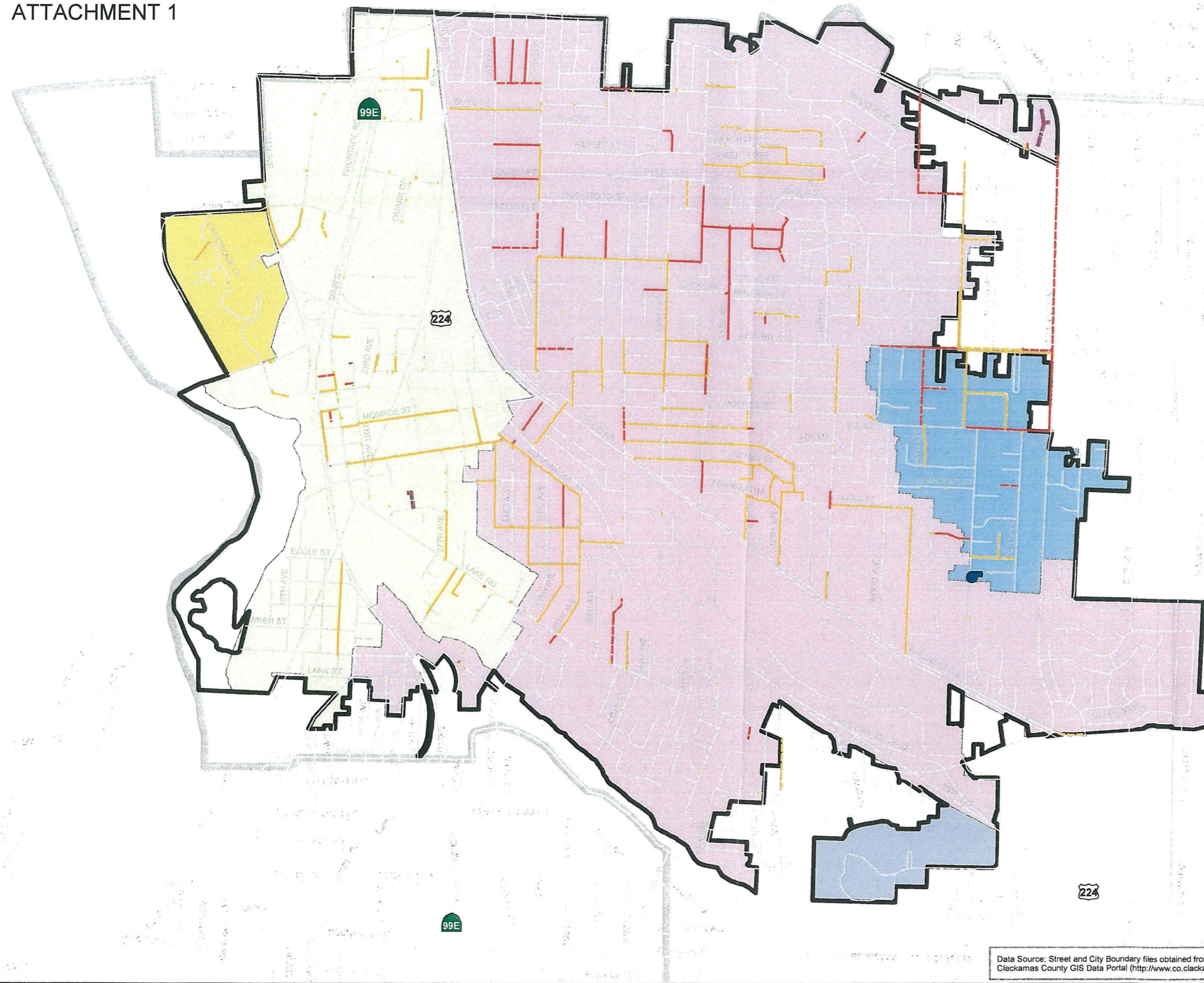


EXHIBIT
11/15/11 WS
#3 - Water Utility



LEGEND

- Public Area Fire Flow Improvements (FF01-FF02)
- CIP Pipeline Improvements (FF03)**
 - 4-inch Diameter, Pre-1960
 - 6-inch Diameter, Pre-1960
 - 4-inch Diameter, Year Unknown
 - 6-inch Diameter, Year Unknown
- Zone 3 Fire Flow Pumps
- City's Pressure Zone Boundary**
 - Zone 1
 - Zone 2
 - Zone 3
 - Zone 4
- Clackamas River Water
- City Boundary
- Urban Growth Boundary
- Street

Data Source: Street and City Boundary files obtained from Clackamas County GIS Data Portal (<http://www.co.clackamas.or.us/gis/>)

3.
CONSENT AGENDA

MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
OCTOBER 18, 2011

Mayor Ferguson called the work session to order at 5:03 p.m. in the City Hall Conference Room.

Council Present: Councilors Dave Hedges, Joe Loomis, and Mike Miller

Excused: Council President Greg Chaimov

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Library Director Joe Sandfort, Community Services Director JoAnn Herrigel, Public Affairs Coordinator Grady Wheeler, Planning Director Katie Mangle, and Community Development/Public Works Director Kenny Asher

Media: Molly Harbarger, *The Oregonian*

City Manager's Report

Mr. Monahan said work on the Jackson Street bus shelters was expected to be completed by October 31. He discussed City Prosecutor services contract and was considering options for better ways to manage that function, and City Council concurred with the proposal

Community and Planning Activity Report

Ms. Mangle discussed the NatureBake expansion which triggered a type 1 development review and infrastructure improvement fees. She reported on the Light Rail Bridge over Kellogg Creek and the hearing schedule. The last open house on the Residential Design Standards would be October 20.

Mr. Asher provided a brief update on the Kellogg for Coho project.

Mayor Ferguson recused himself from the pedestrian/bike Kellogg Lake Bridge discussion.

Council President Chaimov participated via telephone in the pedestrian/bike Kellogg Lake Bridge discussion.

Mr. Asher discussed the Oregon Department of Transportation (ODOT) flexible fund grant. If awarded funds would be used for a connection between Island Station and Downtown Milwaukie via Kronberg Park. The grant program was announced September 1, and the City did not have staff resources for this project so relied on the help of others. Over the past four weeks, TriMet helped prepare the application and gave City staff the results in early October. He had a discussion with TriMet on October 7 about how the City might come up with a non-cash match such as permitting, planting, and a five year management plan for the plantings. He added the North Clackamas Parks and Recreation District (NCPRD) was not able to move funds to assist. Staff came to the conclusion that this was an appropriate use of transportation system development charge (SDC) funds and requested City Council direction to do so.

The City of Milwaukie was the applicant, and Mr. Asher regretted the short turnaround. This was a good opportunity, and getting into this grant round was the most affordable way to do this project which had been discussed for some time. The project was identified in the Transportation System Plan (TSP), and he briefly reviewed the current Capital Improvement Plan (CIP).

City Council Work Session – October 18, 2011

Draft Minutes

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Councilor Loomis thought this was a good project which had been discussed for a number of years. He understood the short time frame.

Councilor Hedges said he did not support it as it was taking away from projects north of Hwy 224 and would be spent in the privileged areas of the City. He asked if TriMet was going to offset these costs towards the City's light rail obligation. He would not consider if it came out of SDC funds.

Mr. Asher replied that if the City used SDC funds for this project TriMet said it would count those funds as part of the \$5 million. At this point in the process the commitment needed to be made but the funding source not necessarily identified.

Councilor Miller supported the bridge, but he was bothered that he had been told on a number of occasions that they needed to make a decision in a very short period of time. What if we did not get the grant and those funds would be committed to the project? The application showed that funds would be spent on the boardwalk across Kronberg Park, which did not have a master plan. He was concerned about piece mealing a project together without looking at a plan. He was supportive of the bridge, but concerned about taking money out of SDC funds. He would support it if they would take it out of the \$5 million obligation to TriMet.

Council President Chaimov was concerned that if there was no City Council support that it would be very disappointing to the Island Station Neighborhood that was cut off by a major highway. This would be a way to obtain the bridge for very little money.

Councilor Hedges said there was agreement if the money came from the \$5 million owed to TriMet.

Council President Chaimov didn't see that as an option.

Mr. Asher asked if Council wanted to use money from the general fund.

Council President Chaimov understood the City Council was giving Mr. Asher the approval to apply for the grant but not the funding source.

Councilor Hedges said he would be suggesting the source of funds during the regular session.

Mr. Monahan said the Council may also decline the grant if the funds were not there. He recommended a vote in the regular session.

Mr. Asher explained if the City did not get the grant there was no commitment to the project.

Councilor Miller was concerned about tying up the money and not being able to spend it on another project.

Mr. Asher said the grants would be awarded in January 2012. He couldn't think of any projects that would come up before then. The source did not matter to ODOT, but it did matter to the City Council. The money did exist and could be allocated through a supplemental budget.

Library Board Work Plan

Present: Tom Hogan, Ed Zumwalt, Colleen Schacht, and Joe Sandfort

Mr. Hogan briefly discussed the work plan and Board accomplishments. The 2011 – 2012 priorities included supporting the Library Director and staff, developing an information sheet, encouraging the Board to attend community meetings throughout the year, and supporting the Friends of the Ledding Library. He reviewed the yearly library statistics and other staffing, funding, and program information.

City Council Work Session – October 18, 2011

Draft Minutes

Page 2

Councilor Loomis suggested putting the information bullet points on a bookmark, to be given out at Neighborhood District Association (NDA) meetings or in restaurants. It was good information that needed to get out into the community.

Mayor Ferguson suggested making coffee sleeves with Library information on them and handing them out to local restaurants and coffee shops.

Councilor Hedges said the Ledding Library was a hallmark of the community.

Councilor Miller appreciated all of Mr. Sandfort's hard work and positive influence on the community.

Mr. Sandfort felt fortunate for the great staff, volunteers, and Friends of the Ledding Library.

Discussion of Metropolitan Area Communication Commission (MACC) Membership

Ms. Herrigel made introductory remarks. In the regular session the City Council would be asked to extend the Comcast franchise agreement which had nothing to do with the Metropolitan Area Communication Commission (MACC) or Willamette Falls Television (WFTV). She highlighted some of the important issues and activities and discussed the ascertainment process. WFTV was undergoing changes and its future was not clear. She reviewed a table comparing the costs of the City's being or not being a MACC members. It assumed a two-year negotiation process with Comcast, and she reviewed the totals with and without staff costs.

Ms. Herrigel noted correspondence from Kay Bower expressing her support for WFTV. Melody Ashford provided information on studio use, which Ms. Herrigel had not had time to review. She hoped for clarification of the City Council's highest priorities and would come back on November 1 for a vote on MACC membership. She asked if there was a member of Council that would be interested in sitting in with her on the discussions with MACC.

Councilor Hedges said he would make time to sit in on the discussions. For him channel 30 was non-negotiable, but he did not the amount spent on the studio was worth it for the small number of people who used it. Overall it was important to him to be broadcasting City Council, Planning Commission, and light rail meetings at times when people could watch them. He got the impression Ms. Herrigel's workload was too great.

Ms. Herrigel was concerned that other projects like the Riverfront would suffer.

Councilor Miller wanted the meetings to be shown live and replayed regularly. He noted when the studio was on International Way it was close and used regularly which he thought that was a key to increasing the use of access channels.

Ms. Herrigel added MACC was considering more active involvement in public access.

Councilor Loomis said it seemed like a natural fit for Ms. Barnes and her class at Sabin Schellenberg. Showing the City Council meetings live was not a priority for him.

Ms. Herrigel said Dion Shepard and a few others had contacted her to say that they watched the meetings regularly.

Mr. Hedges said he generally gets a few emails after each City Council meeting from people that have watched the meeting. He felt it was important not to reduce the ability to watch public meetings.

Councilor Loomis asked if the same people were applying for grants year after year.

Ms. Herrigel responded that typically the same organizations, Sabin Schellenberg and Clackamas Community College, applied for grants annually.

Ms. Herrigel said it would be helpful to promote Granicus. It streams live on the web and people can watch it at any time on their computers.

Mayor Ferguson asked if the City could keep its dedicated channel.

Ms. Herrigel explained that the City can only have 6 channels and there was also a bandwidth issue with Comcast.

Mayor Ferguson noted people using Apple products could access Granicus. He did not care for the idea of the studio in Beaverton, and he was surprised that 10 people used the studio in Oregon City. Educational access was great and the grants would not change

Ms. Herrigel said there were currently no MACC members on the east side, but Happy Valley and Oregon City were considering membership.

Councilor Miller asked what MACC can bring that the City presently did not have.

Bruce Crest, MACC, replied the City would have the same franchise as others and have more power and control with Comcast. He expected Milwaukie would have its share of the \$1.2 million grant funds. He discussed the government access program and the new facility being built in Beaverton. MACC had been working with Milwaukie for 10 years on managing the Comcast franchise, and Mr. Crest thought the number of channels would have to be negotiated.

Mayor Ferguson said they were focusing on cable, and asked if there was any negotiation with Dish or digital narrow banding.

Mr. Crest responded that Dish and Direct TV were not franchised, and he did not believe any digital channels could be used at no charge.

Council Goals Discussion

Due to lack of time, this matter was postponed.

Mayor Ferguson adjourned the work session at 6:55 p.m.

Respectfully submitted,

Pat DuVal, Recorder

6.
OTHER BUSINESS



Agenda Item: 6.A.
Meeting Date: 11/15/2011

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Sign Code Amendments: Electronic Display Signs

Prepared By: Ryan Marquardt, Associate Planner
Dept. Head Approval: Katie Mangle, Planning Director
City Manager Approval: Bill Monahan, City Manager
Reviewed by City Manager: 11/4/2011

ISSUES BEFORE THE COUNCIL

Adoption of sign code amendments to address the regulation of electronic display signs.

STAFF RECOMMENDATION

Approve proposed ordinance and attached amendments.

KEY FACTS & INFORMATION SUMMARY

Type here

OTHER ALTERNATIVES CONSIDERED

On October 18 staff presented an alternative; the proposal has been modified per Council direction.

CITY COUNCIL GOALS

N/A

ATTACHMENT LIST

- 1) Ordinance
 - Exhibit A: Findings
 - Exhibit B: Underline/Strikeout Amendments
 - Exhibit C: Clean Copy Amendments
- 2) Revisions to Amendments from October 18, 2011

FISCAL NOTES

None.



To: Mayor and City Council

**Through: Bill Monahan, City Manager
Kenneth Asher, Community Development and Public Works Director**

**From: Ryan Marquardt, Associate Planner
Katie Mangle, Planning Director**

Subject: Sign Code Amendments: Electronic Display Signs (File #ZA-11-02)

Date: November 9, 2011 for November 15, 2011 Regular Session

ACTION REQUESTED

Approve File #ZA-11-02 with the Ordinance, Findings of Approval, and Amendments found in Attachment 1. This would amend the regulations of Title 14, Sign Ordinance, that pertain to electronic display signs.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

November 1, 2011: City Council approved a motion providing direction to staff on revisions to the amendments.

October 18, 2011: City Council held its first hearing on the amendments.

September 2011: City Council is discussed the amendments recommended for approval by the Planning Commission at a worksession.

July 2011: City Council discussed the new electronic billboards during a study session and requested that staff proceed quickly with code amendments to control them.

March 2011: City Council and Planning Commission discussed topic of sign code amendments at the annual joint worksession.

BACKGROUND

The staff report from the October 18, 2011 Regular Session explains the full background of the proposed amendments recommended for adoption by the Planning Commission. Council had its first hearing on the amendments on October 18, 2011, and

received additional testimony on November 1, 2011. After considering testimony and staff's presentation, Council deliberated and provided specific direction to staff about revisions to make to the proposed amendments. Council directed staff to prepare the ordinance for adoption on November 15 by making the following revisions:

- 1) Exempt signs on properties along the McLoughlin Blvd corridor north of Highway 224 from limitations on the size of electronic display signs, and allow them to change messages no more than once every 10 seconds.
- 2) Remove the provision that makes certain rules retroactively applicable to existing signs.
- 3) Allow electronic display signs 20 sq ft or smaller to change messages no more than once every 10 seconds, and signs over 20 sq ft to change messages no more than once every 2 minutes.
- 4) Revise the section addressing coordination with ODOT's permits. The change is from stating that the Planning Director *may* withhold a city sign permit unless ODOT gives preliminary approval to stating that the Planning Director *will* withhold the city sign permit.
- 5) Adopt the ordinance as an emergency ordinance to make its provisions immediately effective.

Attachment 2 shows in **red text** the portions of the amendments that are revised from the amendments presented on October 18, 2011.

CONCURRENCE

The City Attorney's office has participated in the project to ensure compliance with state law and advise on overall strategy. The Code Enforcement concurs with the amendments and adjustments to remove the retroactive standards of the code.

FISCAL IMPACTS

None.

WORK LOAD IMPACTS

Adopting the proposed amendments will conclude this project and allow staff to direct resources to other projects, including the Water Master Plan and the 32nd/42nd Avenues Community Plan project.

ALTERNATIVES

None.

ATTACHMENTS

1. Ordinance
 - Exhibit A: Findings
 - Exhibit B: Underline/Strikeout Amendments
 - Exhibit C: Clean Copy Amendments

2. Revisions to Amendments from October 18, 2011

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 14, SIGN ORDINANCE; TO REVISE STANDARDS AND REGULATIONS RELATED TO ELECTRONIC DISPLAY SIGNS (FILE #ZA-11-02).

WHEREAS, the City wishes to enable properties to have signage that is attractive and appropriate while preventing unsafe and unattractive signs; and

WHEREAS, the City has become aware of regulations that prohibit electronic signs with changeable copy in areas of downtown; and

WHEREAS, the City desires to place reasonable size limits on electronic signs with changeable copy in commercial and industrial areas of the city; and

WHEREAS, the City Council and Planning Commission directed staff to prepare amendments to address regulations related to electronic signs with changeable copy; and

WHEREAS, notification of the amendments has been provided on the city website, at city facilities, through a press release, to neighborhood leaders, to affected stakeholders, and to parties who own property affected by the proposed amendments; and

WHEREAS, the Planning Commission and City Council have held duly advertised public hearings on the amendments, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes; and

WHEREAS, the City finds that the amendments should be effective as immediately as possible to prevent the installation of unsafe signs;

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

Section 1. Findings. Findings of fact in support of the proposed amendments are attached as Exhibit A.

Section 2. Title 14, Sign Ordinance Text Amendment. The Sign Ordinance is amended as described in Exhibit B (underline/strikeout version) and Exhibit C (clean version).

Section 3: Emergency Declared. This ordinance is necessary for the immediate preservation of the peace, health and safety of the City and shall take effect immediately upon passage. Signs are visible from City streets and proper regulation is needed to assure public safety.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Document2 (Last revised 2/6/2008)

ATTACHMENT 1 - EXHIBIT A

Recommended Findings in Support of Approval Land Use File ZA-11-02

1. The City of Milwaukie proposes to amend regulations in Title 14, Sign Ordinance, of the Milwaukie Municipal Code (MMC) The land use application for these amendments are ZA-11-02.
2. The purpose of the proposed code amendments is to address the topic of electronic display signs. Specifically, the proposed amendments would allow electronic display signs in limited area of downtown; limit the maximum size of electronic display signs in commercial and industrial areas outside of downtown, control the illumination and manner of display for electronic display signs, and coordinate review of Milwaukie's sign permit process with the Oregon Department of Transportation's Outdoor Advertising Sign program
3. The proposed amendments are subject to the following provisions of the MMC:
 - MMC Subsection 19.902.5, Zoning Text Amendments
 - MMC Subsection 19.1008, Type V Review Legislative Actions
4. Sections of the Milwaukie Municipal Code or Comprehensive Plan not addressed in these findings are found to be not applicable to the decision on this land use application.
5. Compliance with MMC Subsection 19.902.5, Zoning Text Amendments:

MMC Subsection 19.902.5.B states that Changes to the Milwaukie Municipal Code described by Subsection 19.902.2.B may be approved if the following criteria are met:

- A. *The proposed amendment is consistent with other provisions of the Milwaukie Municipal Code.*

The City Council finds that the proposed amendments are consistent with other provisions of the Milwaukie Municipal Code. No conflicts have been identified with the proposed amendments to Title 14 affecting electronic display signs and any other provisions of the Milwaukie Municipal Code.

- B. *The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.*

The City Council finds that the proposed amendments are consistent with the following portions of the Comprehensive Plan:

Chapter 4 – Land Use

ECONOMIC BASE AND INDUSTRIAL/ COMMERCIAL LAND USE ELEMENT
Objective #11 — Commercial Land Use: Highway Oriented Center; (3) Development and signage orientation, design, and lighting shall not produce adverse impacts upon adjacent residential areas.

The City Council finds that the proposed amendments help to minimize the impacts created by electronic readerboard signage by limiting the overall size, type of display, and illumination allowed for electronic readerboard signs.

Objective #13 — McLoughlin Boulevard: “To provide for limited highway service uses along McLoughlin Boulevard while improving the visual and pedestrian-oriented linkages between downtown and the Willamette River, and making McLoughlin Blvd. more attractive.”

The City Council finds that the proposed amendments allow signage that is appropriate for highway service uses along McLoughlin Blvd and allowing for replacement of dated signage with attractive, new, and up-to-date signage.

NEIGHBORHOOD ELEMENT

Goal Statement: To preserve and reinforce the stability and diversity of the City’s neighborhoods in order to attract and retain long-term residents and ensure the City’s residential quality and livability.

The City Council finds that the proposed amendments support this goal. Areas where electronic readerboard signs are allowed in Milwaukie are often in close proximity to residential neighborhoods. The proposed amendments help to limit the scale and impacts of such signs to ensure that these areas maintain a good residential quality and a high degree of livability.

Chapter 5- Transportation/Public Facilities/Energy Conservation TRANSPORTATION ELEMENT

Goal 2, Safety: Develop and maintain a safe and secure transportation system.

The City Council finds that the regulations would help to ensure signage that is not distracting or unsafe to persons traveling in the right-of-way.

- C. *The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.*

The City Council finds that there are no portions of the Metro Urban Growth Management Functional Plan or other regional policies that address signage.

- D. *The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.*

The City Council finds that the proposed amendments are consistent with Oregon Revised Statute 377 and Oregon Administrative Rule 734 in that they promote coordination between state requirements for permitting outdoor advertising signs and Milwaukie’s sign permitting. No other provisions of state statutes or rules have been identified as being applicable to the proposed amendments.

- E. *The proposed amendment is consistent with relevant federal regulations*

The City Council finds that there are no relevant federal regulations except those implemented by state statutes for signage along roadways that are applicable to the proposed amendments.

6. Compliance with MMC Subsection 19.1008, Type V Review:

A. Type V Public Notice. The Planning Director notified the City's Neighborhood District Associations on August 15, 2011. On August 12, 2011, 30 days prior to the Planning Commission's first hearing on the amendments, staff posted information about the amendments on the City's website and at 4 City facilities that are open to the public. Staff posted notice 30 days prior to the City Council's hearing at the same facilities and on the website on September 16, 2011. Notice of the proposed amendments were sent to Metro and to the Department of Land Conservation and Development on July 6, 2011. A Measure 56 Notice was sent on August 19, 2011 to property owners for whom the proposed regulations would have an impact on the types of signs allowed.

The City Council finds that the requirements of MMC 19.1008.3 are met.

B. Type V Decision Authority; Recommendation and Decision. The Planning Commission conducted a public hearing on September 13, 2011 and prepared a recommendation to City Council. City Council held a public hearing on October 18, 2011 and its decision on the proposed amendments. City Council finds that the requirements of MMC 19.1008. 4 and 5 are met.

7. The proposed amendments were referred to various City departments, governmental agencies, neighborhood district associations (NDA), and stakeholders for review and comment. They were discussed at several Planning Commission and City Council meetings. Additionally, the most up-to-date draft of the proposed code amendments and commentary document was posted on the City's web site starting on August 12, 2011. Public comments received, including any City responses, are summarized in the staff report.

Underline/Strikeout Amendments

TITLE 14 SIGNS

CHAPTER 14.04 GENERAL PROVISIONS

14.04.020 PURPOSE

The Council of the City of Milwaukie, Oregon, finds and declares that it is necessary to regulate the design, quality of materials, construction, installation, maintenance, electrification, illumination, type, size, number, and location of all signs visible from a right-of-way or lot under other ownership in order to:

- A. Protect the health, safety, property and welfare of the public;
- B. Promote the neat, clean, orderly and attractive appearance of the community;
- C. Provide for the safe installation and maintenance of signs;
- D. (Repealed by Ord. 1965);
- E. Preserve and enhance the unique scenic beauty of Milwaukie;
- F. Accommodate the need of sign installers while avoiding nuisances to nearby properties;
- G. Ensure safe construction, location, installation, and maintenance of signs;
- H. Prevent proliferation of sign clutter;
- I. Minimize distractions for motorists on public highways and streets; ~~and,~~
- J. Regulate solely on the basis of time, place, and manner of a sign, not on its content; and,
- K. Coordinate review where multiple agencies have review authority for a sign permit.

14.04.030 DEFINITIONS

The following words and phrases where used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

“Dissolve” means the changing of an electronic display by means of varying light intensity or pattern, where one display gradually appears to dissipate or lose legibility simultaneously with the gradual appearance and legibility of a subsequent display.

“Fade” means the changing of an electronic display by means of varying light intensity, where one display gradually reduces intensity to the point of being illegible or imperceptible and the subsequent display gradually increases intensity to the point of being legible or capable of being perceived.

“Prohibited electronic display” means any part of the message or display on an electronic display sign that utilizes the following methods of presentation:

“Flash” means sudden or intermittent electrical illumination.

“Scroll” means the changing of an electronic display by the apparent movement of the visual image, such that a new visual image appears from the margins of the sign in a continuous or unfurling movement.

“Travel” means the changing of an electronic display by the apparent horizontal movement of the visual image.

Proposed Code Amendment

“Video display” means providing an electronic display in horizontal or vertical formats to create continuously moving images.

~~Sign, Changing (Automatic). “Changing sign (automatic)” means a sign in which the display on the sign face is changed by motors, clockwork, or other mechanical means; or by electric or electronic means, including changes in color or intensity of lights.~~

Sign, Electronic Display. “Electronic display sign” means a sign or portion of a sign on which the message or display is created by bulbs, light-emitting diodes, liquid crystal displays, plasma display panels, pixel or subpixel technology, or other similar technology.

Sign, Moving. “Moving sign” means a sign with a visible moving part or visible mechanical movement, including signs which move in the wind or forced air, or by motors, clockwork, or other mechanical means.

Sign, Outdoor Advertising. “Outdoor advertising sign” means a sign that meets the definition of Oregon Revised Statute 377.710(2).

“State highway” means the entire width between the boundary lines of every State highway as defined in ORS 366.005, including but not limited to the Interstate System and the federal-aid primary system.

CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT

14.08.100 SIGNS VISIBLE FROM STATE HIGHWAYS

A proposed sign that would be visible from a State highway may require a permit from the Oregon Department of Transportation. The Planning Director may require an applicant for a sign that would be visible from a State highway to submit documentation from the Oregon Department of Transportation indicating whether the proposed sign is considered an outdoor advertising sign that requires a permit from the Oregon Department of Transportation and whether the site is legal for an outdoor advertising sign. The Planning Director will withhold issuance of the permit if there is not conclusive evidence that the sign could be approved, or could be conditioned to be approved, by the Oregon Department of Transportation.

CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED

14.12.020 PROHIBITED SIGNS

It is unlawful for any person to install, display or maintain, and no permit shall be issued for the installation, display or maintenance of, any sign or advertising structure falling within any of the following descriptions:

- A. ~~Moving signs that change more frequently than once every 10 seconds, revolving signs that rotate at more than 6 revolutions per minute, or signs that move in the wind or by forced air, or flashing signs, or any other sign with a visible moving part or visible mechanical movement, including signs which move in the wind or move or change electrically or electronically. These signs are prohibited in order to prevent unduly distracting or hazardous conditions to motorists, cyclists, or pedestrians. Automatic changing signs that change no more than once every 10 seconds, and revolving signs that revolve at 6 revolutions per minute or less, are exempt from this prohibition. Switching the power for illuminated signs on and off 4 or fewer times in one day does not constitute a flashing sign.~~
- R. Electronic display signs that display message or copy using any prohibited electronic display methods, as defined in Section 14.04.030.

CHAPTER 14.16 SIGN DISTRICTS

14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

H. Illumination

Illuminated signs may be permitted subject to the following:

1. Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted.
2. Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. Sign lighting should be designed as an integral component of the building and sign composition.
 - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
 - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.
4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.
5. Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. The sign should be a unique design that responds to the Milwaukie Downtown Design Guidelines.
 - b. The sign copy should be lighter than the sign background.
 - c. The sign background should use a predominance of dark color or be opaque when the light source is on.
6. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:
 - a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
 - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 20 sq ft.

- b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
- c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
- d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
- e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.

CHAPTER 14.24 SIGN CONSTRUCTION, MAINTENANCE, AND LIGHTING

14.24.020 SIGN LIGHTING

- A. All lamps or bulbs exposed to direct view shall be limited to 25 watts or less capacity.
- B. When neon tubing is employed on the exterior or ~~inferior~~ interior of a sign, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for colored tubing.
- C. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubes behind a Plexiglas face with tubes spaced at least 9 inches apart, center to center.
- D. Lighting from any sign may not directly, or indirectly from reflection, cause illumination on other properties in excess of 0.5 ~~foot-candles~~ footcandles of light.
- E. In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.
- F. Other types of illumination not described by Subsections 14.24.020.A-C, such as light-emitting diodes and other similar technology, are allowed for interior or exterior illumination of a sign if all other regulations of Title 14 are met.
- G. Electronic display signs are allowed in the Commercial Zone sign district (Section 14.16.040) and the Manufacturing Zone sign district (Section 14.16.050), subject to the standards below. Electronic display signs are allowed in the Downtown Zones sign district per Subsection 14.16.060.H.6 and the standards below.

1. Illumination

- a. An electronic display sign may not have an illumination intensity of more than 0.3 footcandles over ambient light, measured at the distance specified by the following calculation:

$$\text{Measurement distance} = \sqrt{\text{sign face area} \times 100}$$

The measurement shall be taken as the difference in illumination between the electronic display sign turned off and the electronic display sign displaying either a solid white screen (for multicolor displays) or a solid single-color screen (for single-color display). To the degree practicable, the measuring device shall be parallel to the plane of the sign face and the measurement shall be made from a location that is perpendicular to the plane of the sign face. The specified distance shall be the shortest straight-line distance to the sign face, including horizontal and vertical distance from the sign if the sign is elevated.

- b. The sign shall have a mechanism that automatically adjusts the illumination level to comply with the standards in Subsection 14.24.020.G.1.a.
- c. In addition to the standards of Subsection 14.24.020.G.1.a, no electronic display sign shall be brighter than necessary for clear and adequate visibility, or of such brilliance or intensity as to present a hazard to persons traveling in the right-of-way. Upon notice by the Planning Director that a sign is out of compliance with these standards, the owner or operator of an electronic display sign shall immediately adjust the illumination of the sign.

2. Size

- a. Electronic display signs on properties north of the centerline of Highway 224 which also have frontage on McLoughlin Blvd, Main St, or Frontage Rd are subject only to the applicable size limits elsewhere in Title 14. Subsection 14.24.020.G.2.b does not apply.
- b. An electronic display sign in the Commercial Zone sign district or Manufacturing Zone sign district, with the exception of the McLoughlin Blvd corridor described in Subsection 14.24.020.G.2.a, may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the size limitations below:
 - (1) 50% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 50 sq ft.
- c. Size regulations for signs in the Downtown Zones sign district are as described in Subsection 14.16.060.H.6.

3. Display

- a. The message or copy on an electronic display sign is allowed to change no more frequently than described below:
 - (1) Not more than once every 10 seconds for an electronic display sign with a sign face of 20 sq ft or less, or for any size of electronic display sign on a property in the McLoughlin Blvd corridor described by Subsection 14.24.020.G.2.a.
 - (2) Not more than once every 2 minutes for electronic display signs not described by Subsection 14.24.020.G.3.a(1).
- b. The change in message or copy may occur instantaneously or may fade or dissolve with a transition time of no more than 2 seconds between each separate message or display.

H. Shielding

The purpose of the regulations below is to prevent light pollution from illuminated signs into the sky. The light source for externally illuminated signs with a sign face of 100 sq ft or more shall have a cutoff angle of 90 degrees or greater to ensure that lighting is not directed upward.

CHAPTER 14.28 REMOVAL OF SIGNS IN VIOLATION

14.28.020 NONCONFORMING SIGN

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.4, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.
2. (Repealed by Ord. 1965)
3. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into conformance with all of the provisions of this chapter: with the following exceptions:
 - a. A nonconforming sign in all zones may be maintained or undergo a change of copy or image without complying with the requirements of this chapter.
 - b. The inclusion of an electronic display sign within the existing display area of a nonconforming sign is allowed if the addition of the electronic message sign does not cause the sign to go further out of conformance.
4. ~~The provisions of this code relating to flashing signs, par spot lights, revolving beacons, revolving signs, banners, streamers, strings of lights, and temporary signs are applicable to all signs, notwithstanding Subsection 14.28.020.A.1.~~

Clean Amendments

TITLE 14 SIGNS

CHAPTER 14.04 GENERAL PROVISIONS

14.04.020 PURPOSE

The Council of the City of Milwaukie, Oregon, finds and declares that it is necessary to regulate the design, quality of materials, construction, installation, maintenance, electrification, illumination, type, size, number, and location of all signs visible from a right-of-way or lot under other ownership in order to:

- A. Protect the health, safety, property and welfare of the public;
- B. Promote the neat, clean, orderly and attractive appearance of the community;
- C. Provide for the safe installation and maintenance of signs;
- D. (Repealed by Ord. 1965);
- E. Preserve and enhance the unique scenic beauty of Milwaukie;
- F. Accommodate the need of sign installers while avoiding nuisances to nearby properties;
- G. Ensure safe construction, location, installation, and maintenance of signs;
- H. Prevent proliferation of sign clutter;
- I. Minimize distractions for motorists on public highways and streets;
- J. Regulate solely on the basis of time, place, and manner of a sign, not on its content; and,
- K. Coordinate review where multiple agencies have review authority for a sign permit.

14.04.030 DEFINITIONS

The following words and phrases where used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

“Dissolve” means the changing of an electronic display by means of varying light intensity or pattern, where one display gradually appears to dissipate or lose legibility simultaneously with the gradual appearance and legibility of a subsequent display.

“Fade” means the changing of an electronic display by means of varying light intensity, where one display gradually reduces intensity to the point of being illegible or imperceptible and the subsequent display gradually increases intensity to the point of being legible or capable of being perceived.

“Prohibited electronic display” means any part of the message or display on an electronic display sign that utilizes the following methods of presentation:

“Flash” means sudden or intermittent electrical illumination.

“Scroll” means the changing of an electronic display by the apparent movement of the visual image, such that a new visual image appears from the margins of the sign in a continuous or unfurling movement.

“Travel” means the changing of an electronic display by the apparent horizontal movement of the visual image.

“Video display” means providing an electronic display in horizontal or vertical formats to create continuously moving images.

Sign, Electronic Display. “Electronic display sign” means a sign or portion of a sign on which the message or display is created by bulbs, light-emitting diodes, liquid crystal displays, plasma display panels, pixel or subpixel technology, or other similar technology.

Sign, Moving. “Moving sign” means a sign with a visible moving part or visible mechanical movement, including signs which move in the wind or forced air, or by motors, clockwork, or other mechanical means.

Sign, Outdoor Advertising. “Outdoor advertising sign” means a sign that meets the definition of Oregon Revised Statute 377.710(2).

“State highway” means the entire width between the boundary lines of every State highway as defined in ORS 366.005, including but not limited to the Interstate System and the federal-aid primary system.

CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT

14.08.100 SIGNS VISIBLE FROM STATE HIGHWAYS

A proposed sign that would be visible from a State highway may require a permit from the Oregon Department of Transportation. The Planning Director may require an applicant for a sign that would be visible from a State highway to submit documentation from the Oregon Department of Transportation indicating whether the proposed sign is considered an outdoor advertising sign that requires a permit from the Oregon Department of Transportation and whether the site is legal for an outdoor advertising sign. The Planning Director will withhold issuance of the permit if there is not conclusive evidence that the sign could be approved, or could be conditioned to be approved, by the Oregon Department of Transportation.

CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED

14.12.020 PROHIBITED SIGNS

It is unlawful for any person to install, display or maintain, and no permit shall be issued for the installation, display or maintenance of, any sign or advertising structure falling within any of the following descriptions:

- A. Moving signs that change more frequently than once every 10 seconds, revolving signs that rotate at more than 6 revolutions per minute, or signs that move in the wind or by forced air. These signs are prohibited in order to prevent unduly distracting or hazardous conditions to motorists, cyclists, or pedestrians.
- R. Electronic display signs that display message or copy using any prohibited electronic display methods, as defined in Section 14.04.030.

CHAPTER 14.16 SIGN DISTRICTS

14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

H. Illumination

Illuminated signs may be permitted subject to the following:

1. Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted.
2. Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. Sign lighting should be designed as an integral component of the building and sign composition.
 - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
 - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.
4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.
5. Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. The sign should be a unique design that responds to the Milwaukie Downtown Design Guidelines.
 - b. The sign copy should be lighter than the sign background.
 - c. The sign background should use a predominance of dark color or be opaque when the light source is on.
6. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:
 - a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
 - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 20 sq ft.

- b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
- c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
- d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
- e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.

CHAPTER 14.24 SIGN CONSTRUCTION, MAINTENANCE, AND LIGHTING

14.24.020 SIGN LIGHTING

- A. All lamps or bulbs exposed to direct view shall be limited to 25 watts or less capacity.
- B. When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for colored tubing.
- C. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubes behind a Plexiglas face with tubes spaced at least 9 inches apart, center to center.
- D. Lighting from any sign may not directly, or indirectly from reflection, cause illumination on other properties in excess of 0.5 footcandles of light.
- E. In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.
- F. Other types of illumination not described by Subsections 14.24.020.A-C, such as light-emitting diodes and other similar technology, are allowed for interior or exterior illumination of a sign if all other regulations of Title 14 are met.
- G. Electronic display signs are allowed in the Commercial Zone sign district (Section 14.16.040) and the Manufacturing Zone sign district (Section 14.16.050), subject to the standards below. Electronic display signs are allowed in the Downtown Zones sign district per Subsection 14.16.060.H.6 and the standards below.
 - 1. Illumination
 - a. An electronic display sign may not have an illumination intensity of more than 0.3 footcandles over ambient light, measured at the distance specified by the following calculation:

$$\text{Measurement distance} = \sqrt{\text{sign face area} \times 100}$$

The measurement shall be taken as the difference in illumination between the electronic display sign turned off and the electronic display sign displaying either a solid white screen (for multicolor displays) or a solid single-color screen (for single-color display). To the degree practicable, the measuring device shall be parallel to the plane of the sign face and the measurement shall be made from a location that is perpendicular to the plane of the sign face. The specified distance shall be the shortest straight-line distance to the sign face, including horizontal and vertical distance from the sign if the sign is elevated.

- b. The sign shall have a mechanism that automatically adjusts the illumination level to comply with the standards in Subsection 14.24.020.G.1.a.
- c. In addition to the standards of Subsection 14.24.020.G.1.a, no electronic display sign shall be brighter than necessary for clear and adequate visibility, or of such brilliance or intensity as to present a hazard to persons traveling in the right-of-way. Upon notice by the Planning Director that a sign is out of compliance with these standards, the owner or operator of an electronic display sign shall immediately adjust the illumination of the sign.

2. Size

- a. Electronic display signs on properties north of the centerline of Highway 224 which also have frontage on McLoughlin Blvd, Main St, or Frontage Rd are subject only to the applicable size limits elsewhere in Title 14. Subsection 14.24.020.G.2.b does not apply.
- b. An electronic display sign in the Commercial Zone sign district or Manufacturing Zone sign district, with the exception of the McLoughlin Blvd corridor described in Subsection 14.24.020.G.2.a, may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the size limitations below:
 - (1) 50% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 50 sq ft.
- c. Size regulations for signs in the Downtown Zones sign district are as described in Subsection 14.16.060.H.6.

3. Display

- a. The message or copy on an electronic display sign is allowed to change no more frequently than described below:
 - (1) Not more than once every 10 seconds for an electronic display sign with a sign face of 20 sq ft or less, or for any size of electronic display sign on a property in the McLoughlin Blvd corridor described by Subsection 14.24.020.G.2.a.
 - (2) Not more than once every 2 minutes for electronic display signs not described by Subsection 14.24.020.G.3.a(1).
- b. The change in message or copy may occur instantaneously or may fade or dissolve with a transition time of no more than 2 seconds between each separate message or display.

H. Shielding

The purpose of the regulations below is to prevent light pollution from illuminated signs into the sky. The light source for externally illuminated signs with a sign face of 100 sq ft or more shall have a cutoff angle of 90 degrees or greater to ensure that lighting is not directed upward.

CHAPTER 14.28 REMOVAL OF SIGNS IN VIOLATION

14.28.020 NONCONFORMING SIGN

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.4, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.
2. (Repealed by Ord. 1965)
3. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into conformance with all of the provisions of this chapter , with the following exceptions:
 - a. A nonconforming sign in all zones may be maintained or undergo a change of copy or image without complying with the requirements of this chapter.
 - b. The inclusion of an electronic display sign within the existing display area of a nonconforming sign is allowed if the addition of the electronic message sign does not cause the sign to go further out of conformance.

Underline/Strikeout Amendments**TITLE 14 SIGNS****CHAPTER 14.04 GENERAL PROVISIONS****14.04.020 PURPOSE**

The Council of the City of Milwaukie, Oregon, finds and declares that it is necessary to regulate the design, quality of materials, construction, installation, maintenance, electrification, illumination, type, size, number, and location of all signs visible from a right-of-way or lot under other ownership in order to:

- A. Protect the health, safety, property and welfare of the public;
- B. Promote the neat, clean, orderly and attractive appearance of the community;
- C. Provide for the safe installation and maintenance of signs;
- D. (Repealed by Ord. 1965);
- E. Preserve and enhance the unique scenic beauty of Milwaukie;
- F. Accommodate the need of sign installers while avoiding nuisances to nearby properties;
- G. Ensure safe construction, location, installation, and maintenance of signs;
- H. Prevent proliferation of sign clutter;
- I. Minimize distractions for motorists on public highways and streets; ~~and~~;
- J. Regulate solely on the basis of time, place, and manner of a sign, not on its content; and;
- K. Coordinate review where multiple agencies have review authority for a sign permit.

14.04.030 DEFINITIONS

The following words and phrases where used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section:

“Dissolve” means the changing of an electronic display by means of varying light intensity or pattern, where one display gradually appears to dissipate or lose legibility simultaneously with the gradual appearance and legibility of a subsequent display.

“Fade” means the changing of an electronic display by means of varying light intensity, where one display gradually reduces intensity to the point of being illegible or imperceptible and the subsequent display gradually increases intensity to the point of being legible or capable of being perceived.

“Prohibited electronic display” means any part of the message or display on an electronic display sign that utilizes the following methods of presentation:

“Flash” means sudden or intermittent electrical illumination.

“Scroll” means the changing of an electronic display by the apparent movement of the visual image, such that a new visual image appears from the margins of the sign in a continuous or unfurling movement.

“Travel” means the changing of an electronic display by the apparent horizontal movement of the visual image.

Proposed Code Amendment

“Video display” means providing an electronic display in horizontal or vertical formats to create continuously moving images.

Sign, Changing (Automatic). “Changing sign (automatic)” means a sign in which the display on the sign face is changed by motors, clockwork, or other mechanical means; or by electric or electronic means, including changes in color or intensity of lights.

Sign, Electronic Display. “Electronic display sign” means a sign or portion of a sign on which the message or display is created by bulbs, light-emitting diodes, liquid crystal displays, plasma display panels, pixel or subpixel technology, or other similar technology.

Sign, Moving. “Moving sign” means a sign with a visible moving part or visible mechanical movement, including signs which move in the wind or forced air, or by motors, clockwork, or other mechanical means.

Sign, Outdoor Advertising. “Outdoor advertising sign” means a sign that meets the definition of Oregon Revised Statute 377.710(2).

“State highway” means the entire width between the boundary lines of every State highway as defined in ORS 366.005, including but not limited to the Interstate System and the federal-aid primary system.

CHAPTER 14.08 ADMINISTRATION AND ENFORCEMENT

14.08.100 SIGNS VISIBLE FROM STATE HIGHWAYS

A proposed sign that would be visible from a State highway may require a permit from the Oregon Department of Transportation. The Planning Director may require an applicant for a sign that would be visible from a State highway to submit documentation from the Oregon Department of Transportation indicating whether the proposed sign is considered an outdoor advertising sign that requires a permit from the Oregon Department of Transportation and whether the site is legal for an outdoor advertising sign. The Planning Director ~~will~~ withhold issuance of the permit if there is not conclusive evidence that the sign could be approved, or could be conditioned to be approved, by the Oregon Department of Transportation.

CHAPTER 14.12 SIGNS PROHIBITED OR EXEMPTED

14.12.020 PROHIBITED SIGNS

It is unlawful for any person to install, display or maintain, and no permit shall be issued for the installation, display or maintenance of, any sign or advertising structure falling within any of the following descriptions:

- A. Moving signs that change more frequently than once every 10 seconds, revolving signs that rotate at more than 6 revolutions per minute, or signs that move in the wind or by forced air, or flashing signs, or any other sign with a visible moving part or visible mechanical movement, including signs which move in the wind or move or change electrically or electronically. These signs are prohibited in order to prevent unduly distracting or hazardous conditions to motorists, cyclists, or pedestrians. Automatic changing signs that change no more than once every 10 seconds, and revolving signs that revolve at 6 revolutions per minute or less, are exempt from this prohibition. Switching the power for illuminated signs on and off 4 or fewer times in one day does not constitute a flashing sign.
- R. Electronic display signs that display message or copy using any prohibited electronic display methods, as defined in Section 14.04.030.

CHAPTER 14.16 SIGN DISTRICTS

14.16.060 DOWNTOWN ZONES

No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section.

H. Illumination

Illuminated signs may be permitted subject to the following:

1. Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted.
2. Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets.
3. Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. Sign lighting should be designed as an integral component of the building and sign composition.
 - b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
 - c. Lighting should contribute to a sign that is architecturally compatible with the character of the area.
4. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises.
5. Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to review by the Design and Landmarks Committee, per Section 19.1011 Design Review Meetings, and approval by the Planning Commission, per Section 19.1006 Type III review, according to the following criteria:
 - a. The sign should be a unique design that responds to the Milwaukie Downtown Design Guidelines.
 - b. The sign copy should be lighter than the sign background.
 - c. The sign background should use a predominance of dark color or be opaque when the light source is on.
6. Electronic display signs are permitted for properties that have frontage on McLoughlin Blvd, subject to the following standards:
 - a. An electronic display sign may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the following size limitations:
 - (1) 25% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 20 sq ft.

- b. An electronic display sign shall be primarily visible from, and oriented toward, McLoughlin Blvd and not toward any other street on which the property has frontage.
- c. Illumination for an electronic display sign is subject to the standards of Subsection 14.24.020.G.1.
- d. The manner of display on electronic display signs shall comply with the standards of Subsection 14.24.020.G.3.
- e. Incorporating an electronic display sign within an existing nonconforming sign is allowed subject to the regulations of Subsection 14.28.020.A.3.b.

CHAPTER 14.24 SIGN CONSTRUCTION, MAINTENANCE, AND LIGHTING

14.24.020 SIGN LIGHTING

- A. All lamps or bulbs exposed to direct view shall be limited to 25 watts or less capacity.
- B. When neon tubing is employed on the exterior or ~~inferior~~ interior of a sign, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for colored tubing.
- C. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubes behind a Plexiglas face with tubes spaced at least 9 inches apart, center to center.
- D. Lighting from any sign may not directly, or indirectly from reflection, cause illumination on other properties in excess of 0.5 ~~foot-candles~~ footcandles of light.
- E. In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.
- F. Other types of illumination not described by Subsections 14.24.020.A-C, such as light-emitting diodes and other similar technology, are allowed for interior or exterior illumination of a sign if all other regulations of Title 14 are met.
- G. Electronic display signs are allowed in the Commercial Zone sign district (Section 14.16.040) and the Manufacturing Zone sign district (Section 14.16.050), subject to the standards below. Electronic display signs are allowed in the Downtown Zones sign district per Subsection 14.16.060.H.6 and the standards below.

1. Illumination

- a. An electronic display sign may not have an illumination intensity of more than 0.3 footcandles over ambient light, measured at the distance specified by the following calculation:

$$\text{Measurement distance} = \sqrt{\text{sign face area} \times 100}$$

The measurement shall be taken as the difference in illumination between the electronic display sign turned off and the electronic display sign displaying either a solid white screen (for multicolor displays) or a solid single-color screen (for single-color display). To the degree practicable, the measuring device shall be parallel to the plane of the sign face and the measurement shall be made from a location that is perpendicular to the plane of the sign face. The specified distance shall be the shortest straight-line distance to the sign face, including horizontal and vertical distance from the sign if the sign is elevated.

- b. The sign shall have a mechanism that automatically adjusts the illumination level to comply with the standards in Subsection 14.24.020.G.1.a.
- c. In addition to the standards of Subsection 14.24.020.G.1.a, no electronic display sign shall be brighter than necessary for clear and adequate visibility, or of such brilliance or intensity as to present a hazard to persons traveling in the right-of-way. Upon notice by the Planning Director that a sign is out of compliance with these standards, the owner or operator of an electronic display sign shall immediately adjust the illumination of the sign.

2. Size

- a. Electronic display signs on properties north of the centerline of Highway 224 which also have frontage on McLoughlin Blvd, Main St, or Frontage Rd are subject only to the applicable size limits elsewhere in Title 14. Subsection 14.24.020.G.2.b does not apply.
- b. An electronic display sign in the Commercial Zone sign district or Manufacturing Zone sign district, with the exception of the McLoughlin Blvd corridor described in Subsection 14.24.020.G.2.a, may be included only as part of a larger sign, and the electronic display portion of the sign is subject to the more restrictive of the size limitations below:
 - (1) 50% of the size of the sign face that contains the electronic display sign, abuts the electronic display sign, or is on the same sign structure as the electronic display sign.
 - (2) 50 sq ft.
- c. Size regulations for signs in the Downtown Zones sign district are as described in Subsection 14.16.060.H.6.

3. Display

- a. The message or copy on an electronic display sign is allowed to change no more frequently than described below:
 - (1) Not more than once every 10 seconds for an electronic display sign with a sign face of 20 sq ft or less, or for any size of electronic display sign on a property in the McLoughlin Blvd corridor described by Subsection 14.24.020.G.2.a.
 - (2) Not more than once every 2 minutes for electronic display signs not described by Subsection 14.24.020.G.3.a(1).
- b. The change in message or copy may occur instantaneously or may fade or dissolve with a transition time of no more than 2 seconds between each separate message or display.

H. Shielding

The purpose of the regulations below is to prevent light pollution from illuminated signs into the sky. The light source for externally illuminated signs with a sign face of 100 sq ft or more shall have a cutoff angle of 90 degrees or greater to ensure that lighting is not directed upward.

CHAPTER 14.28 REMOVAL OF SIGNS IN VIOLATION

14.28.020 NONCONFORMING SIGN

A. Time Limit

1. Except as provided in Subsection 14.28.020.A.4, signs that were in compliance with applicable regulations when installed; but that become nonconforming as a result of adoption, modification, or applicability of the City's sign regulations; may remain in place for 10 years after the date they became nonconforming but shall be removed or brought into compliance on or before 10 years plus 1 day of the date they became nonconforming.

2. (Repealed by Ord. 1965)

3. Any sign which is structurally altered, relocated, or replaced shall immediately be brought into conformance with all of the provisions of this chapter: with the following exceptions:

a. A nonconforming sign in all zones may be maintained or undergo a change of copy or image without complying with the requirements of this chapter.

b. The inclusion of an electronic display sign within the existing display area of a nonconforming sign is allowed if the addition of the electronic message sign does not cause the sign to go further out of conformance.

~~4. The provisions of this code relating to flashing signs, par spot lights, revolving beacons, revolving signs, banners, streamers, strings of lights, and temporary signs are applicable to all signs, notwithstanding Subsection 14.28.020.A.1.~~