

**CITY OF MILWAUKIE  
PLANNING COMMISSION  
MINUTES  
Milwaukie City Hall  
10722 SE Main Street  
TUESDAY, NOVEMBER 13, 2012  
6:30 PM**

**COMMISSIONERS PRESENT**

Lisa Batey, Chair  
Scott Churchill  
Mark Gamba  
Shaun Lowcock  
Wilda Parks  
Chris Wilson

**STAFF PRESENT**

Stephen C. Butler, Planning Director  
Ryan Marquardt, Senior Planner  
Brett Kelter, Associate Planner  
Peter Cook, City Attorney

**COMMISSIONERS ABSENT**

Clare Fuchs, Vice Chair

**1.0 Call to Order – Procedural Matters\***

**Chair Batey** called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.ci.milwaukie.or.us/meetings>.*

**2.0 Planning Commission Minutes**

2.1 July 31, 2012

**The July 31, 2012, Planning Commission minutes were carried over to the next meeting, as there was not a quorum of members present who had been at that meeting.**

2.2 September 11, 2012

**It was moved by Commissioner Parks and seconded by Commissioner Churchill to approve the September 11, 2012, Planning Commission minutes as presented. The motion passed with Commissioner Gamba abstaining.**

**3.0 Information Items**

There were no information items.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Public Hearings**

5.1 Summary: Downtown Code Amendments  
Applicant: City of Milwaukie  
File: ZA-12-02  
Staff: Ryan Marquardt

**Chair Batey** opened the public hearing for ZA-12-02 and read the conduct of legislative hearing into the meeting record.

**Commissioner Churchill** stated that he contacted the Oregon Government Ethics Commission and they stated that his acceptance of campaign donations from downtown businesses was not a statutory conflict of interest. He declared, therefore, that he had no conflict of interest.

**Commissioner Gamba** stated that he had received in-kind donations and declared that he, also, had no conflict of interest.

**Ryan Marquardt, Senior Planner**, presented the staff report. He explained that the proposed downtown code amendments addressed public area requirements, use restrictions on Main Street, and use restrictions in the Downtown Office Zone. These amendments would not change policies, goals, and long-range visions for downtown; they would only affect ordinance language regarding implementation, development, and day-to-day uses in the downtown zones.

There had been extensive notice and public discussion of these issues over the last two years.

**Chair Batey** asked which neighborhoods had received notice.

**Mr. Marquardt** said that he believed Historic Milwaukie Neighborhood District Association (NDA) was notified, but not general NDA leadership.

**Mr. Marquardt** described the criteria and explained that this was a recommendation hearing.

**The Commission** raised several questions, with staff responding, on several issues, including:

- Timing and process for the amendments.
- Nonconforming uses.
- Floor size limitations.
- Reimbursement program.
- Office uses on upper floors.
- Visibility requirements.
- Vacancy rates.
- Funding options for pedestrian-oriented improvements.
- Parking limited to surface lots.
- Meaning of "active use."
- Adult entertainment

**Ed Parecki, 10600 SE McLoughlin Blvd, Spring Creek Coffeehouse**, felt that any further dimensional requirements would stifle development. He said the only code changes should be those that make existing uses legal. He was concerned about fast-tracking the amendments. He was concerned about the public area requirements. He felt there should only be one downtown zone. He felt that reimbursement should go back to 2000.

**Dion Shepard, Historic Milwaukie NDA**, had questions about residential transition zones and the zoning maps. She felt that public area requirements needed to be addressed. She agreed with Mr. Parecki that reimbursement should be rolled back further. She asked why there were two transit centers, yet they weren't listed as allowed uses.

**Chair Batey** clarified that those were in the right-of-way, not uses of property parcels.

**Ms. Shepard** questioned having different development standards for different downtown zones.

**Jean Baker, Historic Milwaukie NDA**, believed that Historic Milwaukie NDA hadn't received public notice. She said they felt that the amendment process should be slowed down and go through more public review. She said the maps were too involved for a small downtown, and she said the various maps, charts, and density standards were confusing.

**Greg/Frank Hemer, 5822 SE Harrison St, manager of Milwaukie Lumber**, raised concerns about transit centers and the village and residential transition area concepts. He didn't agree with all the standards. He said mapping the downtown zones was confusing without a scale model. He felt everyone in the same zone should have the same rules. He said the amendment process shouldn't be rushed due to council turnover. He said that the current downtown zoning was a disaster, regardless of retail/ground floor issues. He said that making downtown more special would be a better idea than trying to have things that will never fit there.

**Chair Batey** said it seemed clear that the Commission shouldn't plan on voting tonight but hoped they could give staff some guidance on refinements to the proposed amendments.

**Mr. Marquardt** said that staff is aware of several issues with the downtown code, which could be fixed in a future set of code amendments. The focus here is on easy fixes that could alleviate some ongoing problems. Staff would check on the public notice issue.

**Steve Butler, Planning Director**, asked if there were parts of the proposed amendments that the Commission could support, in order to move forward as directed by Council.

**Commissioner Churchill** commented that staff had clearly tried to work within the timeline directed by Council but that the Commission feels it needs to be approached with more deliberation.

**Chair Batey** also commented that the Commission hadn't been discussing this issue during the time that Council was, so the Commission was somewhat in "catch-up" mode now.

**Commissioner Gamba** asked staff about the time and cost for a major update of the Comprehensive Plan.

**Mr. Butler** said it would probably take 2 to 2½ years. A very rough cost estimate for that process was \$150,000-\$400,000.

**Chair Batey** closed the public testimony portion of the hearing and opened Commission deliberation.

**The Commission** discussed the possibilities and timing of addressing these easy fixes in the short-term, doing a more in-depth review of the downtown zones within the next year, and doing a complete Comprehensive Plan review which would address these issues at a policy level. The Commission didn't want to only "apply a band-aid" now and see other important downtown issues delayed until the Comp. Plan review process, especially because of concerns about the possible delay of that process due to budgetary constraints, about getting downtown issues resolved before light rail arrives in three years, and about coordination with the South Downtown planning effort. They felt it was important to give the citizens, businesses, and NDAs more time for input.

**Mr. Butler** said there was a strong desire by the City Council to do something. Staff's hope was that the Commission and Council could take care of some of the "low-hanging fruit" now and

later do a phase 2 look at downtown and south downtown and how they would work together, to bridge the gap before doing the entire Comprehensive Plan review.

**Commissioner Gamba** asked if there was a way to start the Comprehensive Plan review sooner than later by phasing it over more years, with an earlier focus on the downtown aspects.

**Mr. Butler** said that, in his experience, what works best for a Comprehensive Plan review process is to look at it all at the same time, to be able to balance decisions that have to be made. He said that often the process will start with the visioning process and extensive public input. He said it might be more cost-effective to do a downtown-focused plan first, while gearing up for rest of the Comprehensive Plan review. In the end, he stated, it was important to be sure the entire Comprehensive Plan review had been conducted in a "comprehensive" manner, that all topics got their due consideration.

**Commissioner Batey** suggested that the Commission attend the November 20 Council worksession next week and have a conversation with them about their concerns. Other commissioners agreed.

**Mr. Butler** said he would check on that possibility and get back to the Chair as soon as possible. He felt there should be a recommendation to Council coming from the next Commission meeting on November 27, even if the recommendation was simply to take more time reviewing these amendments.

**It was moved by Commissioner Churchill and seconded by Commissioner Wilson to continue the public hearing of ZA-12-02, Downtown Code Amendments, to a date certain of November 27, 2012. The motion passed unanimously.**

## **6.0 Worksession Items**

### **6.1 Summary: Transportation System Plan (TSP) Update Staff: Brett Kelter**

**Brett Kelter, Associate Planner**, presented the staff report. He mentioned that the TSP is an ancillary document to the Comprehensive Plan. Each of the key chapters addressed different modes of transportation and included maps and improvement project lists. The City's first TSP was adopted in 1997, and then there was a major rewrite of the TSP in 2007. The TSP was still a very good document, but the State's Transportation Planning Rule (TPR) requires that cities' TSPs comply with Metro's Regional Transportation Plan (RTP). The City was being asked to look at the latest Metro RTP and make sure our TSP remained compliant with that.

- This project was proposed to make some small adjustments to make sure our TSP remained compliant with Metro's RTP or to clarify how the existing plan already met it. Staff was not proposing any big policy changes, but taking a light touch. Because Metro's forecasting horizon changed from the year 2030 to 2035, we would need to have a traffic consultant rerun some of the forecasting models and update them for 2035. DKS Consultants would be doing that work.
- This would also be an opportunity to update the TSP for any of the projects that had since been done and update our maps to keep it current. It would also be a chance to show the final light rail alignments on a couple of the maps.



- Metro had set performance targets, so we would need to address how we would track how we're doing with our goals; e.g., reducing the number of single-occupancy vehicles.

**Commissioners Parks and Batey** asked how certain counts are done.

**Mr. Kelver** said he would find out about that for a future meeting.

**Commissioner Gamba** said he would be curious to know from Metro whether there would be any incentives from them to make it possible for the City to prioritize some of these projects.

**Mr. Kelver** stated that this project wouldn't get into reordering project priorities—that would take a much more extensive public input process. He explained that the proposed timeline was to have a couple more worksessions with the Commission starting early next year, then a Commission hearing in May and Council hearing by the end of June. They were thinking of having a public open house in the spring.

## **7.0 Planning Department Other Business/Updates**

### **7.1 Residential Development Standards Implementation**

Mr. Butler reported that staff is working on getting our handouts updated.

### **7.2 Assisted Annexation Program**

Mr. Butler reported that 18-19 people have come in so far for the last batch of assisted annexations, deadline November 30.

### **7.3 Density and Historic Resources**

Mr. Butler reported that he made a presentation to Council at the end of October.

### **7.4 Metro Info**

Mr. Butler reported that new information had come out from Metro about development capacity numbers. He hoped to share that information with the Commission in the future.

## **8.0 Planning Commission Discussion Items**

**Chair Batey** mentioned that if Sine Adams is appointed to the Planning Commission, there would be four women on the Planning Commission.

## **9.0 Forecast for Future Meetings:**

- November 27, 2012 1. Public Hearing: ZA-12-02 Downtown Code Amendments  
December 11, 2012 2. Worksession: Tacoma Station Area Plan

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Marcia Hamley, Administrative Specialist II

  
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Lisa Batey, Chair



## **AGENDA**

### **MILWAUKIE PLANNING COMMISSION Tuesday, November 13, 2012, 6:30 PM**

**MILWAUKIE CITY HALL  
10722 SE MAIN STREET**

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes** – Motion Needed
  - 2.1 July 31, 2012
  - 2.2 September 11, 2012
- 3.0 Information Items**
- 4.0 Audience Participation** – This is an opportunity for the public to comment on any item not on the agenda
- 5.0 Public Hearings** – Public hearings will follow the procedure listed on reverse
  - 5.1 Summary: Downtown Code Amendments  
Applicant: City of Milwaukie  
File: ZA-12-02  
Staff: Ryan Marquardt
- 6.0 Worksession Items**
  - 6.1 Summary: TSP update  
Staff: Brett Kelter
- 7.0 Planning Department Other Business/Updates**
- 8.0 Planning Commission Discussion Items** – This is an opportunity for comment or discussion for items not on the agenda.
- 9.0 Forecast for Future Meetings:**
  - November 27, 2012 1. Hearing—ZA-12-02 Downtown Code Amendments (*tentative*)
  - December 11, 2012 1. Worksession—Tacoma Station Area Plan

### Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us). Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

### Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

*The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.*

### **Milwaukie Planning Commission:**

Lisa Batey, Chair  
Clare Fuchs, Vice Chair  
Scott Churchill  
Mark Gamba  
Shaun Lowcock  
Wilda Parks  
Chris Wilson

### **Planning Department Staff:**

Stephen Butler, Planning Director  
Ryan Marquardt, Senior Planner  
Li Alligood, Associate Planner  
Brett Kelter, Associate Planner  
Kari Svanstrom, Associate Planner  
Marcia Hamley, Administrative Specialist II  
Alicia Martin, Administrative Specialist II

**CITY OF MILWAUKIE**  
**PLANNING COMMISSION**  
**MINUTES**  
**Milwaukie City Hall**  
**10722 SE Main Street**  
**TUESDAY, JULY 31, 2012**  
**6:30 PM**

**COMMISSIONERS PRESENT**

Clare Fuchs, Vice Chair  
 Chris Wilson  
 Mark Gamba  
 Shaun Lowcock

**STAFF PRESENT**

Scot Siegel, Interim Planning Director  
 Ryan Marquardt, Associate Planner  
 Peter Watts, City Attorney

**COMMISSIONERS ABSENT**

Lisa Batey, Chair  
 Scott Churchill

**1.0 Call to Order – Procedural Matters\***

Chair Batey called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

***Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.ci.milwaukie.or.us/meetings>.*

**2.0 Planning Commission Minutes—None**

**3.0 Information Items**

There were no information items.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

**5.0 Public Hearings**

5.1 Summary: North Clackamas Park Restoration Project (continued from 7/24/12)

Applicant/Owner: Clackamas County Water Environment Services/

City of Milwaukie

Address: 5440 SE Kellogg Creek Dr.

File: NR-12-02, CSU-12-06

Staff: Ryan Marquardt

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42 **Ryan Marquardt, Associate Planner**, presented the staff report. The proposed project work  
43 would involve restoration of riparian areas of Camas Creek and its confluence with Mt. Scott  
44 Creek, decommissioning of trails, creation of new paths and lookouts, a proposed back-channel  
45 alcove for fish habitat, and a proposed pedestrian bridge replacement further up Camas Creek.  
46 The project areas included Water Quality Resources and Habitat Conservation Areas. Staff  
47 recommended approval of the proposal with the findings and conditions as written.

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49 **Gail Shaloum, Clackamas County Water Environment Services**, presented for the applicant.

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51 **Tonia Burns, North Clackamas Parks and Recreation District**, testified as a partner with  
52 Clackamas County.

53  
54 **Dick Shook, 4815 SE Casa del Rey Drive**, testified in favor.

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56 **Freda Green, 4401 SE Aldercrest**, testified with some questions and concerns. These were  
57 addressed and discussed by Ms. Shaloum, Ms. Burns, Commissioner Wilson, and the City  
58 Attorney.

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60 **Commissioner Wilson** asked how the fence/boundary would be enforced, which was  
61 addressed by Ms. Burns.

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63 **Vice Chair Fuchs** closed public testimony.

64  
65 **The Commission** deliberated briefly.

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67 **Commissioner Gamba moved to approve NR-12-02 and CSU-12-06, North Clackamas**  
68 **Park Restoration Project, as written. Commissioner Lowcock seconded the motion,**  
69 **which passed unanimously.**

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71 **6.0 Worksession Items—None**

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**7.0 Planning Department Other Business/Updates**

**7.1 Planning Department vacancies**

Planning Director and Senior Planner interviews were in progress.

**8.0 Planning Commission Discussion Items**

**8.1 New Planning Commissioner**

City Council was scheduled to appoint Wilda Parks at their August 7 meeting.

**9.0 Forecast for Future Meetings:**

August 14, 2012 Meeting was cancelled.

August 28, 2012 1. Public Hearing: NR-12-05 Blount parking expansion *tentative*

Meeting adjourned at approximately 7:33 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II  
Marcia Hamley, Administrative Specialist II

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Clare Fuchs, Vice Chair

**CITY OF MILWAUKIE**  
**PLANNING COMMISSION**  
**MINUTES**  
**Milwaukie City Hall**  
**10722 SE Main Street**  
**TUESDAY, SEPTEMBER 11, 2012**  
**6:30 PM**

**COMMISSIONERS PRESENT**

Lisa Batey, Chair  
 Clare Fuchs, Vice Chair  
 Scott Churchill  
 Shaun Lowcock  
 Wilda Parks  
 Chris Wilson

**STAFF PRESENT**

Scot Siegel, Interim Planning Director  
 Li Alligood, Associate Planner  
 Tim Ramis, City Attorney  
 Teri Bankhead, Assistant City Manager  
 Brad Albert, Civil Engineer  
 Steve Bartol, Police Captain

**COMMISSIONERS ABSENT**

Mark Gamba

**1.0 Call to Order – Procedural Matters\***

**Chair Batey** called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

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**2.0 Planning Commission Minutes—None**

**3.0 Information Items**

**Chair Batey** introduced new **Commissioner Parks**, who spoke about her reasons for joining the Planning Commission.

3.1 Planning Commission Alternate Expectations and Guidelines

**Scot Siegel, Interim Planning Director**, reviewed the proposed guidelines.

**Teri Bankhead, Assistant City Manager**, provided background on the Alternate Guidelines. She asked for any input from the Planning Commissioners within one week.

**4.0 Audience Participation** –This is an opportunity for the public to comment on any item not on the agenda. There was none.

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**5.0 Public Hearings**

- 5.1 Summary: City of Milwaukie Municipal Court Relocation  
Applicant/Owner: Ed Murphy/City of Milwaukie, Teri Bankhead  
Address: 3200 SE Harrison Street  
File: CSU-12-11 and P-12-03  
Staff: Li Alligood

**Li Alligood, Associate Planner**, presented the staff report. The proposal was to move court facilities from City Hall to the Public Safety Building. She addressed parking needs, including a proposed shared parking agreement with Providence Milwaukie Hospital. A parking management plan would be developed. She also addressed potential public benefits. Staff recommendation was for approval with the proposed findings and conditions. Other options would be to modify conditions or continue the hearing.

**Teri Bankhead, Assistant City Manager**, spoke as the applicant. She introduced Ed Murphy, who was serving as the representative for the City. Mr. Murphy's company had done the parking analysis.

**Ed Murphy, Ed Murphy and Associates**, presented for the applicant. He addressed the CSU criteria, clear vision at intersections, signage, and the parking quantity analysis.

**The Commission** asked questions about a retaining wall obstructing clear vision; the court schedule as it affected the number of parking spaces and bike racks needed, especially at peak times; possible parking time limits; shared parking with Providence; parking signage and education; discouraging court attendees from using neighboring businesses' parking lots; street parking; impacts to pedestrians from increased traffic and possible building circling; setting up a complaint system; and the flow of people within the building.

**Brad Albert, Civil Engineer**, addressed clear vision and clarified that the application didn't trigger the public facility improvement section, MMC 19.700.

**Police Captain Steve Bartol** described the court schedule and explained the citation process and types of parking information that might be included with citations.



**Ms. Alligood** stated that, although the parking management plan isn't prepared yet, Planning staff would make sure that all the concerns raised here had been addressed as they reviewed the plan. She also noted that the plan would give staff tools to monitor and address any future issues that might arise.

**Ms. Alligood** identified errors to be corrected in the findings.

**Ms. Bankhead** rebutted for the applicant. She said that the City intended to be good neighbors through outreach, education, and signage. They would make the best parking management plan they could. She reiterated the original reasons for moving court, due to overcrowding and lack of security at City Hall. She said the shared parking agreement with Providence would include the ability to make any needed improvements.

Public testimony was closed and the Commission began its deliberation.

**Commissioner Churchill** declared that, while he didn't have an actual or potential conflict of interest, he had done prior consulting work for Providence. He further clarified that he had not had any involvement in this issue and had no bias.

**The Commission** proposed changes to the conditions:

- Add a second sentence to condition 3.B to read, "The plan shall also provide for periodic assessment of impacts on surrounding streets."
- Revise the last sentence of advisory note 3 to read, "The Engineering Department recommends that the driveway entrance be brought into conformance with the clear vision standards of MMC 12.24 in conjunction with ~~the building remodel~~ any development permits."

**Ms. Alligood** proposed revisions to the findings:

- For item 7.B.v, second paragraph, delete "as well as" at the end.
- For item 8.C.i.a, third paragraph:
  - Revise the last sentence to read, "Twenty-eight ~~two~~ on-site parking spaces are available at the PSB for ~~public~~ court use; at least 22 additional spaces are needed to meet the

additional demand associated with locating court uses to the PSB, for a total of ~~40~~ 44 off-street parking spaces.

- Add another paragraph to read, "Per MMC 19.605.3.D.5, the minimum amount of required parking may be reduced by one vehicle parking space for every six additional bicycle parking spaces. The applicant has proposed the installation of six bicycle parking spaces, reducing the number of required additional parking spaces to 21."

**The Commission** requested that Planning staff ensure that the parking management plan addressed directional signage and considered time limits, where appropriate, on certain spaces in the PSB lot.

**Commissioner Churchill moved to approve CSU-12-11 and P-12-03, City of Milwaukie Municipal Court Relocation, with changes as noted. Commissioner Wilson seconded the motion, which passed unanimously.**

## **6.0 Worksession Items—None**

## **7.0 Planning Department Other Business/Updates**

7.1 Planning Commission Notebook update pages

7.2 Planning Department Staffing

**Mr. Siegel** announced that the Planning Department would be fully staffed as of October 1. Stephen Butler, new Planning Director, would begin on September 17. Ryan Marquardt had been promoted to Senior Planner. Kari Svanstrom, new Associate Planner, would begin on October 1. The Commission thanked Mr. Siegel for serving as Interim Planning Director.

7.3 Tacoma Station Area Plan Meeting Schedule

**Mr. Siegel** said that there would be two meetings at the City Hall Conference Room on September 19: (1) an afternoon meeting of the Technical Advisory Committee (agency staff), and (2) a Stakeholders Advisory Committee meeting at 6:30 p.m. Additionally there would be a Community Meeting on September 24 at 6:30 p.m. at the Public Safety Building. Announcements had gone out last week, notifying all property owners and businesses in the

area. Mr. Siegel would stay on as Project Manager through October 5, and then Planning staff would take over project management.

**8.0 Planning Commission Discussion Items—None**

**9.0 Forecast for Future Meetings:**

September 25, 2012 1. Public Hearing: CSU-12-08 PMLR Substation Building

2. Public Hearing: ZA-12-01 Murals Program - Sign Code

Amendments

October 9, 2012 1. TBD

Meeting adjourned at approximately 8:45 p.m.

Respectfully submitted,

Marcia Hamley, Administrative Specialist II

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Lisa Batey, Chair



**To:** Planning Commission  
**Through:** Steve Butler, Planning Director  
**From:** Ryan Marquardt, Senior Planner  
**Date:** November 7, 2012, for November 13, 2012, Public Hearing  
**Subject:** **File:** ZA-12-02 – Downtown Zoning Amendments  
**Applicant:** Steve Butler, Planning Director, for the City of Milwaukie  
**NDA:** Historic Milwaukie

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## **ACTION REQUESTED**

Recommend that City Council adopt the proposed amendments to Milwaukie Municipal Code Title 19 Zoning Ordinance; with the recommended findings in support of approval (see Attachment 1 and Exhibit A).

## **BACKGROUND INFORMATION**

### **A. History of Prior Actions and Discussions**

The Planning Commission and the Design and Landmarks Committee held a joint worksession on the proposed amendments on October 23, 2012.

### **B. Issues with Downtown Zoning**

In 2000, the city adopted documents to guide development of Milwaukie's downtown, which include

- **Milwaukie Downtown and Riverfront Land Use Framework Plan** - describes the vision for downtown: a vibrant place redeveloped with mixed use buildings served by multimodal transportation system with easy access to great open spaces. Adopted as an ancillary document to the Comprehensive Plan.
- **Zoning Regulations for Downtown**— specifies how the City requires development projects to implement various aspects of the vision (land use, public improvements, and building design).

- **Public Area Requirements** - provides transportation circulation plans for all modes of transportation, and detailed design of streetscape improvements.

The zoning regulations and Public Area Requirements (PARs) have helped shape development of downtown Milwaukie during the past decade to be consistent with the vision expressed in the framework plan. During this time, city officials, downtown property and business owners, and city staff have become aware of some issues with the zoning and PARs that have frustrated attempts to utilize downtown's existing buildings.

The issues encountered most frequently are that:

- (a) PAR frontage improvements are sometimes required for changes of use that do not involve new building activity; and,
- (b) Use regulations for specific areas of downtown have made it difficult for prospective tenants to locate in Milwaukie. Current

Planning and Community Development Staff have overseen the application of the downtown code, and have frequently had to deny or place conditions on businesses that want to locate downtown. This experience of watching properties struggle to attract tenants over the years has caused staff to conclude that the vision in the 2000 framework does not jibe with uses that would contribute to a good downtown and are viable in the current market.

## C. Proposed Amendments

At the direction of City Council, staff has drafted code amendments that address the code issues described above as well as other minor policy items with downtown zoning. A summary of these amendments is as follows:

- Amendments to Downtown Zones, Subsection 19.310:
  - Allow office and personal/business service uses to locate in storefronts along Main St. The current regulations allow only retail and restaurant uses.
  - Allow retail and restaurant uses in Downtown Office zone as stand-alone uses, with a floor area limit of 10,000 sq ft of ground floor space per use. Current regulations allow these uses only in association with an on-site office or hotel use, and limit the floor area to 5,000 sq ft per use.
  - Allow daycare/childcare uses outright in downtown zones, with a size limit of 3,000 sq ft per use. Current regulations require Planning Commission approval for this type of use.
  - Allow manufacturing and production as an accessory use when associated with retail or restaurant. This is intended to allow uses such as brew pubs and small-scale food production and sales.
  - Require new construction along Main Street to construct interior spaces with certain minimum interior height and depth dimensions to facilitate use of the space by retail and restaurant uses.
  - Remove outdated references to a transit center from the downtown zones. This was envisioned as a use for the property that became North Main Village, and is no longer a use allowed in downtown.
- Amendments to Public Facility Improvements, Chapter 19.700:

- PAR frontage improvements would not be required in downtown zones for changes of use in existing building space and small-scale additions of not more than 3,000 sq ft. Traffic safety mitigation measures may still be required for uses that add significantly more traffic to downtown.
- Creates a reimbursement program for expenditures incurred on frontage improvements after 8/1/2012 if the development would have been exempt from frontage improvements in the proposed code. At this point, staff is not aware of any development proposal that would trigger such a reimbursement, but supports keeping the provisions just in case.

#### **D. Direction from City Council**

City Council has considered the issues with downtown zoning at a study session in April 2011, a worksession in June 2012, and a study session in August 2012. Broader amendments to the downtown code were included as part of a broader evaluation of Milwaukie's commercial areas. That project is no longer going forward, and in October 2012, City Council passed resolution # 53-2012 that directed city staff to proceed with amendments for the topics described in the proposal summary above.

City Council views these amendments as a critical economic development issue for the city. Council's 2012 goals included a clear statement to:

2. Pursue economic development initiatives
  - a. promote small business investment and development that capitalize on making Milwaukie a unique destination – and -
  - c. promote downtown as a special place

The current provisions in the downtown zoning actually serve as a disincentive to promotion of small business investment in downtown, and the overly prescriptive use regulations result in having to deny uses that would help to make downtown a diverse and unique place.

City Council had directed staff at the August 2012 study session to proceed quickly with the amendment process. Council has expressed a desire to vote on these amendments before 2013 when two of the current Councilors will no longer be on Council. Staff acknowledges that this accelerated timeline deviates from the normal code amendment process. Despite this, staff believes that appropriate time and outreach have been conducted given the low level of complexity for the policy issues and prior public discussions with City Council about them. An early draft of the proposed amendments was distributed to interested parties in the downtown area in September 2012, and notice of the first hearing was sent to all property owners and most businesses was sent in late October.

#### **KEY ISSUES**

Based on comments received from the public and the discussion at the October 23rd worksession, staff has identified the following key issues for the Planning Commission's deliberation on the code amendments.

## Analysis

### A. Will the amendments negatively affect the ability to construct the downtown streetscape?

Concern has been expressed as to whether exempting some development from frontage improvements will hinder the eventual completion of the downtown streetscape envisioned in the PAR plan.

The proposed amendments will not affect any of the street cross section designs in the PAR plan, and as such does not alter the ultimate vision for downtown streetscapes. The proposed amendments do not exempt new development or major additions (> 3,000 sq ft) from the requirement to construct street frontage improvements. New development, including development done by Trimet, will still be responsible for constructing street improvements per the PAR plan. Any publically funded streetscape improvements would also construct the current PAR cross sections. Finally, the amendments do not single-out any areas of downtown for exemption from frontage improvements that would be required for new construction or major additions.

Under the new amendments, conversion of an office space to retail space would not be responsible for frontage improvements, as it would be under the current code. It is true that the city would not receive new frontage improvements (or payment in lieu of construction) if this conversion did go forward. However, the frontage improvements are a large enough disincentive that this type of project typically does not move forward, with the end result being that the city does not receive frontage improvements regardless. Because of this dynamic, staff does not believe it is correct to say that exempting changes of use from frontage improvements will forego many opportunities to get PAR improvements.

### B. Will the allowance of non-retail/restaurant uses on Main Street crowd out potential retail/restaurant uses?

There is concern that a broader allowance for office or personal/business service uses will commit Main Street storefronts to these uses over the long term, at the expense of new restaurant and retail uses. This is a concern because Main Street is identified as the key pedestrian corridor downtown, and retail and restaurant uses are considered more conducive to a pedestrian corridor than other land uses.

In terms of income for property owners, retail uses are roughly comparable with office uses. An urban renewal study for Milwaukie from 2009 lists office rents at about \$12 / sq ft and retail between \$10.50 - \$13/sq ft for individual storefronts that are typical of downtown Milwaukie. However, in most small downtown markets retail rents are typically a few dollars per sq ft higher than office, and this may become true for downtown Milwaukie in the future. This would tend to favor retail over office in the long run. It is difficult to forecast when this may occur, and if long term leases may still be in effect that would forestall this conversion. It is possible that there could be a time period where office uses may crowd out retail uses.

The physical requirements for Main Street storefronts will still require doors and windows, and will require new development to create retail-compatible spaces. New uses are required to keep a certain percentage of their storefront windows visible and to have interior space arranged to have views into visual interesting areas such as storefronts,

lobbies, and working areas. Staff believes that, given these requirements, offices can locate in Main Street storefronts and contribute to a good pedestrian corridor.

Allowing non-restaurant and retail uses will help bring new activity to the downtown when offices and similar uses locate and bring employees to the area. This will in turn strengthen the market for downtown retail and restaurant uses by having more people present in downtown Milwaukie on a daily basis. Staff believes that this dynamic may help contribute to a future market where retail uses will generate higher rents than office uses.

Staff believes the key points for this topic are that Main Street will still be an active and attractive pedestrian environment, and that being less prescriptive about required uses will benefit downtown as the retail market becomes stronger.

## CONCLUSIONS

Staff recommends that the Planning Commission forward a recommendation to City Council approve application ZA-12-02, with the proposed findings and amendments found in Attachment 1.

## CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC).

- Section 19.902, Amendments to Maps and Ordinances

This application is subject to Type V. The Commission has 4 decision-making options as follows:

- A. Recommend that City Council approve the proposed amendments to Title 19 as presented in Attachment 1.
- B. Recommend that City Council approve the proposed amendments to Title 19 with modifications to the materials in Attachment 1.
- C. Recommend that City Council not approve the proposed amendments to Title 19.
- D. Continue the hearing to November 27, 2012.

The application is a legislative action and is not subject to the 120-day clock. Given City Council's direction about the schedule for the proposed amendments, however, staff requests that the Planning Commission provide its recommendation to the City Council as expeditiously as possible.

## COMMENTS

Notice of the proposed changes was given to downtown property owners, a city list of current downtown businesses, the Historic Milwaukie NDA, City Attorney's office, Metro, and the State Department of Land Conservation and Development. The following is a summary of the comments received by the City. See Attachment 2 for further details.

- **Kimberly Keehner, Enchante:** questions regarding residential uses on second floor, transit center provisions, size limits on retail and restaurants.



- **Neil Hankerson, Dark Horse Comics:** comments regarding limitations on shades and tinted glass for downtown on Main Street, based on his viewpoint that glare is a significant problem for downtown storefronts.
- **Jennifer Donnelley, Department of Land Conservation and Development:** supports greater flexibility proposed in the downtown zoning.

## ATTACHMENTS

Attachments are provided only to the Planning Commission unless noted as being attached. All material is available for viewing upon request.

1. Draft Ordinance (attached)<sup>1</sup>
  - Exhibit A: Findings in Support of Approval
  - Exhibit B: Amendments – underline/strikeout version
  - Exhibit C: Amendments – clean version
2. Comments Received (attached)

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<sup>1</sup> References to the downtown zoning sections within this attachment are referenced as Subsection 19.304. This is a result of Ord. #2051, which renumbered portions of Title 19, and will be effective on December 1, 2012.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO AMEND MILWAUKIE MUNICIPAL CODE TITLE 19, ZONING ORDINANCE REGARDING USES ALLOWED IN DOWNTOWN ZONES AND PUBLIC FACILITY IMPROVEMENTS REQUIRED FOR CERTAIN TYPES OF DEVELOPMENT IN DOWNTOWN. (FILE #ZA-12-02).**

**WHEREAS**, the City Council has established goals to promote small business investment and development and to promote downtown as a special place; and

**WHEREAS**, certain provisions in the Zoning Ordinance hinder the ability of businesses to locate, develop, and invest in downtown Milwaukie; and

**WHEREAS**, City Council passed resolution #53-2012 directing city staff to prepare amendments to the Zoning Ordinance to address the issues created by such policies; and

**WHEREAS**, city staff has drafted amendments to address these issues and have made the drafts of such amendment available for public review since September 2012; and

**WHEREAS**, the proposed amendments have been processed pursuant to a Type V Legislative Review per Milwaukie Municipal Code Section 19.1008, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes, and duly advertised public hearings on the proposed amendments before the Planning Commission and City Council;

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

Section 1. Findings. Findings of fact in support of the proposed amendment(s) to Title 19 are attached as Exhibit A.

Section 2. Title 19, Zoning Ordinance, Text Amendment. Title 19, Zoning Ordinance, is amended as described in Exhibit B – underline/strikeout amendments, and Exhibit C – clean amendments.

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

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Pat DuVal, City Recorder

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City Attorney

Document2 (Last revised 2/6/2008)

### Recommended Findings in Support of Approval

1. The City of Milwaukie ("applicant") proposes to amend portions of Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application for these amendments is ZA-12-02.
2. The purpose of the proposed code amendments is to relieve changes of use and minor additions in downtown Milwaukie from requirements for street frontage improvements, allow a wider array of uses for ground-floor storefronts along portions of Main Street, allow greater flexibility for retail and restaurant uses in the Downtown Office zone, ensure that new development along Main Street constructs ground-floor spaces that facilitate future conversion to restaurant and retail uses, and to improve the clarity of the downtown zoning regulations. The amendments are proposed to the following portions of Title 19:
  - Subsection 19.304, Downtown Zones
  - Chapter 19.700, Public Facility Improvements
3. The proposed amendments are subject to the following provisions of the MMC:
  - MMC Section 19.902 Amendments to Maps and Ordinances
  - MMC Chapter 19.1000 Review Procedures
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
  - A. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Director on October 19, 2012, pursuant to City Council Resolution #53-2012.
  - B. MMC Section 19.1008 establishes requirements for Type V review.
    - i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff distributed drafts of the proposed amendments electronically starting in September 2012 and notified the Historic Milwaukie NDA and other downtown interested parties. The Planning Commission and Design and Landmarks Committee held a worksession to review the proposed amendments on October 23, 2012.
    - ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission's November 13, 2012, hearing was posted as required on October 12, 2012, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council's December 4, 2012, hearing was posted as required on November 2, 2012, at the same locations.
    - iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. All downtown property owners were notified of the hearing date via a Measure 56 notice.

- iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. Notice of the proposed amendments was sent to Metro on September 28, 2012. DLCD requires notice 35 days prior to the first evidentiary hearing, and notice was provided to DLCD on October 5, 2012. The first evidentiary hearing was held on November 13, 2012.
  - v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. Because the proposed amendments would affect uses and development on some downtown properties, the City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all downtown property owners in the city on October 24, 2012.
  - vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on November 13, 2012, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on December 4, 2012, and approved the amendments.
- D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.
- i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.  
*The amendments are consistent with other provisions of the Milwaukie Municipal Code. The amendments to Subsection 19.304.5 help clarify the connection between Public Area Requirements and the provisions of Chapter 19.700. The other text proposed for amendment involves modifications to existing sections of Subsection 19.304 and Chapter 19.700, and will maintain the consistency between these portions of code and the other provisions of the Milwaukie Municipal Code.*
  - ii) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.  
*There are multiple Comprehensive Plan sections and ancillary documents concerning downtown Milwaukie. The amendments are found to not be applicable or have no appreciable effect on policies or objectives not identified below.*
    - a. *Relevant sections of the Comprehensive Plan are in Chapter 4 –Land Use:*
      - i. *Residential Land Use and Housing Element – the proposed amendments do not affect any regulations related to dwelling unit capacity or housing design, so the goals and policies of this element are not applicable.*
      - ii. *Economic Base and Industrial/Commercial Land Use Element, Objective #12, Town Center -*
        - 1. *Policy #2: "Through adoption of the Downtown and Riverfront Land Use Framework Plan, implementing zones and other measures, opportunity for mixed use development will be ensured to establish downtown Milwaukie as a Town Center." The amendments are consistent with the basic policy of*

*encouraging mixed use development and further the policy by facilitating the placement of a variety of uses within downtown.*

2. *Policy #4: “Downtown public improvements will be coordinated with private improvement efforts by local property owners, consistent with the Downtown and Riverfront Public Area Requirements. The aim of all public improvements will be to stimulate and support private investments in the area.” The amendments are consistent with this policy in that exempting small project from frontage improvements encourages private investment for utilization of existing storefronts and buildings while maintaining the policy of obtaining public improvements with larger downtown development projects.*

- b. *The Milwaukie Downtown Riverfront and Land Use Framework Plan is a Comprehensive Plan ancillary document.*
  - i. *Item 1.7, Fundamental Concepts – Main Street “Retail Armature” – the proposed amendments are consistent with the concept of Main Street presented in this plan. The Framework Plan calls for establishing an environment in which people can shop, work, live, and socialize on Main Street. New development would be required to construct space conducive to restaurant and retail uses and include doors and fenestration consistent with this concept. The amendments maintain consistency with the fundamental concept of creating a lively pedestrian street by requiring uses that have some level of activity, even if not all uses are retail or restaurant, and maintaining requirements for ground floor windows and doors, having buildings with no street setback, and requiring window views into active areas such as storefront, lobbies, or working areas.*
  - ii. *Item 1.9, Key Land Use Features – the amendments are consistent with the statement about revitalizing Main Street by having a variety of uses including shops and services.*
  - iii. *Item 1.13, Storefront Main Street Area – the proposed amendments are consistent with the vision for this area in that structures are required to be built so as to accommodate retail and restaurant uses, and that the plan includes a mixture of offices and retail uses along Main Street.*
- c. *The Downtown Public Area Requirements plan is a Comprehensive Plan ancillary document. The amendments are consistent with this document in that they do not affect or alter the streetscape improvements envisioned for downtown.*
- iii) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.  
*The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments.*

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

*The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. DLCD was supportive of the increased flexibility afforded for properties downtown. DLCD did not otherwise identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.*

*The Oregon Department of Transportation (ODOT) contacted staff via telephone regarding ODOT's comments. ODOT requested a finding regarding changes to use allowances for the Downtown Office zone and the compliance of these changes with the State Transportation Planning Rule (Oregon Administrative Rules 660-012-0060). Analysis from Metro with regard to the Regional Transportation Plan indicated that the impacts of the amendments related to retail and restaurant use in the Downtown Office zone are materially insignificant in comparison to existing zoning, and would have little or no economic impact and no significant change in travel behavior. The proposed zoning amendments will not affect the trip generation of the downtown zones and does not affect compliance with the State Transportation Planning Rule*

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

*The City has not identified any Federal Regulations that are relevant to the proposed amendments.*

## Underline/Strikeout Amendments

### Zoning Ordinance

#### CHAPTER 19.300 BASE ZONES

##### 19.304 DOWNTOWN ZONES

###### 19.304.1 Purpose

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan, ~~and to focus pedestrian-oriented retail uses to the traditional downtown core along Main Street.~~ Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

###### 19.304.2 Characteristics of the Downtown Zones

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The “Zoning Map of Milwaukie, Oregon” provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

###### A. Downtown Storefront (DS)

The Downtown Storefront Zone is established to preserve and enhance the commercial “Main Street” character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. A range of pedestrian-oriented Retail uses, such as retail, restaurant, and offices, are encouraged ~~required~~ on the ground floors of buildings fronting on Main Street with storefront design standards. ~~Office and/or residential Residential~~ Residential uses are allowed only on upper floors. Warehousing and industrial ~~Industrial~~ uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A “Village Concept Area” has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets ~~a City-owned site adjacent to the library, City Hall, a high-density residential area to the north, and existing Main Street storefront uses.~~ These uses include rowhouses and multifamily buildings.

###### B. Downtown Commercial (DC)

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that



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engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

### C. Downtown Office (DO)

The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. ~~Retail commercial uses are limited to support the primary uses (office, entertainment, and hotel establishments) and encourage retail development along Main Street.~~ The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

### D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area ~~a defined portion of the Downtown Residential Zone~~ to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

### E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

## 19.304.3 Uses

### A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
<b>Residential</b>					
<del>Single-family detached</del>	N	N	N	N	N
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[240]	P	N	P	N
Senior and retirement housing	N	P	N	P	N

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Second-floor housing	P	P	P	P	N
<b>Commercial/Office<sup>+</sup></b>					
<del>Automobile service station</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>
Automobile repair	N	L[32]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[43]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	<del>PL</del> [4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	<del>PL</del> [7]	P	P	L[5]	N
Retail trade	P	P	L[43]	L[5]	N
<u>Manufacturing and production</u>	<u>L</u> [7]	<u>L</u> [7]	<u>L</u> [7]	<u>L</u> [7]	<u>N</u>
<del>Industrial</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>
<b>Other</b>					
<del>Adult entertainment</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>	<del>N</del>
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
<u>Day care/childcare</u>	<u>L</u> [9]	<u>L</u> [9]	<u>L</u> [9]	<u>L</u> [9]	<u>N</u>
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
<del>Transit centers</del>	<del>L</del> [9]	<del>L</del> [9]	<del>N</del>	<del>N</del>	<del>N</del>

<sup>+</sup> Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304-2 and Subsection 19.304.4.B.7 for details).

**B. Limited Uses**

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

**C. Nonconforming Uses**

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

**D. Prohibited Uses**

Uses listed in Table 19.304.3 with an “N” or uses not listed above are prohibited as new uses.

**E. Accessory Uses**

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Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

### F. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

### G. ~~Limited Uses~~ Limitations

The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.304.3.

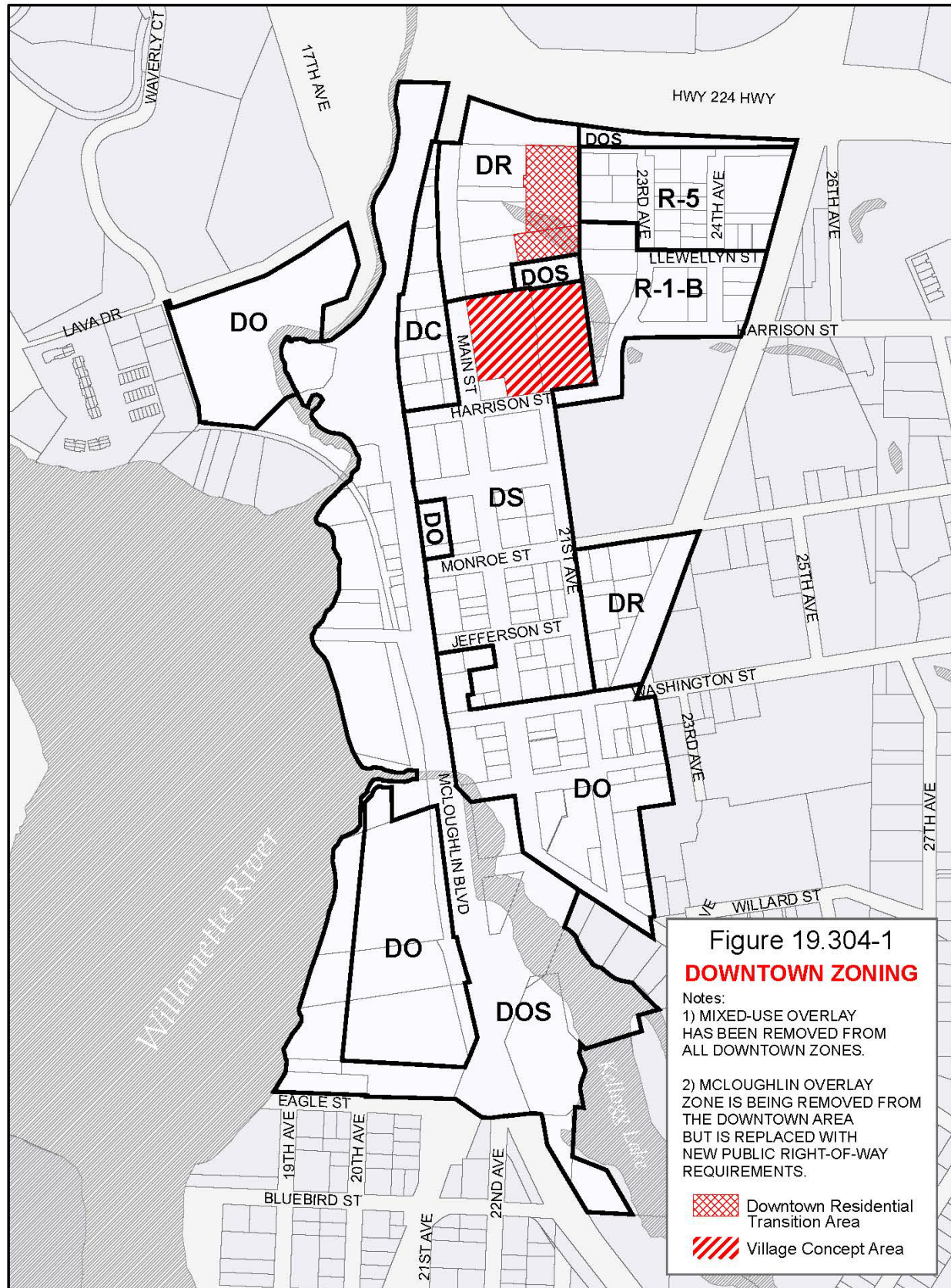
1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see "Downtown Residential Transition Area ~~Transitional Residential Area~~" on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see "Village Concept Area" on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the "Village Concept Area."
2. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.
- ~~32.~~ Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
- ~~43.~~ In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 10,000-5,000 sq ft in floor area on the ground floor per use. ~~These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).~~
- ~~4.~~ ~~In the portions of the Downtown Storefront Zone where ground floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.~~
5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and individual office, personal service, or retail uses may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.  
~~In the portions of the Downtown Storefront Zone where ground floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.~~

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8. New community service uses or expansion/alteration of an existing community service use that is not otherwise allowed by Table 19.304.3 in the downtown zones may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
- ~~9. Transit centers shall comply with the public area requirements for transit centers.~~
9. Day care and childcare uses are limited to 3,000 sq ft.
- ~~10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.~~

# Proposed Code Amendment



## Proposed Code Amendment

**19.304.4 Development Standards****A. Purpose**

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

<b>Table 19.304.4 Downtown Zones—Development Standards</b>					
<b>Standard</b>	<b>Downtown Storefront</b>	<b>Downtown Commercial</b>	<b>Downtown Office</b>	<b>Downtown Residential</b>	<b>Downtown Open Space</b>
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft <sup>1</sup>	None
2. Minimum street frontage	15'	30'	30'	15'/30' <sup>1</sup>	None
3. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
4. Building height (see Figure 19.304-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
5. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
6. Street setback (see Figure 19.304-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
7. Other setbacks (side and rear)	None	None	None	15' <sup>2</sup>	None
8. Spaces for ground-floor active uses-retail (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10. Drive-through facilities	No	No	No	No	No
11. Off-street parking required	No	Yes	No/Yes <sup>3</sup>	Yes	Yes
12. Landscaping	None	10%	None	15%	20%

<sup>1</sup> Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

<sup>2</sup> Setbacks are required only where the DR zone abuts a lower-density residential zone.

<sup>3</sup> Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

Figure 19.304-2—Required Retail Ground Floor Active Use Areas

Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

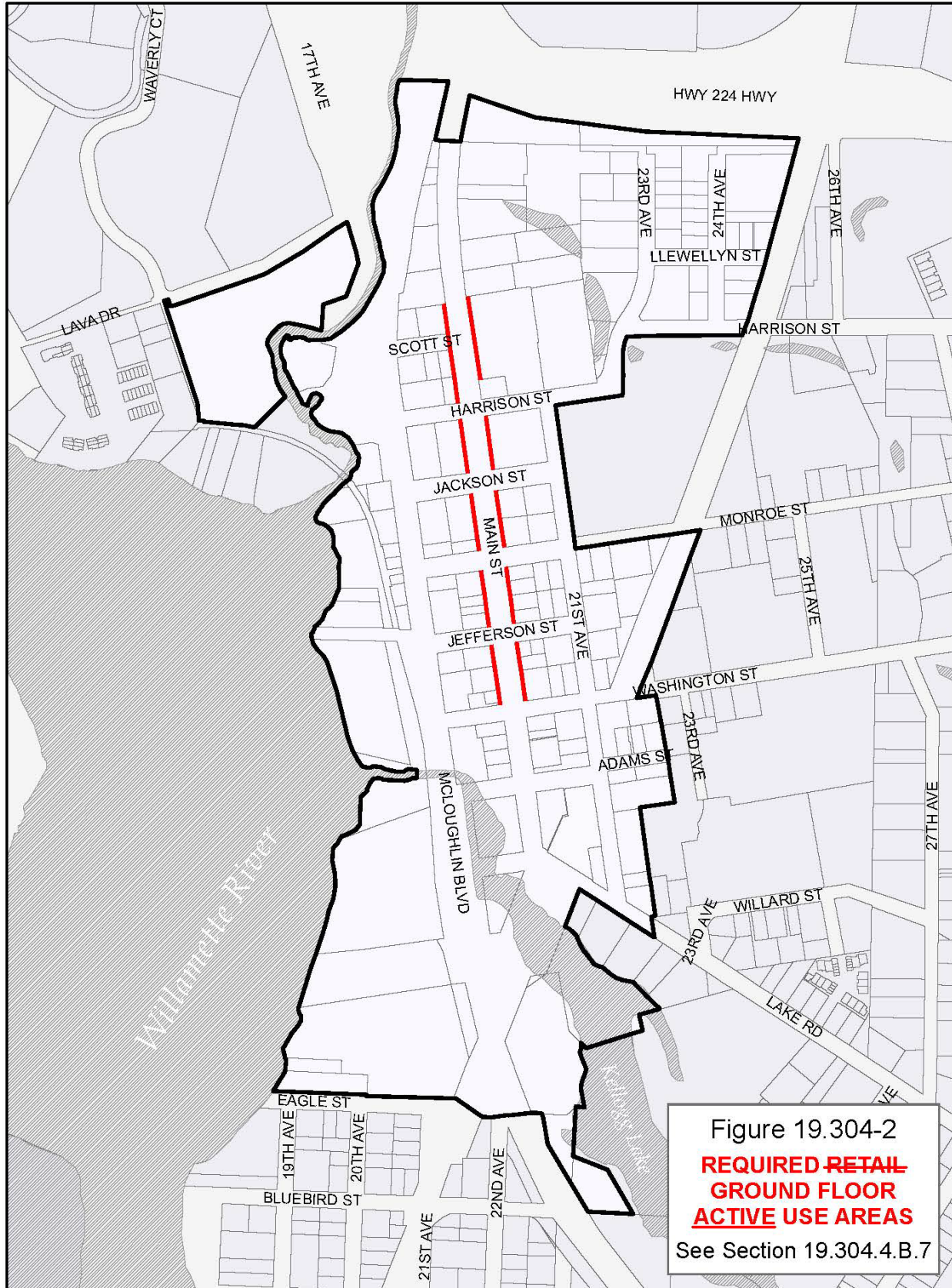
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Figure 19.304-5—Required Ground Floor Windows and Openings

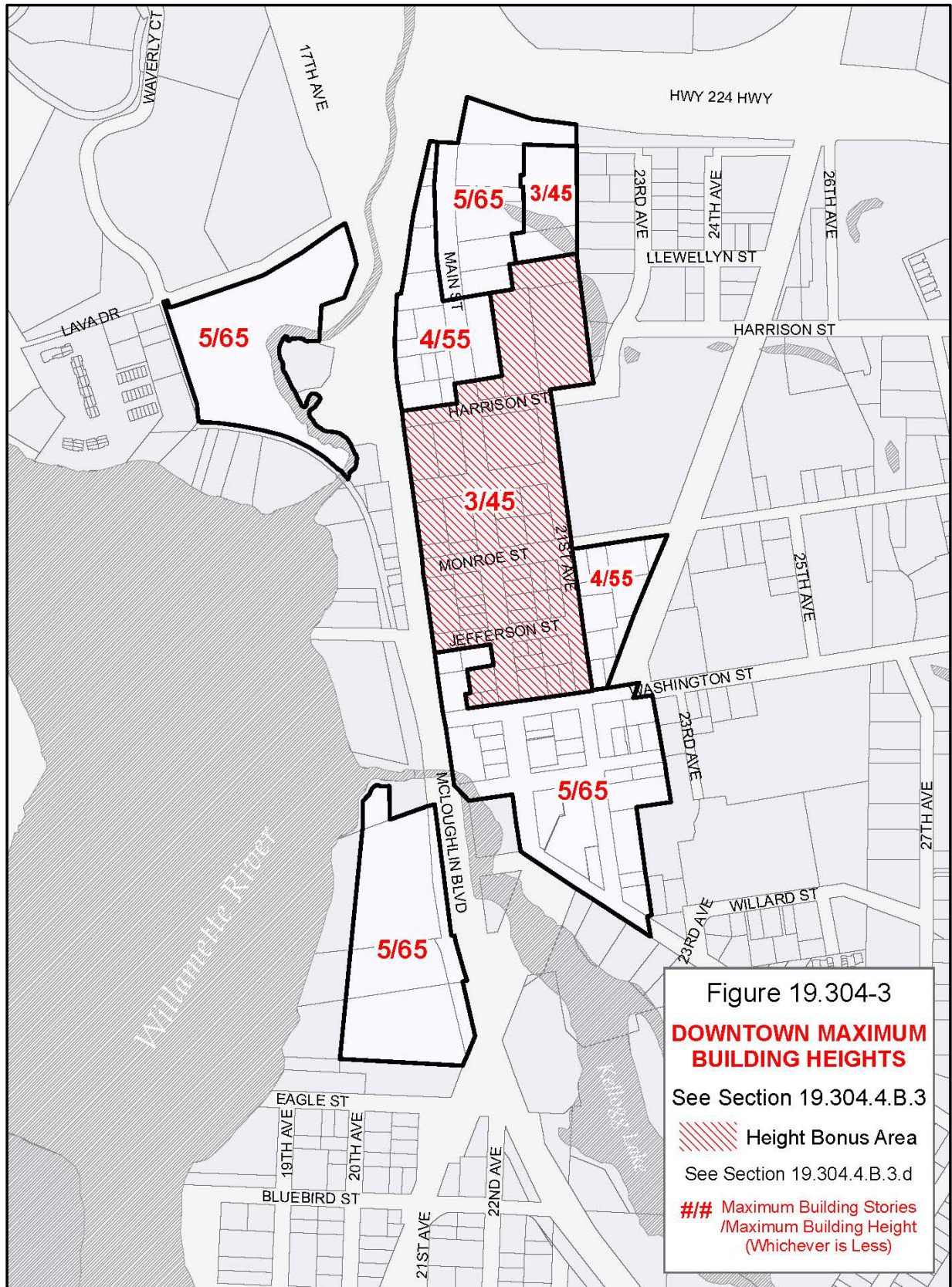


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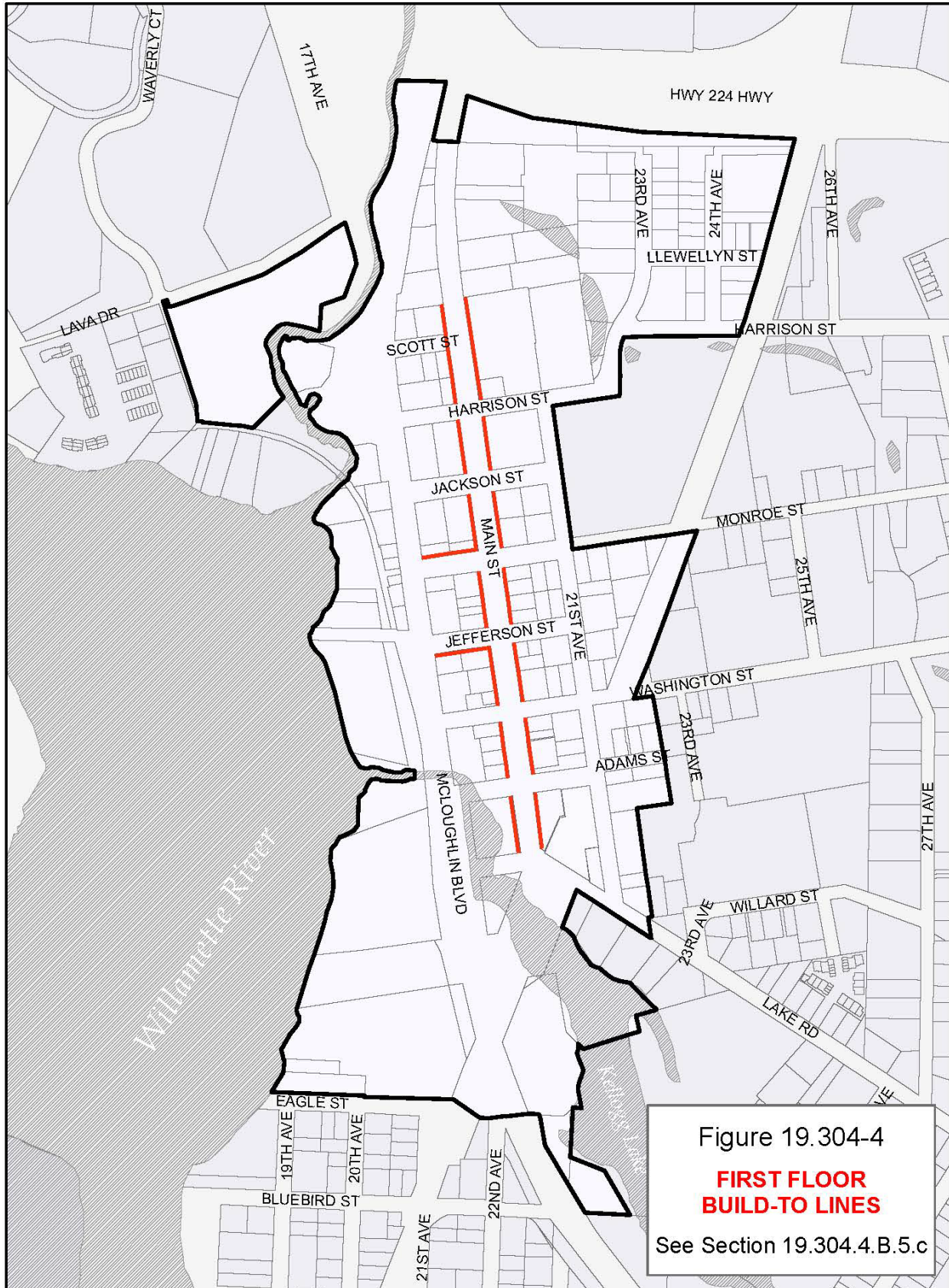


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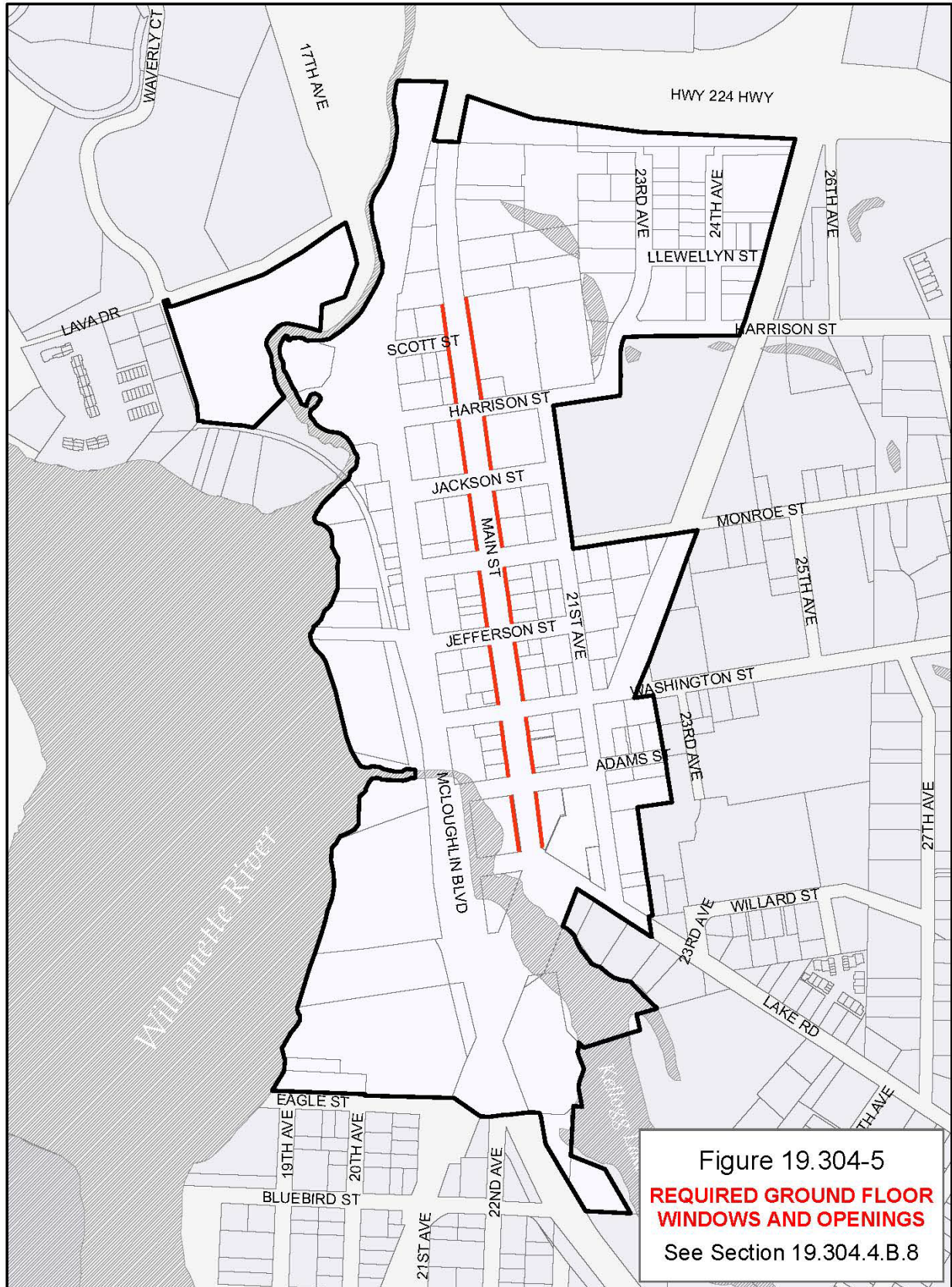


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## B. Explanation of Development Standards

### 1. Minimum Lot Size

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zones (in the Downtown Residential Transition Area ~~transitional residential area~~ only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area ~~transitional residential area~~) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

### 2. Floor Area Ratios

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: ~~transit centers, public parks and plazas, and~~ commercial parking facilities and public parks and plazas.

### 3. Building Height

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

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- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.
- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

### 4. Residential Density

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

### 5. Street Setbacks

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
  - (1) Projections or recesses of up to 18 in are allowed.
  - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown

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Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

### 6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

### 7. Spaces for Ground-Floor Active Uses-Retail/Restaurants

Spaces that accommodate active uses Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. New buildings in the required ground floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where not less than 75% of the ground floor space in a new building fronting Main Street meets the following requirements:

- a. The ground floor height, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building), must be at least 12 feet. The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.
- b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

~~This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building.~~

### 8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

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- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

### 9. Drive-Through Facilities

Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

### 10. Off-Street Parking

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:
  - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
  - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
  - (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

### 11. Minimum Landscaping/Open Space

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the ~~public area requirements~~ Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

## 12. Right-of-Way Projections

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

### 19.304.5 Public Area Requirements

#### A. Purpose

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an Ancillary Document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

~~The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design.~~

#### B. Applicability, Review Process, and Standards

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along right-of-ways included in the PAR shall be consistent with the plan as implemented in the Milwaukie Public Works Standards.

~~All downtown development projects that meet the applicability provisions of Section 19.702 are subject to Chapter 19.700 in its entirety, with the exception of specified portions of Section 19.708 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.~~

#### C. ~~Review Process~~

~~All downtown development projects that meet the applicability provisions of Section 19.702 shall submit all appropriate applications per Subsection 19.703.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use~~



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~~applications for downtown development projects shall be submitted in accordance with Subsection 19.703.2 and processed in accordance with Chapter 19.1000.~~

### ~~D. Street Design Standards~~

~~If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.704, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.705. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.703.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.703.5.B.~~

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## CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

### 19.702 APPLICABILITY

#### 19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
  - B. Subdivisions.
  - C. Replats that increase the number of lots.
  - D. New construction.
  - E. Modification or expansion of an existing structure ~~(including single-family residential expansions as described in Subsection 19.702.2)~~ or a change or intensification in use that results in any one of the following: See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
    - 1. A new dwelling unit.
    - 2. Any increase in gross floor area.
    - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.
- 

#### 19.702.3 Downtown zones

##### A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city, and to encourage new uses in and revitalization of existing structures in downtown.

##### B. Exemptions

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1. For expansions or conversions that increase the combined gross floor of all structures by 3,000 sq ft or less, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt as described in the approval criterion of Subsection 19.703.3.B.

**C. Limitation to exemptions**

Not more than 1 exempt increase in gross floor area as described in Subsection 19.702.3.B.1 is allowed every 10 years. The 10-year period starts from the date the city issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. The subsequent development(s) is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development(s) do not exceed 3,000 sq ft.
2. The subsequent development(s) is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development(s) is greater than 3,000 sq ft. The review of Chapter 19.700 is based on all floor areas that are involved with the development.

**19.702.43 Exemptions**

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**19.703 REVIEW PROCESS****19.703.3 Approval Criteria****B. Transportation Facility Improvements**

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall provide only transportation improvements identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

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**19.703.4 Determinations****B. Street Design**

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for development downtown that is exempt per Subsection 19.702.3.B.

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### 19.708 TRANSPORTATION FACILITY REQUIREMENTS

#### 19.708.1 General Street Requirements and Standards

##### A. Access Management

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

##### B. Clear Vision

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

##### C. Development in Downtown Zones

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the ~~public area requirements plan (PAR)~~ per Subsection 19.304.5.

##### D. Development in Non-Downtown Zones

Development in a non-downtown zone that has frontage on a street section shown in the ~~Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR)~~ is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR ~~that document~~ for that street frontage. The following general provisions apply only to street frontages that are not shown in the ~~Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR)~~ and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

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### 19.710 DOWNTOWN REIMBURSEMENT

#### 19.710.1 Reimbursement Eligibility

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The city will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

A. The expenditure is required as a prerequisite to obtaining a development or building permit.

B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.

C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.

D. Either the fee in lieu of construction was paid to the City or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012 and \_\_\_\_\_, 2012, the effective date of Ord. # \_\_\_\_\_.

E. The development or change in use would have been exempt under Subsection 19.702.3.B.

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F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement, or the successors in interest of such parties.

**19.710.2 Reimbursement Amount**

A. Reimbursement by the City under this subsection shall be for one of the following expenses.

1. The total amount paid by the party or parties requesting reimbursement to the City as a fee in lieu of construction for right-of-way improvements on the property's frontage.
2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.

B. The following expenses are not eligible for reimbursement by the City: System Development Charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

**19.710.3 Reimbursement Process**

A property owner in the downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

A. The written request for reimbursement must include the following information.

1. The address or tax lot number of the property in question.
2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
3. Documentation of current ownership of the property in question.
4. The amount of the requested reimbursement.
5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
6. A copy of the decision requiring the construction of the subject right-of-way improvements or the payment of the subject fee in lieu of construction, for which reimbursement is requested.

B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.

C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

**19.710.4 Time Limit on Reimbursement**

Section 19.710 shall be effective for one year from \_\_\_\_\_, 2012, the effective date of Ord. # \_\_\_\_\_. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

## **"Clean" Amendments**

### **Zoning Ordinance**

#### **CHAPTER 19.300 BASE ZONES**

##### **19.304 DOWNTOWN ZONES**

###### **19.304.1 Purpose**

This section of the Zoning Ordinance implements the Downtown and Riverfront Land Use Framework Plan, Milwaukie Comprehensive Plan, and Town Center Master Plan. The downtown and riverfront area is envisioned as the focus of the community. Five zones are designated to reflect the distinctions between different areas of the Downtown and Riverfront Land Use Framework Plan. Specific development standards, public area requirements, and design standards are adopted for the downtown zones to assure an active, attractive, and accessible environment for shoppers, employees and residents.

###### **19.304.2 Characteristics of the Downtown Zones**

Five specific zones are adopted to implement the Downtown and Riverfront Land Use Framework Plan. The zones are shown on Figure 19.304-1. The "Zoning Map of Milwaukie, Oregon" provides a larger-scale map of zone boundaries. The zones reflect the varied land uses, densities, and urban design character planned for different areas, as described and illustrated in the Downtown and Riverfront Land Use Framework Plan. The characteristics of the individual zones are described below.

###### **A. Downtown Storefront (DS)**

The Downtown Storefront Zone is established to preserve and enhance the commercial "Main Street" character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business, and residential uses. A range of pedestrian-oriented uses, such as retail, restaurant, and offices, are encouraged on the ground floors of buildings fronting on Main Street with storefront design standards. Residential uses are allowed only on upper floors. Warehousing and industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A "Village Concept Area" has been established in the DS Zone to allow a broader mix of uses on the site at the northeast corner of Main and Harrison streets. These uses include rowhouses and multifamily buildings.

###### **B. Downtown Commercial (DC)**

The Downtown Commercial Zone is established to allow auto-accommodating commercial development in the area between McLoughlin Boulevard and Main Street, north of Harrison Street. A range of retail, service, office, and residential uses is permitted to support a gradual transition to higher densities and a greater mix of uses. Boulevard enhancements will improve the visual character of McLoughlin Boulevard and provide a link to the riverfront and adjacent downtown zones. The desired character for this zone includes buildings that engage at least 1 street right-of-way and include a pedestrian-oriented entry and well-landscaped parking lots.

###### **C. Downtown Office (DO)**

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The Downtown Office Zone is established to provide for office, entertainment, and hotel uses along high-visibility major arterial streets, as designated by the City of Milwaukie's Transportation System Plan. The desired character for this zone will vary depending on the nature of the proposed use and individual site features.

### D. Downtown Residential (DR)

The Downtown Residential Zone is established to increase housing opportunities in close proximity to downtown shopping, transit, and open space amenities. The major types of new housing will be apartments and condominiums. Minimum densities of 30 units per acre will assure that land is used efficiently and will increase the customer base for nearby businesses. Additionally, the higher densities will support urban features such as parking under structures and durable building materials. Development at minimum densities of 10 units per acre up to a maximum of 30 units per acre will be permitted in the Downtown Residential Transition Area to provide a transition to lower-density residential zones. The desired character for the Downtown Residential Zone includes buildings located close to and oriented to the public sidewalk, with off-street parking located under or internal to building sites.

### E. Downtown Open Space (DOS)

The Downtown Open Space Zone is established to implement the "Public" designation of the Milwaukie Comprehensive Plan and to provide a specific zone to accommodate open space, park, and riverfront uses. The Downtown Open Space Zone is generally applied to lands that are in public ownership along the Willamette River, Kellogg Creek, Spring Creek, and Johnson Creek in the downtown area. The desired character for the Downtown Open Space Zone includes parkland, open space, and riverfront amenities.

## 19.304.3 Uses

### A. Permitted Uses

Uses allowed in the downtown zones are listed in Table 19.304.3 with a "P." These uses are allowed if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

Table 19.304.3 Downtown Zones—Uses					
Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
<b>Residential</b>					
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[2]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
<b>Commercial/Office</b>					
Automobile repair	N	L[3]	N	N	N
Commercial recreation	P	P	P	N	N

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Eating/drinking establishment	P	P	L[4]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	P	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	P	P	P	L[5]	N
Retail trade	P	P	L[4]	L[5]	N
Manufacturing and production	L[7]	L[7]	L[7]	L[7]	N
<b>Other</b>					
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Day care/childcare	L[9]	L[9]	L[9]	L[9]	N
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P

**B. Limited Uses**

Uses that are allowed subject to limitations are listed in Table 19.304.3 with an “L.” These uses are allowed if they comply with the limitations listed in Subsection 19.304.3.G below, and if they comply with the development and design standards, any applicable design guidelines, and other regulations of this title.

**C. Nonconforming Uses**

Existing structures and uses that do not meet the standards for a particular downtown zone may continue in existence. Alteration of a nonconforming use or structure that is not in compliance with applicable standards shall be subject to the provisions of Chapter 19.800 Nonconforming Uses. For privately owned property with legal nonconforming uses and structures within the Downtown Open Space Zone, Subsection 19.803.2 is not applicable, but all other provisions of Chapter 19.800 shall apply.

**D. Prohibited Uses**

Uses listed in Table 19.304.3 with an “N” or uses not listed above are prohibited as new uses.

**E. Accessory Uses**

Uses that are accessory to a primary use are allowed if they comply with all development standards. Accessory uses include but are not limited to restrooms in City parks and refreshment stands at the library.

**F. Similar Uses**

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to a listed use in Table 19.304.3. The unlisted use shall be subject to the standards applicable to the similar listed use.

**G. Use Limitations**

**Proposed Code Amendment**

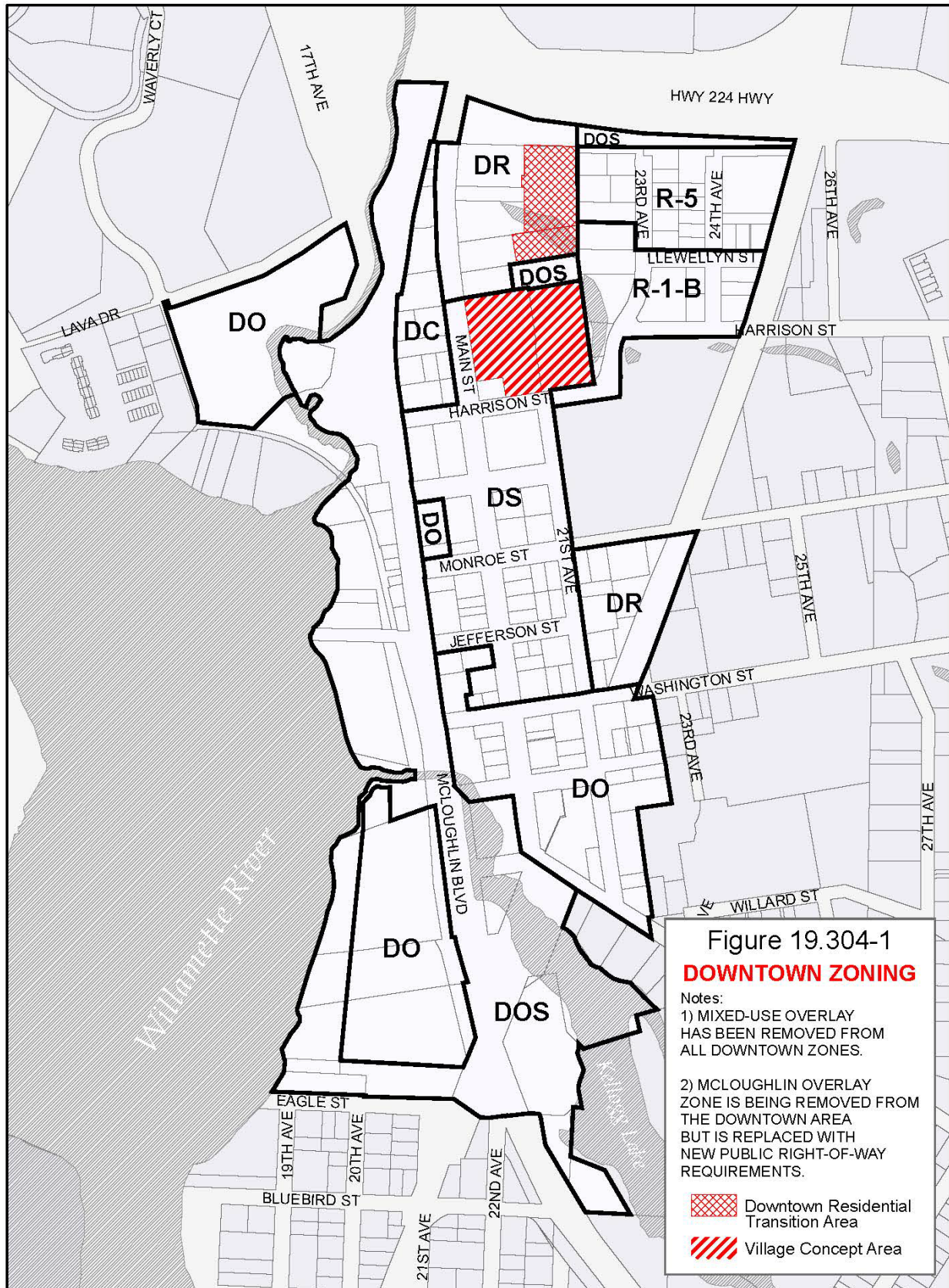
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The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an “L” in Table 19.304.3.

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see “Downtown Residential Transition Area” on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see “Village Concept Area” on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the “Village Concept Area.”
2. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See “Village Concept Area” on Figure 19.304-1.
3. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
4. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 10,000 sq ft in floor area on the ground floor per use.5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and individual office, personal service, or retail uses may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.
8. New community service uses or expansion/alteration of an existing community service use that is not otherwise allowed by Table 19.304.3 may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Day care and childcare uses are limited to 3,000 sq ft.



## Proposed Code Amendment



## Proposed Code Amendment

### 19.304.4 Development Standards

#### A. Purpose

The development standards address several issues of particular importance to maintaining the appropriate character for the downtown zones. Table 19.304.4 summarizes the development standards that apply in the downtown zones.

Table 19.304.4 Downtown Zones—Development Standards					
Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft <sup>1</sup>	None
2. Minimum street frontage	15'	30'	30'	15'/30' <sup>1</sup>	None
3. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
4. Building height (see Figure 19.304-3)					
Minimum	35'	25'	25'	None	None
Maximum	45'-55'	55'	65'	45'-65'	None
5. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
6. Street setback (see Figure 19.304-4)					
Minimum	0'	0'	0'	0'	0'
Maximum	10'	50'	10'	None	None
7. Other setbacks (side and rear)	None	None	None	15' <sup>2</sup>	None
8. Spaces for ground-floor active uses (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10. Drive-through facilities	No	No	No	No	No
11. Off-street parking required	No	Yes	No/Yes <sup>3</sup>	Yes	Yes
12. Landscaping	None	10%	None	15%	20%

<sup>1</sup> Townhouse lots may be as small as 750 sq ft, with a minimum street frontage of 15 ft. All other lots created in the DR zone shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

<sup>2</sup> Setbacks are required only where the DR zone abuts a lower-density residential zone.

<sup>3</sup> Off-street parking is not required in the DO zone to the north of Washington Street and east of McLoughlin Boulevard. Off-street parking is required in the DO zone located outside of this boundary.

Table 19.304.4 is supplemented by the explanation of the development standards provided in Subsection 19.304.4.B below, and the following figures:

Figure 19.304-2—Required Ground Floor Active Use Areas

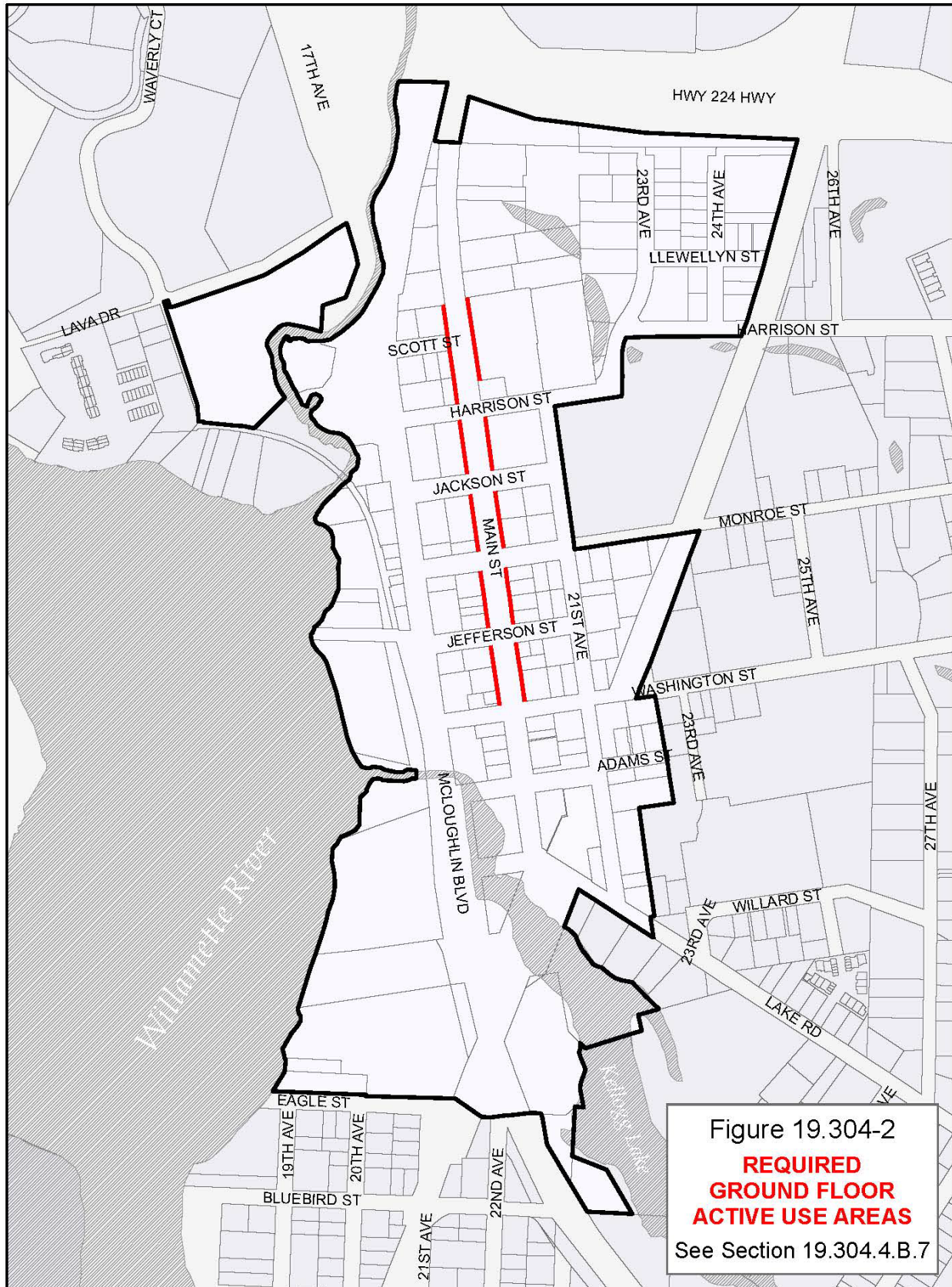
Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground Floor Windows and Openings

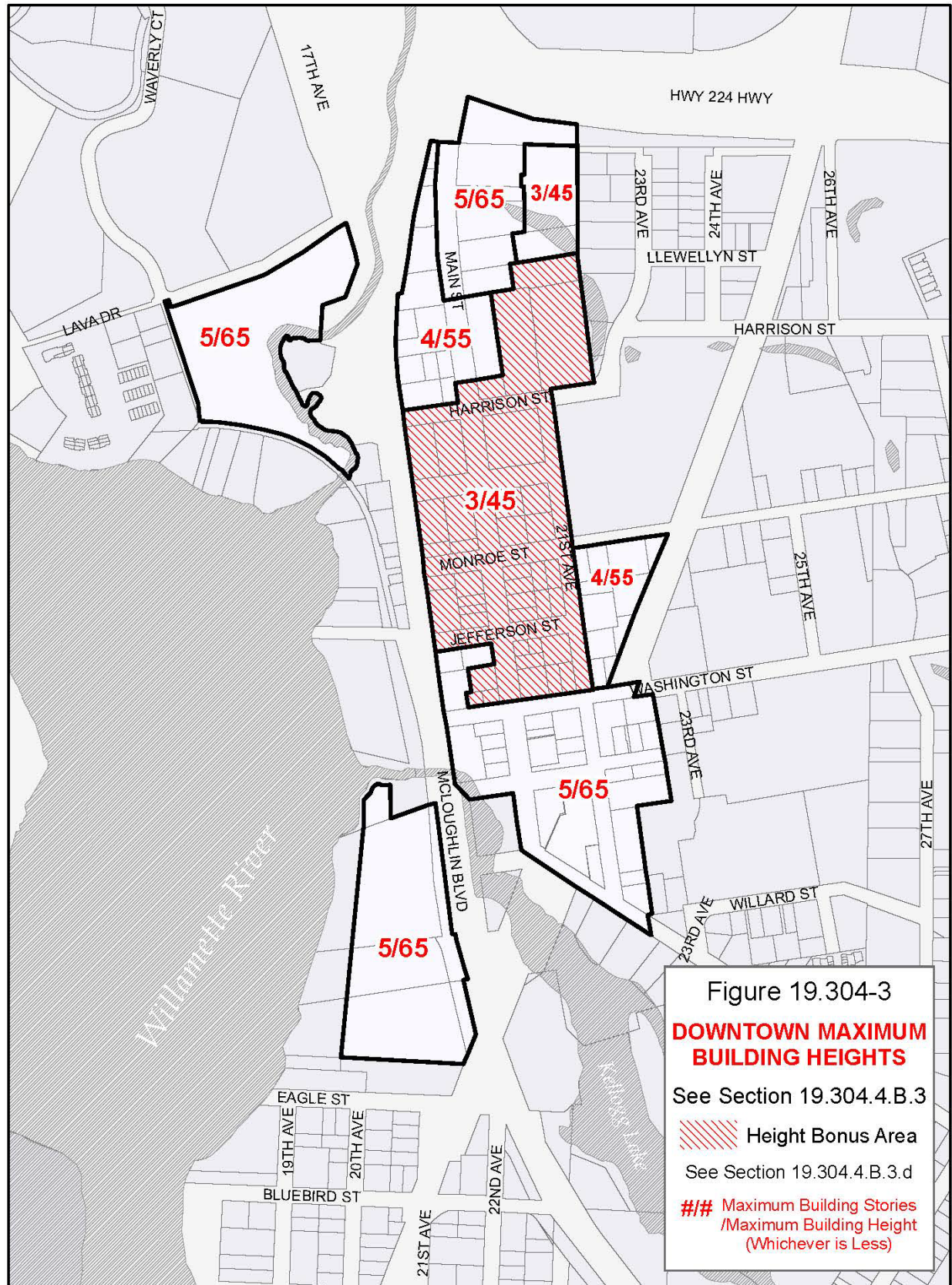


## Proposed Code Amendment



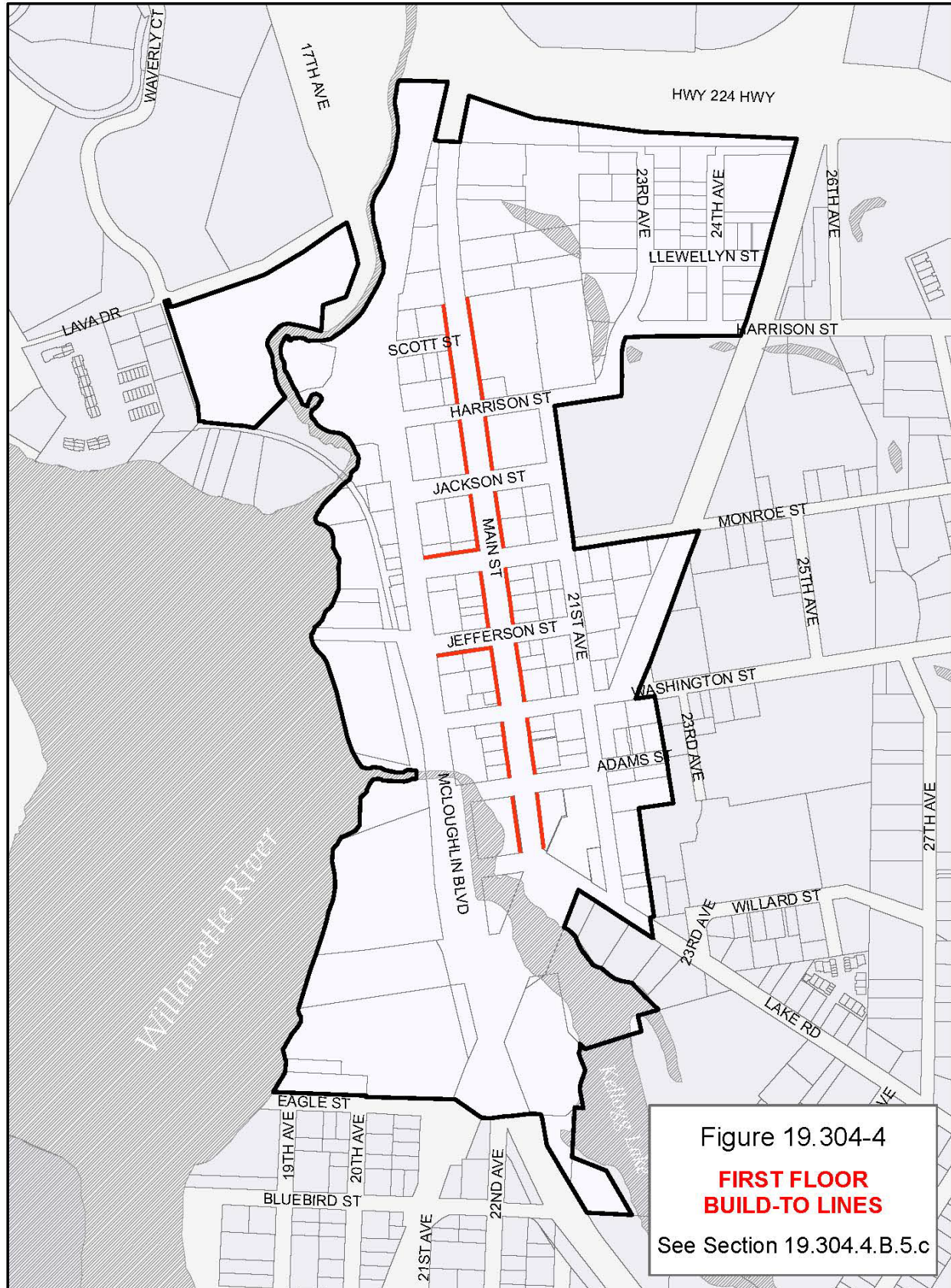


## Proposed Code Amendment



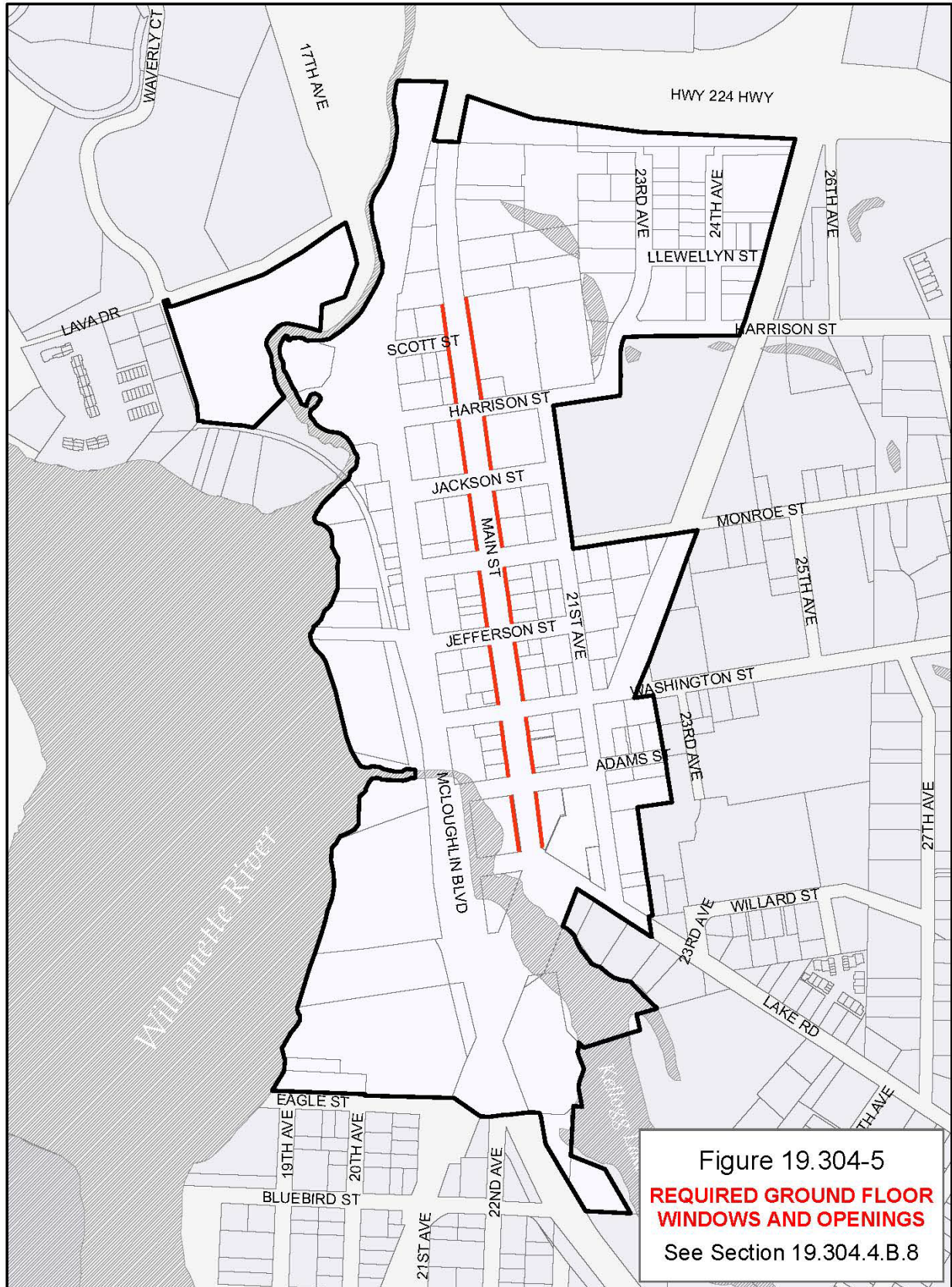


## Proposed Code Amendment





Proposed Code Amendment



**B. Explanation of Development Standards****1. Minimum Lot Size**

New lots created in the downtown zones shall meet the minimum lot size standards of Table 19.304.4 as further described below.

- a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zone (in the Downtown Residential Transition Area only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.
- b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.
- c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.
- d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

**2. Floor Area Ratios**

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum floor area ratios help to ensure that the intensity of development is controlled and that more intense forms are confined to appropriate areas of the downtown.

- a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.
- b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.
- d. The following uses are exempt from the minimum floor area ratios: commercial parking facilities and public parks and plazas.

**3. Building Height**

Minimum and maximum building height standards serve several purposes. They promote a compatible building scale and relationship of one structure to another. Building height standards also establish a consistent streetscape.

- a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.
- b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.
- c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.

**Proposed Code Amendment**

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- d. An opportunity is provided for a height bonus in a defined area of the downtown plan. For the area identified on Figure 19.304-3 as the height bonus area, the base building height is 3 stories or 45 ft, whichever is less. However, if at least 1 floor or 25% of the gross floor area is devoted to residential uses, the building is allowed a height of 4 stories or 55 ft, whichever is less.

**4. Residential Density**

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied in the Downtown Residential Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

- a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.
- b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.
- c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

**5. Street Setbacks**

Buildings are allowed and encouraged to build up to the street right-of-way in all downtown zones. Required build-to lines are established in specific areas of the downtown to ensure that the ground floors of buildings engage the street right-of-way (see Figure 19.304-4). The build-to line ensures compatibility and harmony between buildings, enabling a series of different buildings to maintain or establish a continuous vertical street wall.

- a. No minimum street setbacks are required in any of the downtown zones.
- b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.
- c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:
  - (1) Projections or recesses of up to 18 in are allowed.
  - (2) Doorways may be set back a maximum of 8 ft from the build-to line.
- d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.



## 6. Other Setbacks

No specific side or rear yard setbacks are required for the downtown zones with the exception of the Downtown Residential Zone, where a minimum 15-ft side/rear yard setback is required where the Downtown Residential Zone abuts lower-density residential zones.

## 7. Spaces for Ground-Floor Active Uses

Spaces that accommodate active uses are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. New buildings in the required ground floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where not less than 75% of the ground floor space in a new building fronting Main Street meets the following requirements:

- a. The ground floor height, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building), must be at least 12 feet. The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.
- b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

## 8. Ground-Floor Windows/Doors

Long expanses of blank walls facing the street or other public area have negative impacts on the streetscape and the pedestrian environment. To minimize these effects, the standards of this section are intended to enhance street safety and provide a comfortable walking environment by providing ground-level features of interest to pedestrians in specific areas of the downtown zones.

For block faces identified on Figure 19.304-5 (Ground-floor Windows and Openings), the exterior wall(s) of the building facing the street/sidewalk must meet the following standards:

- a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.
- b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
- c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
- d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

## 9. Drive-Through Facilities

**Proposed Code Amendment**

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Drive-through facilities can conflict with the easy, safe, and convenient movement of pedestrians. Therefore, drive-through facilities are prohibited in the downtown zones to create a pedestrian-friendly environment where transit, bicycles, and walking are encouraged.

**10. Off-Street Parking**

The desired character for the Downtown Storefront Zone, particularly along Main Street, is defined by a continuous façade of buildings close to the street, with adjacent on-street parking.

- a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.
- b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.
- c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:
  - (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;
  - (2) The off-street parking area or curb cut is visually screened from view from Main Street; and
  - (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

**11. Minimum Landscaping/Open Space**

The minimum landscaping/open space requirements are established to provide amenities for downtown residents, promote livability, and help soften the effects of built and paved areas.

- a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.
- b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.
- c. All material in the minimum required landscaped area shall be live plant material. Materials such as bark or river rock may be used only if approved as part of the overall landscaping plan.

**12. Right-of-Way Projections**

Right-of-way projections of up to 4 ft are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

**19.304.5 Public Area Requirements****A. Purpose**

The Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR) is an Ancillary Document to the Milwaukie Comprehensive Plan. The purpose of the PAR is to ensure that, as revitalization occurs in downtown, there will be a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The PAR is implemented through Chapter 19.700 and the Milwaukie Public Works Standards.

**B. Applicability, Review Process, and Standards**

Development in downtown zones is subject to the review process and standards of Chapter 19.700 as specified in the chapter's applicability provisions. Required public improvements along right-of-ways included in the PAR shall be consistent with the plan as implemented in the Milwaukie Public Works Standards.

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## **CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS**

**19.702 APPLICABILITY****19.702.1 General**

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats that increase the number of lots.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.
  - 1. A new dwelling unit.
  - 2. Any increase in gross floor area.
  - 3. Any projected increase in vehicle trips, as determined by the Engineering Director.

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**19.702.3 Downtown zones**
**A. Purpose**

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city, and to encourage new uses in and revitalization of existing structures in downtown.

**B. Exemptions**

## Proposed Code Amendment

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1. For expansions or conversions that increase the combined gross floor of all structures by 3,000 sq ft or less, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt as described in the approval criterion of Subsection 19.703.3.B.

### C. Limitation to exemptions

Not more than 1 exempt increase in gross floor area as described in Subsection 19.702.3.B.1 is allowed every 10 years. The 10-year period starts from the date the city issues an occupancy permit or final inspection for the expanded or converted development.

Chapter 19.700 applies to subsequent development that would exceed this limitation as follows.

1. The subsequent development(s) is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development(s) do not exceed 3,000 sq ft.
2. The subsequent development(s) is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development(s) is greater than 3,000 sq ft. The review of Chapter 19.700 is based on all floor areas that are involved with the development.

### 19.702.4 Exemptions

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## 19.703 REVIEW PROCESS

### 19.703.3 Approval Criteria

#### B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Section 19.706 Fee in Lieu of Construction.

Development in downtown zones that is exempt per Subsection 19.702.3.B shall provide only transportation improvements identified by a Transportation Impact Study as necessary to mitigate the development's transportation impacts. Such development is not required to provide on-site frontage improvements.

### 19.703.4 Determinations

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#### B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage improvements are not required for development downtown that is exempt per Subsection 19.702.3.B.

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## **19.708 TRANSPORTATION FACILITY REQUIREMENTS**

### **19.708.1 General Street Requirements and Standards**

#### **A. Access Management**

All development subject to Chapter 19.700 shall comply with access management standards contained in Chapter 12.16.

#### **B. Clear Vision**

All development subject to Chapter 19.700 shall comply with clear vision standards contained in Chapter 12.24.

#### **C. Development in Downtown Zones**

Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Public Works Standards, which implement the streetscape design of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements (PAR). Unless specifically stated otherwise, the standards in Section 19.708 do not apply to development located in the downtown zones or on street sections shown in the (PAR) per Subsection 19.304.5.

#### **D. Development in Non-Downtown Zones**

Development in a non-downtown zone that has frontage on a street section shown in the (PAR) is subject to the requirements of the Milwaukie Public Works Standards, which implements the street design standards and right-of-way dedication requirements contained in the PAR for that street frontage. The following general provisions apply only to street frontages that are not shown in the PAR and for development that is not in any of the downtown zones listed in Subsection 19.708.1.C above:

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## **19.710 DOWNTOWN REIMBURSEMENT**

### **19.710.1 Reimbursement Eligibility**

In downtown zones, the City will reimburse property owners for certain expenditures related to frontage improvements. The city will reimburse those requesting reimbursement for expenditures that meet all of the following criteria.

- A. The expenditure is required as a prerequisite to obtaining a development or building permit.
- B. The development approved by the permit for which the expenditure was a prerequisite, has been completed in its entirety.
- C. The expenditure is either a payment made to the City as a fee in lieu of construction pursuant to Section 19.706, or is the amount paid to construct right-of-way frontage improvements, pursuant to Subsection 19.703.3.B.
- D. Either the fee in lieu of construction was paid to the City or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012 and \_\_\_\_\_, 2012, the effective date of Ord. #\_\_\_\_\_.
- E. The development or change in use would have been exempt under Subsection 19.702.3.B.
- F. The expenditures for which reimbursement is requested were made by the party or parties requesting reimbursement, or the successors in interest of such parties.

## **Proposed Code Amendment**

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### **19.710.2 Reimbursement Amount**

- A. Reimbursement by the City under this subsection shall be for one of the following expenses.
  - 1. The total amount paid by the party or parties requesting reimbursement to the City as a fee in lieu of construction for right-of-way improvements on the property's frontage.
  - 2. The total amount expended by the party or parties requesting reimbursement on right-of-way improvements along the property's frontage.
- B. The following expenses are not eligible for reimbursement by the City: System Development Charges, improvements identified as required mitigation by a Traffic Impact Study per Section 19.704, permit fees, or inspection fees.

### **19.710.3 Reimbursement Process**

A property owner in the downtown zone must initiate the reimbursement process by submitting a written request for reimbursement to the Community Development Director.

- A. The written request for reimbursement must include the following information.
  - 1. The address or tax lot number of the property in question.
  - 2. The name of the person or persons (individual or corporate) that are requesting the reimbursement.
  - 3. Documentation of current ownership of the property in question.
  - 4. The amount of the requested reimbursement.
  - 5. Written documentation of the payment to the City of a fee in lieu of construction or the amount expended on the construction of right-of-way improvements, by the party or parties requesting reimbursement, or the predecessors in interest to such parties.
  - 6. A copy of the decision requiring the construction of the subject right-of-way improvements or the payment of the subject fee in lieu of construction, for which reimbursement is requested.
- B. Upon receipt of a written request for reimbursement, the Community Development Director shall review the request for consistency with the requirements and standards of this section. This review is not a land use decision.
- C. Upon approval of a reimbursement request, the City shall make the funds payable to the requesting party or parties within 60 days.

### **19.710.4 Time Limit on Reimbursement**

Section 19.710 shall be effective for one year from \_\_\_\_\_, 2012, the effective date of Ord. #\_\_\_\_\_. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

**Marquardt, Ryan**

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**From:** Kimberly Keehner <enchantekim@aol.com>  
**Sent:** Friday, September 21, 2012 8:08 PM  
**To:** Siegel, Scot  
**Cc:** Asher, Kenny; Albert, Brad; Marquardt, Ryan; Monahan, Bill; Ferguson, Jeremy; Chaimov, Greg; Loomis, Joe; Miller, Mike; Hedges, David  
**Subject:** Re: Proposed amendments to the Downtown Use Standards and Public Area Requirements (PARs)  
**Importance:** High

Scott,

I am delighted to see that this is finally in the works. As we all know, it is long overdue. I look forward to a vibrant and prospering downtown Milwaukie. A downtown that will be of great value to the business owners, property owners, as well as the citizens of the City of Milwaukie.

I have a few thoughts to share in regards to the proposed amendments to the Downtown Use Standards and Public Area Requirements:

19.310.2 A

"Residential uses are only allowed on upper floors"

*It appears as if you have deleted offices as being an acceptable use for the upper floors. This is a downtown zone, why would you not allow offices to be on the upper floors of any development in a downtown zone. Are the property owners supposed to convert the existing offices to residential as they are vacated? This creates issues for property owners as well as the ground floor businesses.... an expense for property owners to convert spaces, and an increase in insurance premiums for business owners. Not to mention the parking issues (overnight parking) that will occur as a result of this, as there is no off street parking required in most of the downtown zones.*

19.310.3 G

"3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use. These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution)."

*This provision is being eliminated.... Are we not encouraging large box (ie: Walmart....etc.) to move in and take over our town in the future. Should there not be some sort of a size limitation to prevent such unintended issues down the road?*

"9. Transit centers shall comply with the public area requirements for transit centers."

*This provision is being eliminated.... Why would you eliminate PAR's for transit centers? It seems to me that transit centers, as they are not buildings would have the greatest impacts on surface streets, sidewalks, and general visual impact exterior impact on the community.*

*In the table included in this section of the proposed changes you are eliminating transit centers in all downtown zones.... where is the light rail station going to be? Have you not created a road block to your own goals?*

19.310.4 B 1 a

"a. New lots in the Downtown Storefront and Downtown Residential Zones (in the Downtown Residential Transition Area only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft. "

*This is a contradiction of table 19.310.4 which requires 30ft street frontage for downtown storefronts*

I look forward to seeing a continued cooperation between downtown business owners, downtown property owners and the City of Milwaukie.

Regards,  
Kim

**Kimberly Keehner**

Enchanté

10883 SE Main Street

Milwaukie, Oregon 97222

(503)654-4846

On Sep 7, 2012, at 3:19 PM, Alligood, Li wrote:

**\*\*You are receiving this e-mail because you own a business or property in downtown Milwaukie, or represent a group that is active in downtown\*\***

City Council has directed Planning and Engineering staff to prepare amendments to the downtown zones to address the limitations on ground floor uses and requirements for public area/streetscape improvements. The proposed draft amendments are attached for your review and comment. A hard copy is available by request.

Please review and comment on code amendments **on or before September 21, 2012**, so we can include your comments in the final draft code.

### **Background**

The downtown zones and public area requirements (PARs) were adopted in 2000 in order to implement the Downtown and Riverfront Land Use Framework Plan ("Framework Plan"). The goal of the Framework Plan is to create an attractive, lively, and pedestrian-friendly downtown. However, Council has identified two key aspects of the downtown zoning policy that make it difficult for new businesses to open in downtown Milwaukie: public area requirements, and strict limitations on ground-floor uses.

In 2008, Milwaukie modified its policy for determining when streetscape improvements, or PARs, apply. The trigger changed from building permit value to the number of new trips added to the transportation system. Council has requested that this policy be changed to raise the threshold for public area requirements so that streetscape improvements are required less often.

### **Proposed Amendments**

The proposed amendments focus on resolving the most problematic obstructions to achieving the overall vision of creating a lively downtown. Project goals include:

- Allowing a broader array of businesses to occupy buildings at the ground-floor level in downtown, particularly on Main Street and in the Downtown Office zone.

The current code restricts ground-floor uses facing Main Street to retail, eating/drinking establishments, and "personal service" uses. Retail uses are severely restricted in the DO zone south of Washington St. As a result, some storefronts have remained empty for years while building owners have turned away interested tenants.



The proposed amendments would allow for a wider variety of occupants throughout downtown, increasing the odds that Main Street will be continuously occupied and active even as the street matures to support more retail over time.

- Reduce the responsibility of development to fund implementation of the streetscape plan.

The current code requires that changes of use and development that increases trips contribute to streetscape improvements. As a result, tenant improvements, particularly if a space is converting from office to retail, trigger PARs.

The proposed amendments would still require frontage improvements where a new building or a major addition is proposed. However, changes of use and small expansions would be exempt from having to make streetscape improvements.

The proposed amendments include revisions to the following chapters of Title 19 Zoning Ordinance:

- Chapter 300 Use Zones (specifically 310 Downtown Zones)
- Chapter 700 Public Facility Improvements

Council has directed that while a broader review of the downtown zones and PARs is needed, it will not be part of this project.

### **What's Next?**

As requested by City Council, the proposed amendments are on a fast track for adoption. Please review the draft and let us know if you have any comments. Email or written comments are preferred. We are also available to discuss the proposed changes with you if you have any questions.

Additionally, public meetings on the amendments are tentatively scheduled for the following dates. You are welcome to attend and share your questions and comments.

- October 23, 2012, at 6:30pm: Joint Planning Commission and Design and Landmarks Committee Worksession
- November 13, 2012, at 6:30pm: Planning Commission hearing on the proposed amendments
- December 24, 2012, at 7:00pm: City Council hearing on the proposed amendments. The amendments will not be effective until they are adopted by City Council.

### **Comments or Questions**

We welcome any comments, questions, and suggestions you have regarding the proposed amendments. Please feel free to contact Scot Siegel at 503-786-7652 or [siegels@ci.milwaukie.or.us](mailto:siegels@ci.milwaukie.or.us) with any questions or comments. We look forward to discussing the proposal with you.

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## Marquardt, Ryan

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**From:** Neil Hankerson <neilh@darkhorse.com>  
**Sent:** Monday, October 01, 2012 12:58 PM  
**To:** Marquardt, Ryan  
**Cc:** Asher, Kenny; Butler, Stephen; Albert, Brad; Monahan, Bill; Ferguson, Jeremy; Chaimov, Greg; Loomis, Joe; Miller, Mike; Hedges, David; Bankhead, Teri  
**Subject:** Re: Proposed amendments to the Downtown Use Standards and Public Area Requirements (PARs)

Thank you for the update on the code revision. I appreciate the direction that the new code is going.

I have a comment regarding ground floor window requirements as stated in 19.310.4 (B)8. 3&4

3. (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
4. (4) Ground-floor windows for buildings on the block faces identified on Figure 19.310-5 shall allow views into storefronts, working areas, or lobbies. No more than 50% of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

Having been a merchant in downtown Milwaukie for the last 20+ years, I have dealt with ground floor windows quite a bit. The above requirements can be very difficult for a business, particularly if the windows are west facing. The afternoon sun can be quite brutal. Clear glazing on a big window allows a very large amount of sunlight in. The UV rays causes a very rapid destruction of color on products. The product destruction can be quite costly for a merchant. You may have seen examples of this in the DHC windows of our mailroom. We used to put products in the window boxes and the products would fade within a couple of weeks. Those particular windows have the benefit of the large sidewalk trees providing some shade.

Thermal heat loading caused by direct sunlight in the afternoon is a problem too. Unshielded windows allow the maximum amount of radiant heat to be transmitted to the interior of west facing buildings raising the amount of air conditioning needed.

In general, on sunny afternoons, the reflection of the sun off west facing windows creates a lot of glare. Cars and pedestrians passing by the windows cannot see the interiors of the buildings as the glare from the windows is intense unless there are awnings or trees to mitigate the sun. So, the clear glass requirement would be of minimal benefit, I believe.

If memory serves me, the newest construction downtown at the north main complex has dark tinted glass on the retail areas. I am sure that this was done in anticipation of some of the issues above.

My office is the ground floor facing Main St. (west facing). The afternoon glare is so intense inside that it is impossible work without the shades drawn. Hence, having a window is no advantage.

I think that the requirements being contemplated work for east and north facing windows. I caution that you should at least consider my comments above prior to implementation of the new code.

Thanks,

Neil Hankerson

On Oct 1, 2012, at 10:56 AM, Marquardt, Ryan wrote:

**\*\*You are receiving this e-mail because you own a business or property in downtown Milwaukie, or represent a group that is active in downtown\*\***

### **Downtown Code Update**

City staff continues to work on amendments to the downtown zones that would reduce the responsibility of development to fund streetscape improvements and allow a broader array of ground-floor uses, particularly on Main Street and in the Downtown Office zone. Project information is available at <http://www.ci.milwaukie.or.us/planning/downtown-code-update>.

### **Project Updates**

- **Date of 1<sup>st</sup> City Council Hearing:** The 1st City Council hearing on the downtown code update is tentatively scheduled for December 4, 2012. Earlier project communication had erroneously listed a 1st hearing date of December 24th.
- **New Draft of Proposed Amendments:** A new draft of the proposed amendments is available for review. This new version incorporates public comments that were received since the last draft was made available. The draft is online at: [http://www.ci.milwaukie.or.us/sites/default/files/fileattachments/downtown\\_code\\_amendments\\_092812.pdf](http://www.ci.milwaukie.or.us/sites/default/files/fileattachments/downtown_code_amendments_092812.pdf).
- **Project Contact:** Ryan Marquardt ([marquardtr@ci.milwaukie.or.us](mailto:marquardtr@ci.milwaukie.or.us), 503-786-7658) is now the contact person for this project. Scot Siegel had been managing this project for the City on an interim basis.

### **What's Next?**

As requested by City Council, the proposed amendments are on a fast track for adoption. Please review the draft and let us know if you have any comments. Email or written comments are preferred. We are also available to discuss the proposed changes with you if you have any questions.

Public meetings on the amendments are tentatively scheduled for the following dates. You are welcome to attend and share your questions and comments.

- October 23, 2012, at 6:30pm: Joint Planning Commission and Design and Landmarks Committee Worksession
- November 13, 2012, at 6:30pm: Planning Commission hearing on the proposed amendments
- December 24, 2012, at 7:00pm: City Council hearing on the proposed amendments. The amendments will not be effective until they are adopted by City Council.

Ryan Marquardt, AICP  
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**To:** Planning Commission  
**Through:** Steve Butler, Planning Director  
**From:** Brett Kelter, Associate Planner  
**Date:** November 6, 2013, for November 13, 2013, Worksession  
**Subject:** Project to Update the City's Transportation System Plan (TSP)

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## **ACTION REQUESTED**

None. This is a briefing for discussion only, as part of the project initiation. No specific feedback is requested at this time. Staff will provide information about the project (scope, timeline, etc.).

## **BACKGROUND INFORMATION**

The City's Transportation System Plan (TSP) implements the State Transportation Planning Rule requirement for local governments to complete long-range multi-modal transportation plans. The City's TSP is an ancillary document to the City's Comprehensive Plan and was first adopted in 1997. In 2006, the City initiated a year-long process to thoroughly update the 1997 TSP, with extensive public input and stakeholder participation. The resulting document, which forecast to the year 2030, was adopted by the City Council in 2007 and is the current version.

State law requires the City's TSP to be consistent with Metro's Regional Transportation Plan (RTP). In 2010, Metro adopted a new RTP, with several new concepts and standards and extending the planning horizon to 2035. The City was given 2 years (until November 2012) to make the TSP consistent with Metro's 2035 RTP. Metro has authority to extend this deadline, and the City has requested an extension to December 31, 2013.

### **A. History of Related Actions**

- **July 1997:** Adoption of first TSP (Ordinance #1820, Land Use File CPA-96-01)
- **December 2007:** Adoption of revised TSP (Ord. #1975, Files CPA-07-01, ZA-07-01)
- **December 2011:** Metro notifies City of requirement for TSP compliance with 2035 RTP
- **November 2012:** Metro grants extension for RTP compliance, to Dec. 31, 2013
- **June 30, 2013:** Tentative project completion date

**B. Briefing Topics**

1. Purpose, function, and importance of the TSP
2. Why we are updating the TSP
3. Project scope and schedule
4. Proposed focus of next Planning Commission briefing

**ATTACHMENTS**

(None)