



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 DECEMBER 15, 2015
 City Hall Council Chambers

Mayor Gamba called the 2,212th meeting of the City Council to order at 6:08 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power

Staff Present: Assistant to the City Manager Mitch Nieman, City Attorney Dan Olsen, City Recorder Pat DuVal, Finance Director Casey Camors, Planning Director Denny Egner, Senior Planner Li Alligood, and Associate Planner Vera Koliias

CALL TO ORDER

Pledge of Allegiance.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement Award for December 2015 presented to Lillian Odegaard

Mark Pinder, MHS Principal, introduced Ms. Odegaard and noted her achievements.

The Council congratulated Ms. Odegaard and inquired about her academic and extra-curricular activities and career plans.

B. Presentation of Vietnam Wall Event Plaque

Jerry Craig, American Legion Post 180 1st Vice Commander, presented a plaque to the Council in recognition of the July 2015 Vietnam Memorial Wall event.

Mayor Gamba announced that a Prisoner of War/Mission in Action (POW/MIA) flag raising ceremony would be held at City Hall on December 31, 2015.

CONSENT AGENDA

It was moved by Councilor Parks and seconded by Council President Batey to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. November 3, 2015, Work Session.

B. Resolution 108-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, to authorize the City Manager to sign a contract for debt collection services with Valley Credit Service Inc.

C. Resolution 109-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, providing direction to prepare a draft urban renewal plan encompassing the downtown and central Milwaukie.

D. An Oregon Liquor Control Commission (OLCC) Application – Milwaukie Beer Store – 10610 SE Main Street – New Outlet

E. Resolution 110-2015: A Resolution of the City Council of the City of Milwaukie, Oregon, to update the intergovernmental agreement with the County of

Clackamas for sharing of employees for building inspection/plan review services.

Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

AUDIENCE PARTICIPATION

Mayor Gamba reviewed the Audience Participation procedures and Mr. Nieman reported there was no follow-up from the December 1, 2015, Audience Participation.

PUBLIC HEARING

A. Moving Forward Milwaukie (MFM): Central Milwaukie Plan and Code Amendments (CPA-2015-001; ZA-2015-001) – Ordinance, 2nd Reading

Ms. Kalias reviewed the actions for Council to consider, noted the proposed revisions to Milwaukie Municipal Code (MMC), and explained the ordinance adoption process.

Council President Batey, Mayor Gamba, and Ms. Kalias discussed the boundaries of the Central Milwaukie area and noted that both of the opportunity sites were for sale.

It was moved by Councilor Parks and seconded by Councilor Power to approve the second reading by title only and adoption of the Ordinance amending the Comprehensive Plan text, maps, and ancillary documents (a new Central Milwaukie Land Use and Transportation Plan and the Transportation System Plan); Title 14 Sign Ordinance; Title 19 Zoning Ordinance; and amending the Zoning Map (File #CPA-2015-001, ZA-2015-001). Motion passed with the following vote: Councilors Power, Churchill, and Parks and Mayor Gamba voting “aye”, and Councilor Batey voting “no.” [4:1]

Mr. Nieman read the Ordinance for the second time by title only.

Ms. DuVal polled the Council: Councilors Power, Churchill, and Parks and Mayor Gamba voting “aye”, and Council President Batey voting “no”. [4:1]

ORDINANCE No. 2110:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN TEXT, MAPS, AND ANCILLARY DOCUMENTS (A NEW CENTRAL MILWAUKIE LAND USE AND TRANSPORTATION PLAN AND THE TRANSPORTATION SYSTEM PLAN); TITLE 14 SIGN ORDINANCE; TITLE 19 ZONING ORDINANCE; AND AMENDING THE ZONING MAP (FILE #CPA-2015-001, ZA-2015-001).

It was moved by Councilor Power and seconded by Councilor Parks to approve the first and second readings by title only and adoption of the Ordinance amending the Milwaukie Municipal Code Title 20 Public Art (File # ZA-2015-001). Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Mr. Nieman read the Ordinance two times by title only.

Ms. DuVal polled the Council: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye”. [5:0]

ORDINANCE No. 2111:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE TITLE 20 PUBLIC ART (FILE # ZA-2015-001).

Mayor Gamba read the State Land Use Board of Appeals (LUBA) appeal information.

B. MFM: Neighborhood Main Streets Code Amendments (ZA-2015-002) – Ordinance

Mayor Gamba noted that the public hearing on the Neighborhood Main Streets Code Amendments was a continuation from the November 17, 2015, Regular Session.

Ms. Alligood reviewed the proposed amendments to the MMC and summarized the key question for Council to address regarding the conditional use status of the Safeway site. She discussed 3 approaches to the Safeway site and reported that staff recommended Option C to retain a use that met community needs.

Councilor Parks asked about the possibility of dividing the Safeway site into smaller stores and **Ms. Alligood** confirmed that the site could be divided under any scenario.

Council President Batey and **Ms. Alligood** noted that Council was only considering the conditional use for the Safeway building as it currently existed.

Mayor Gamba, Ms. Alligood, and Councilor Power remarked on the importance of an anchor tenant for the shopping area at 42nd Avenue and King Road.

Testimony: None.

It was moved by Councilor Power seconded by Council President Batey to close the public hearing. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye.” [5:0]

Councilor Power expressed a preference for allowing maximum flexibility to re-tenant the site should Safeway leave and noted her support for Option C.

Council President Batey remarked that she preferred Option B and expressed concern about possible non-retail uses of the Safeway site.

Councilor Churchill stated his preference for Option A and suggested he could support Option B if it was the Council consensus.

Council President Batey remarked on the possibility of new grocery stores driving Safeway out of the City and expressed concern about recent grocery store closures.

Councilor Parks commented that she was leaning toward Option C and expressed concern that Option B may not best serve the entire neighborhood.

Mayor Gamba expressed support for helping re-tenant the Safeway site if it were to be vacated. He remarked on the ability of the community to support 2 grocery stores and **Councilor Power** commented on the positive outcomes of different grocery brands competing in the same area. **Mayor Gamba** discussed his support for Options A or B.

Council President Batey remarked that she could support Option A.

Councilor Parks explained that she could not support Option A.

Councilor Power agreed with Councilor Parks and discussed possible disincentives for an anchor tenant renegotiating a lease under the proposed restrictions. She remarked that she preferred Option C, could support Option B, and could not support Option A.

Mayor Gamba expressed comfort with Option B and noted his support for a retail use.

Councilor Parks remarked that she could support Option B.

The group discussed the wording of the 3 proposed approaches to the Safeway site.

Mayor Gamba suggested there was a Council consensus for Option B.

Council President Batey expressed a preference for Option A with language changes.

The group discussed grocery stores that could fill the vacant Haggen site and the feasibility of a retail store going through a conditional use process under Option B.

Councilor Churchill noted his support for Option A with adjustments or Option B, and **Councilor Parks** commented that she supported Option C and possibly Option B.

Councilor Churchill discussed concerns about dividing the Safeway site and the demographic support required for certain grocery stores that could fill the Haggen site. He suggested the conditional use process was not likely to keep a major development from opening in the City and he voiced his support for Option A.

The group discussed the likelihood that the Safeway site would be divided, and **Mayor Gamba** and **Mr. Olsen** discussed adding a grocery store definition to Option B.

Mayor Gamba explained why he supported Option B.

Councilors Churchill and Power commented on the complexities and challenges of securing and maintaining an anchor tenant lease agreement.

Councilor Churchill and **Mayor Gamba** noted their reluctant support for Option B and **Mr. Olsen** remarked on the possibility of drafting a definition of desired grocery outlets.

The group discussed the possibility of mid-sized outlets replacing a large anchor tenant and noted retail outlets that are excluded from the shopping center at 42nd Avenue and King Road by the existing Safeway lease agreement.

It was the Council consensus to pursue Option B regarding the Safeway site.

Ms. Alligood confirmed that the conditional use approach for the Safeway site was the only item for Council to determine and **Mr. Olsen** provided guidance to Council on how to amend the ordinance adoption language.

Decision by Council:

It was moved by Council President Batey and seconded by Councilor Power to approve the first and second readings by title only and adoption of the Ordinance amending the Milwaukie Municipal Code (Titles 14 Signs and 19 Zoning), and amending the Zoning Map (File #ZA-2015-002) with the amendment labeled by staff as Option 2. Motion passed with the following vote: Councilors Power, Churchill, Batey, Parks, and Mayor Gamba voting “aye.” [5:0]

Mr. Olsen recommended that the revised language be read with the ordinance title.

Mr. Nieman read the Ordinance by title with the revised language two times.

Ms. DuVal polled the Council: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting “aye”. [5:0]

ORDINANCE No. 2112:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL

CODE (TITLES 14 SIGNS AND 19 ZONING), AND AMENDING THE ZONING MAP (FILE #ZA-2015-002).

Mayor Gamba read the State LUBA appeal information.

The group remarked on the conclusion of the three phases of the MFM project.

OTHER BUSINESS

A. Election of Council President

Mayor Gamba explained that the City Charter calls for the election of a Council President following a Council election and asked for Council President Nominations.

Councilors Parks and Power nominated Councilor Batey to serve as Council President, and **Council President Batey** expressed a willingness to serve.

It was moved by Councilor Parks and seconded by Councilor Power to nominate Council President Batey to serve as Council President. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting "aye". [5:0]

B. Council Reports

Councilor Power provided an update on discussions regarding the regional wastewater governance structure and noted the process changes recommended to the Clackamas Board of County Commissioners (BCC). **Mayor Gamba** and **Councilor Power** commented on the role of the BCC in the governance of regional service districts.

Mr. Nieman provided updates on community mediation training and Neighborhood District Association (NDA) Leadership meetings. He reported that community feedback had been supportive of maintaining a printed version of the *Pilot* newsletter, and he noted that the website refresh project was in the vendor research phase.

Mr. Nieman and **Council President Batey** discussed meetings with the City of Portland regarding a Sunday Parkways event to be held in September 2016.

Mayor Gamba reported that the bridge in Riverfront Park had been closed for safety concerns and that the City was working on a solution. He thanked those who participated in the recent Umbrella Parade, noted the availability of sandbags, and encouraged participation in the leaf drop-off program. He announced the Winter Solstice and Christmas Ships viewing event, and City closures during the holidays.

Councilor Parks announced the holiday open house at the Milwaukie Museum.

ADJOURNMENT

It was moved by Council President Batey and seconded by Councilor Parks to adjourn the regular session. Motion passed with the following vote: Councilors Power, Churchill, Batey, and Parks and Mayor Gamba voting "aye." [5:0]

Mayor Gamba adjourned the Regular Session at 7:42 p.m.

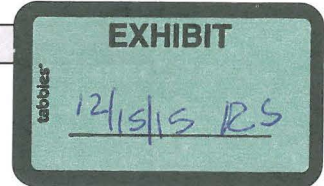
Respectfully submitted,



Scott S. Stauffer, Administrative Specialist II

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Manufacturing and Production			
<p>Manufacturing and production.⁵⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	<u>P</u>	
Institutional			
Community service uses	CSU	<u>CSU</u>	Section 19.904 Community Service Uses



P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive rowhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.
2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.
3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to grocery store uses established in the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on the effective date of Ordinance. Redevelopment of the site is subject to compliance with all standards of Table 19.303.2.
25. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).
36. ~~Repair-oriented~~ Vehicle repair and service uses are permitted in the ~~GMU Zone~~ commercial mixed-use zones only when conducted within a completely enclosed building.
47. Day care and childcare uses are limited to 5,000 sq ft.
58. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.



Manufacturing and Production			
<p>Manufacturing and production.⁵⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	<u>P</u>	
Institutional			
Community service uses	CSU	<u>CSU</u>	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

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4. The 10,000 sq ft size limitation in Footnote 3 of Table 19.303.2 does not apply to retail-oriented sales uses established within the existing lot and building situated at 4320 SE King Rd, within the lot's boundaries that exist on the effective date of Ordinance. Redevelopment of the site is subject to all standards of Table 19.303.2.
25. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).
36. ~~Repair-oriented~~ Vehicle repair and service uses are permitted in the ~~GMU Zone~~ commercial mixed-use zones only when conducted within a completely enclosed building.
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RS Exhibit
Dec. 15, 2015

Moving Forward Milwaukie: Neighborhood Main Streets ZA-2015-002

**Presentation to the
Milwaukie City Council
Li Alligood, Senior Planner
December 15, 2015**

Background

- 1st Council Hearing on November 17
- Council heard public testimony and provided direction to staff
- Council requested information regarding potential approaches to exempt the existing Safeway store from proposed use limitations of 10,000 sq ft



Key Questions

A. Which approach does Council prefer to addressing the Safeway building?



Summary

- Existing Safeway building is approximately 45,000 sq ft in area
- Proposed use size restriction would render the Safeway building a “de facto conditional use”
- If the building was vacant for 2 years, nonconforming rights would be lost



Summary

- Property owner requested relief from proposed size limitation
 - Difficulty of re-tenanting a building of that size
 - Concern that 2 years would not be an adequate amount of time
- Council directed staff to return with proposed approaches to:
 - Exempt existing building and use from 10,000 sq ft size limit
 - Identify which uses could be permitted by right in the future



Summary

- Considerations:
 - Flexibility for owner and potential tenants
 - Potential future market demands and desires
 - Difficult to anticipate what the community might want in the future
 - Potential reuse options for the building
 - Preference for re-tenanting rather than long-term vacancy



Proposed Approaches

- A. Retain conforming status and restrict future uses to a supermarket/grocery store
- B. Retain conforming status and restrict future uses to "retail-oriented sales"
- C. Retain conforming status and allow any permitted use



Proposed Approaches

A. Retain conforming status and restrict future uses to a supermarket

– Advantages:

- Allows store to retain conforming status
- Responds to desire of community to have a grocery store

– Disadvantages:

- Very little flexibility for building owner
- Market conditions may not remain supportive of a grocery store
- Could result in long-term vacancy
- Conditional use approval required for any other use, even if supported/desired by community



Proposed Approaches

B. Retain conforming status and restrict future uses to "retail-oriented sales"

– Advantages:

- Allows store to retain conforming status
- Allows more flexibility
- Retail uses continue to provide activity on site

– Disadvantages:

- Limited flexibility for building owner
- No way to regulate which retail uses locate on site
- No assurance that new use would serve neighborhood
- Conditional use approval required for any other use, even if supported/desired by community



Proposed Approaches

C. Retain conforming status and allow any use permitted in the NMU Zone

– Advantages:

- Allows store to retain conforming status
- Allows maximum flexibility
- Ease of code administration

– Disadvantages:

- Could convert to an office or other low-activity use, which may not contribute to the pedestrian environment or vibrant commercial district.



Proposed Approaches

- Staff Recommendation:
 - C. Retain conforming status and allow any use permitted in the NMU Zone
 - Fewer disadvantages than other options
 - Addresses concerns regarding economic development
 - Follows zoning best practices



Question for Council Discussion

- Which approach (A, B, or C) should be included in the final adoption draft of the amendments?



Decision-Making Options

- A. Approval as proposed
- B. Approve with modifications
- C. Deny the proposal
- D. Continue the hearing



Questions?





MILWAUKIE CITY COUNCIL
REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

REVISED AGENDA
DECEMBER 15, 2015
(Revised December 10, 2015)

2,212th Meeting

- | | Page # |
|--|-------------|
| 1. CALL TO ORDER | |
| Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Milwaukie High School (MHS) Outstanding Student Achievement Award for December 2015 presented to Lillian Odegaard | |
| Staff: Mark Pinder, MHS Principal | |
| B. Presentation of Vietnam Wall Event Plaque | |
| Presented by Jerry Craig, American Legion Post 180 | |
| 3. CONSENT AGENDA | |
| These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda. | |
| A. City Council Meeting Minutes | 2 |
| 1. November 3, 2015, Work Session | |
| B. Debt Collection Services Contract – Resolution | 7 |
| C. Urban Renewal Analysis Contract – Resolution | 48 |
| D. OLCC Application – Beer Store Milwaukie, 10610 SE Main Street – New Outlet | 52 |
| E. Renewal of Building Services Intergovernmental Agreement with Clackamas County – Resolution (added December 10, 2015) | 52-1 |
| 4. AUDIENCE PARTICIPATION | |
| The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak. | |
| 5. PUBLIC HEARING | |
| Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony. | |
| A. Moving Forward Milwaukie (MFM): Central Milwaukie Plan and Code Amendments (CPA-2015-001; ZA-2015-001) – Ordinance, 2nd Reading | 54 |
| Staff: Vera Koliass, Associate Planner | |

B. MFM: Neighborhood Main Streets Code Amendments (ZA-2015-002) – 60
Ordinance
Staff: Li Alligood, Senior Planner

6. OTHER BUSINESS

These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.

A. Election of Council President
Presented By: Mayor Gamba

B. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

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**Regular Session
Agenda Item No.**

3

Consent Agenda



MINUTES
MILWAUKIE CITY COUNCIL
www.milwaukieoregon.gov

WORK SESSION
NOVEMBER 3, 2015
City Hall Conference Room

Mayor Gamba called the Work Session to order at 4:00 p.m.

Council Present: Council President Lisa Batey and Councilors Scott Churchill, Wilda Parks, and Karin Power (phone)

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Assistant to the City Manager Mitch Nieman, Planning Director Denny Egner, Finance Director Casey Camors, Assistant Finance Director Bonnie Dennis, Code Compliance Coordinator Tim Salyers, and Community Development Director Alma Flores

Urban Renewal Feasibility

Mr. Egner introduced Nick Popanuk, Project Manager with ECONorthwest, and Elaine Howard, with Elaine Howard Consulting, LLC.

Mr. Popanuk explained that the discussion would focus on Milwaukie's past and possible future use of urban renewal districts.

Mr. Monahan asked that the presenters note the title of the slide they are referencing so Council and the public could follow along.

Ms. Howard provided an overview of how urban renewal works, and the group discussed revenue sharing with other taxing districts and the impacts of identifying the maximum indebtedness that sets revenue sharing caps and triggers.

Mr. Popanuk reviewed the history of urban renewal discussions in Milwaukie, reported that technical studies have shown that urban renewal is feasible in the City, and suggested that the question was how and if the City wanted to use urban renewal. He reviewed the proposed urban renewal feasibility study scope of work and timeline.

Ms. Howard reviewed factors that determined an urban renewal boundary size and reviewed the pros and cons of creating a single big boundary area. **Council President Batey, Councilor Parks, and Ms. Howard** noted that the identified urban renewal areas in the City could be included in a single boundary or in three separate districts.

Councilor Churchill, Mr. Popanuk, and Ms. Howard discussed how and when assessed value growth projection data was generated, and they noted the importance of setting expectations when drafting the original urban renewal plan. They commented on annual taxing growth rates, the use of averaged historical tax rates to generate future projections, and the impact of boundary size on growth rate projections.

Council President Batey asked if other taxing districts would be more receptive to a single big boundary area. **Mr. Popanuk** remarked that other taxing districts have responded favorably to larger and quicker urban renewal areas, and he noted the importance of including other taxing districts in urban renewal conversations.

Councilor Churchill asked how bond underwriters view urban renewal district size. **Ms. Howard** and **Mr. Popanuk** replied that underwriters did not like districts to be less than 100 acres or focused on a single purpose.

Mr. Monahan reconnected Councilor Power to the conversation by phone.

Ms. Howard reviewed the pros and cons of creating small boundary areas. **Mayor Gamba** and **Ms. Howard** discussed the advantages of creating three small urban renewal districts and the impact of unanticipated opportunity projects.

Ms. Howard commented that every urban renewal district was different based on the community. **Mr. Popanuk** suggested that Council should be confident that each urban renewal district could financially stand on its own and consider the administrative, financial, and policy focus of creating one or three urban renewal districts.

Ms. Howard noted the limitations on expanding urban renewal districts.

Council President Batey, **Ms. Howard**, and **Mr. Popanuk** discussed site-specific urban renewal project limitations and tax revenue accrual speed.

Councilor Parks and **Ms. Howard** commented on the importance of public involvement in the urban renewal project vetting process.

Ms. Howard asked for Council input on what was most important about urban renewal.

Councilor Churchill and **Mr. Popanuk** discussed bond underwriters' preferred urban renewal area size and how underwriters' fees were determined.

Council President Batey and **Councilor Parks** noted that the Central Milwaukie urban renewal area would be 116 acres, the Downtown Milwaukie area would be 120 acres, and the North Milwaukie Industrial Area would be 282 acres.

Mr. Popanuk reviewed the goals, obstacles, and benefits of urban renewal identified in the Downtown, Central, and North Industrial areas. He asked for Council direction and input on the City's urban renewal goals for future discussions and project planning.

Councilor Power expressed interest in hearing about short-term urban renewal projects in other communities and remarked that all three of the proposed urban renewal areas in the City have strengths and weaknesses.

Council President Batey asked if other streets could be included as connectors along with Harrison Street, and **Mr. Popanuk** replied that other streets could be connectors.

Council President Batey asked for information on unanticipated opportunity projects.

Council President Batey and **Councilor Parks** asked for information on the process to identify the list of projects covered by the maximum indebtedness cap.

Councilor Parks and **Ms. Howard** discussed what parts of a connector street could be included in an urban renewal district.

Councilors Churchill and Parks asked that the other taxing districts be identified and that the impacts and risks for those taxing districts be noted. **Mayor Gamba** requested that the impacts on schools be addressed.

Council President Batey asked Mr. Popanuk and Ms. Howard to discuss how communities could use urban renewal funding to address affordable housing.

The group discussed the process to identify urban renewal projects and the timeline for future Council discussions on urban renewal. **Councilors Churchill and Parks** noted the increased level of community support when specific projects are identified.

Mayor Gamba asked for a list of urban renewal projects from other communities.

Councilor Power asked about the timeline for Council to make a decision on urban renewal, and **Mr. Egner** reported that the next Council discussion on urban renewal had been scheduled for the December 1, 2015, Work Session. He suggested that Council could make a decision to pursue urban renewal by the summer of 2016 and he remarked that the complexity of creating a larger district would require Council direction by December 2015 or January 2016.

Mayor Gamba asked that staff provide printed agendas for Council to reference.

Downtown Parking Permit Fees

Ms. Dennis summarized the fee review process to-date and confirmed that staff was looking for a Council decision on increasing fees at the November 17, 2015, Regular Session so that new fees could go into effect on January 1, 2016. She asked for Council input on raising fees and provided a projection of incremental and full increases.

Council President Batey expressed support for incrementally increasing the fee to \$40 per month and remarked that she could support whatever Council decided.

Mayor Gamba asked if there would be additional staff work if the fee were incrementally increased, and **Ms. Dennis** reported that there would be system costs but not a huge workload difference for staff.

Councilor Parks and **Ms. Dennis** noted that an incremental increase could occur on whatever timeline Council chose.

Council President Batey remarked that the sticker shock would be less with an increase to \$40 and would give the City time to gauge the impacts of raising the fee. **Councilor Parks** agreed with Council President Batey and suggested that the price could be left in place for a year to judge public reaction.

Councilor Churchill asked Neil Hankerson, Dark Horse Comics Executive Vice President, about the impacts of a parking permit fee increase on his company and employees. **Mr. Hankerson** commented on the impacts of a fee increase on permit purchasers and noted that he was unsure of the justification for raising the fee.

Mayor Gamba asked if Dark Horse provided employee transit passes. **Mr. Hankerson** explained that Dark Horse provides an employee subsidy for TriMet passes and City parking permits, and he discussed the benefits of purchasing parking permits in bulk.

Councilor Parks asked about the impacts of quarterly and six-month permits, and **Mr. Hankerson** and **Ms. Dennis** reported that the longer-term permits took less staff time.

Mayor Gamba expressed support for a tiered fee increase over a one year period, and **Councilors Parks and Churchill** expressed their agreement with Mayor Gamba.

Mayor Gamba noted that the reason for moving away from six-month permits was because new businesses were unable to buy passes for months at a time since other businesses had purchased the six-month permits in advance.

Council President Batey noted the cost savings for the City and businesses in allowing bulk permit purchases, and she expressed concern about bulk purchased permits being used for light rail riders. She asked if the City required bulk purchasers to prove they work at a Downtown business. **Ms. Dennis** and **Mr. Salyers** reported that the City required permit purchasers to prove they worked downtown.

The group noted that the current bulk purchase discount was 10% when 10 or more permits were purchased, and they discussed whether or not a 10% discount with an increased fee would be appropriate given the costs of administering the permit program.

Councilor Power expressed support for a bulk purchase discount and suggested that a fee increase would encourage people who work Downtown to use public transportation. **Councilors Parks and Power** noted that a parking permit fee increase would bring the cost of parking downtown closer to what it costs to use public transportation.

Mayor Gamba and **Ms. Dennis** agreed that verifying that businesses offer employee transportation incentive programs would require additional staff time. **Ms. Dennis** asked for input on the kind of incentives Council would like to see offered by employers.

Mr. Hankerson reported that Dark Horse employees can purchase a discounted parking permit or a public transportation pass. **Mayor Gamba** and **Council President Batey** asked if Dark Horse could verify employee use of public transit incentives, and

Mr. Hankerson explained that Dark Horse reimburses employees directly for their individual purchase of a parking permit or a TriMet pass.

The group discussed TriMet programs that offer bulk pricing discounts to employers purchasing passes for their employees. **Mayor Gamba** and **Council President Batey** suggested that the City could look at forming a transportation management agency (TMA) as a goal for 2017 while considering how to handle a fee increase in 2016.

Councilor Parks suggested that the bulk purchase discount be kept and that the City should ask businesses if they offered an employee transportation incentive program.

Mr. Monahan and **Councilor Parks** discussed ways the City could reach out to TriMet to provide information to businesses on existing incentive programs.

The group noted that most downtown permit parking spots were currently unavailable.

Mayor Gamba summarized that Council was comfortable with keeping the 10% bulk purchase discount, limiting the permit duration to quarterly, and increasing the fee to \$40 in January 2016 and \$50 in January 2017 while Council considers forming a TMA.

The group discussed public transportation incentive programs the City could offer.

Mr. Monahan noted that Council would consider adopting the parking permit fee change at the November 17, 2015, Regular Session.

Council President Batey asked if Council was going to set a cap on the number of permits each business can purchase. **Mayor Gamba** suggested that caps be considered after the impact of the fee increase is known.

Mayor Gamba asked staff if there was a need to adjust the parking citation fee with the permit fee increase, and **Mr. Salyers** reported that the single day parking citation is \$40. He discussed historic citation pricing and possible parking enforcement improvements that could increase the number of parking permits sold.

Ms. Dennis confirmed that she had received sufficient direction from Council, and **Mayor Gamba** thanked Mr. Hankerson for his input.

Study Session Schedule for 2016

Mr. Monahan explained that due to the proposed schedule of the Clackamas Cities Association (CCA) dinners it was his recommendation that Council consider scheduling Study Sessions on the 3rd Thursday of each month in 2016. He added that the City was scheduled to host the CCA dinner on the 4th Thursday of January 2016.

Council President Batey expressed concern about other CCA cities changing their dinner nights to the 3rd Thursday and suggested that Council be flexible in adjusting the Study Session schedule. **Mr. Monahan** noted the difficulty in rescheduling Study Sessions depending on the topics and presenters lined-up for each meeting.

The group expressed frustration with the inconsistent coordination of CCA dinners.

Agenda Forecaster Review

Mr. Monahan reviewed items scheduled for upcoming Council meeting agendas, and the group discussed the Kellogg Bridge Bike and Pedestrian connectors.

Matching Commitments for Grant Opportunities

Mr. Monahan and **Mr. Eaton** discussed two grant funding opportunities for bike and pedestrian enhancement projects and asked for Council direction on which grants and matching amounts to pursue for the Kronberg Park and Railroad Avenue projects.

Mayor Gamba suggested that staff should focus on the Connect Oregon Grant for \$440,000 for the Kronberg Park project. **Council President Batey** noted the possibility of using Kellogg Good Neighbor funds to match work at Kronberg Park.

The group noted that the project cost estimates were taken from the North Clackamas Parks and Recreation District (NCPRD) 3 Parks Master Planning process.

Mr. Eaton asked if the Council wanted staff to seek participation in the Enhance It Program to complete sidewalk projects around Linwood School.

The group discussed the disadvantages of seeking funds from the Enhance It Program.

Councilor Power discussed the possibility of bonding against remaining Kellogg Good Neighbor funds to pay for the Kronberg Park project.

Mr. Monahan summarized that Council was directing staff to focus on the Connect Oregon grant opportunity for the Kronberg Park project.

Council President Batey and **Mr. Eaton** commented on the urgency and prioritization of the Kronberg Park and Railroad Avenue projects.

Mayor Gamba adjourned the Work Session at 5:49 p.m.

Respectfully submitted,

Scott S. Stauffer, Administrative Specialist II



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. B.**
Meeting Date: **Dec. 15, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Contract for Debt Collection Services**

From: Carla Bantz, Court Operations Supervisor

Date: December 1, 2015

ACTION REQUESTED

Authorize the City Manager, Bill Monahan, to sign a contract for debt collection services with Valley Credit Services Inc.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The City performed a request for proposal process for debt collection services many times over the years and awarded the contract to Valley Credit Service in 2000, 2004, and 2007.

BACKGROUND

The City of Milwaukie Municipal Court and Finance departments have accounts that City staff is unable to collect on. The City contracts collection services with a professional collection agency to recover these amounts. The City requires a debt collector that is responsible for the collection of debts from utility and municipal court accounts. The collection activities must comply with federal, state and local laws and regulations and shall be conducted in a courteous and businesslike manner. The City's expectation of any contractor is that the contractor's values align with the City's values of highly ethical conduct, fiscal responsibility, respect for the City and others, and responsiveness to the City's customers.

On October 9, 2015 the City advertised a request for proposal for debt collection services in compliance with City purchasing policies and the expiration of the existing contract with Valley Credit Services. Although the previous contract expired in 2010, the City and Valley Credit Service have operating as if that agreement was in place.

The request for proposal closed on November 9, 2015 and City received six proposals for debt collection services. On November 16, 2015 the selection review committee (comprised of four City staff members) met and reviewed the proposals. Each proposal was scored based on four criteria as identified on the request for proposal: firm and service team qualifications, service understanding and approach, service timeframe, and fee evaluation. Independently, each member of the committee scored each proposal assigning points for the four categories. The points were totaled and entered into an excel spreadsheet. The committee recommends awarding the contract to the proposer with the most overall points.

Valley Credit Service Inc. received the highest score overall, receiving the most points in three of the four criteria. The three categories were: firm and service team qualifications, service understanding and approach, and service timeframe. During the evaluation, the selection review

committee held these categories as important aspects to developing a positive working relationship and making the account transition from the City to the collection agency a smooth process. Valley Credit Service Inc. demonstrated these qualities in their proposal through their discussion of excellent customer service and years of experience in quality debt collecting. The City has worked with them and experienced these qualities firsthand, which has been beneficial to City operations.

On November 18, 2015 the Notice of Intent to Award was posted to the City's website with an email sent to each proposer notifying them of the information on the website. A separate email was sent to Valley Credit Service Inc. notifying them that the selection review committee intended to award them the contract.

CONCURRENCE

Casey Camors, Finance Director, concur that approving this contract would be beneficial to the operation of the City.

FISCAL IMPACTS

The City will receive 100% of the principal and 50% of the interest received on each account collected on by the contractor.

WORK LOAD IMPACTS

No change

ALTERNATIVES

Utilize different contractor, or begin collections in house. Both options will require staff time to implement.

ATTACHMENTS

1. Contract with Valley Credit Services Inc.
2. Copy of Request for Proposal
3. Resolution



**PERSONAL SERVICES AGREEMENT
WITH THE CITY OF MILWAUKIE, OREGON
FOR DEBT COLLECTION SERVICES**

THIS AGREEMENT made and entered into this 30th day of November, 2015 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and Valley Credit Service, Inc., hereinafter called Contractor.

RECITALS

WHEREAS City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

WHEREAS City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

1. SERVICES TO BE PROVIDED

Contractor shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

2. EFFECTIVE DATE AND DURATION

This Agreement shall become effective on January 1, 2016 and shall expire, unless otherwise terminated or extended, by December 31, 2020. All work under this Agreement shall be completed prior to the expiration of this Agreement. The City shall also retain the rights to two (2) one-year extensions to the Contract.

3. COMPENSATION

City agrees to pay Contractor as specified in Exhibit B for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be

filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. **OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

5. **ASSIGNMENT/DELEGATION**

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

6. **STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that

Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.

- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. INDEMNIFICATION

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

8. INSURANCE

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier. Such insurance shall be primary and non-contributory.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverage:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor’s expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an “occurrence” form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$3,000,000
Products-Completed Operations Aggregate	3,000,000
Personal & Advertising Injury	3,000,000
Each Occurrence	2,000,000
Fire Damage (Any one fire)	500,000
Medical Expense (Any one person)	5,000

B. Commercial Automobile Insurance

Contractor shall also obtain, at contractor’s expense, and keep in effect during the term of this contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.

C. Professional Liability Insurance

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.

D. Workers’ Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract who are subject employers under the Oregon Workers’ Compensation Law and shall comply with ORS 656.017, which requires them to provide workers’ compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers’ compensation coverage for their workers that complies with ORS 656.126. Employer’s Liability Insurance with coverage limits of not less than \$500,000 each accident shall be included.

E. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.

F. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days’ notice of cancellation to the City.

G. Insurance Carrier Rating

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

H. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read "Insurance certificate pertaining to contract for Debt Collection Services. The City of Milwaukie, its officers, directors and employees shall be added as additional insureds with respects to this contract. A notation stating that "Insured coverage is primary" shall appear in the description portion of certificate.

I. Independent Contractor Status

The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.

J. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

K. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in the general liability policy.

Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Milwaukie
Attn: Finance
10722 SE Main Street
Milwaukie, Oregon 97222

Business Phone: 503-786-7555
Business Fax: 503-653-2444
Email Address: finance@milwaukieoregon.gov

Such policies or certificates must be delivered prior to commencement of the work.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

9. **METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, email or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

City	Contractor
City of Milwaukie	Company: Valley Credit Service, Inc.
Attn: Accounts Payable	Attn: Alice Ray-Graham
10722 SE Main Street	626 Appleblossom Ave NE
Milwaukie, Oregon 97222	Keizer, OR 97303
	PO Box 2046, Salem, OR 97308
Phone: 503-786-7523	Phone: 800-452-0317
Fax: 503-786-7528	Fax: 503-371-2635
Email Address: ap@milwaukieoregon.gov	Email Address: alice@valley-creditservice.com

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

10. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

11. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

12. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:
- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
 - 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

13. ACCESS TO RECORDS

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

14. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

15. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

16. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with

Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

17. ERRORS

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

18. EXTRA (CHANGES) WORK

Only the Finance Director, Casey Camors, or Court Operations Supervisor, Carla Bantz, may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

19. WARRANTIES

All work shall be guaranteed by Contractor for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this Agreement.

20. ATTORNEY'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

21. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

22. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement

23. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

24. AUDIT

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

25. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

26. COMPLETE AGREEMENT

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

CITY OF MILWAUKIE

VALLEY CREDIT SERVICE, INC.

Signature

William Monahan, City Manager
Printed Name & Title

Date

Signature

GREG HAMMACK, President & CEO
Printed Name & Title

12/04/2015
Date

EXHIBIT A**SCOPE OF WORK (SERVICES TO BE PROVIDED)**

Contractor shall be responsible for the accurate, timely and professional provision of collection services for the City's delinquent debts for utility accounts, municipal code violations, traffic violations and any new fees as created by City during the time period of this contract.

SPECIFIC RESPONSIBILITIES

- A. Contractor and the City shall agree upon a uniform, specific set of reinstatement procedures for those clients whose drivers licenses have been suspended by the Municipal Court. Such procedures may accompany every transaction between the Contractor and City clients, and shall be clear and easily understood by the client needing reinstatement upon payment of past due fines.
- B. Contractor shall provide the City with written monthly, quarterly, and annual reports. Reports are to be provided to City within two weeks of the applicable period end. Because the City operates on a July 1 fiscal year, all reports should be presented for the time period July 1 through June 30. Information needed in each report is as follows:
 1. **Monthly** – for those accounts turned over for collection:
 - a. Total amount referred for the month and to-date for the fiscal year;
 - b. Total amount collected (including any interest charges to the client by the Contractor), amount due to the City on each account that had collection activity during the month, for the month and for the fiscal year to date;
 - c. Length of time the contractor has had each account;
 - d. A list of accounts (and balances) the contractor does not expect to collect; and
 - e. A list of accounts currently being litigated in the court system.
 2. **Quarterly** – a summary of monthly collection reports:
 - a. Open to date;
 - b. Paid to date (by fiscal year); and
 - c. Balances at quarter's end.
 3. **Annually** – a summary of the fiscal year's collection activity:
 - a. Number of accounts open at the start of the fiscal year, referred during the year, closed/fully collected during the year, abandoned during the year, and open at fiscal year-end with collections in process; and
 - b. Account balances at the beginning of the fiscal year, added during the year, collected during the year, abandoned during the year, and the outstanding balances at year-end.

WITHDRAWAL OF ACCOUNTS

Any account listed may be withdrawn at any time after the date assigned upon notification from the City, provided no payment is made or arranged, suit commenced, or account forwarded to any associate collector. If any account should be withdrawn after a suit commenced, City agrees to reimburse Contractor for any amounts

expended on said account, but in no event shall expenses exceed one half of the principal amount of the account.

COLLECTION PROCESS

The following are specific collection procedures that the Contractor will follow concerning the City's accounts.

- Contractor shall receive accounts electronically from the City.
- Contractor shall send the first notice to the debtor by the next day along with an acknowledgement to the City. The account shall be assigned to a collector the same day the notice is mailed to the debtor and telephone calls shall begin the following day.
- Contractor shall contact debtor by telephone and request the balance in full. If debtor is unable to pay in full, a monthly payment plan shall be arranged.
- If the account is a court account and the debtor's driver's license has been suspended by the City, the City shall reinstate debtor's driving privileges after debtor pays 50 percent of the total amount due to Contractor and makes monthly payment arrangements. Contractor shall notify the City by fax of the debtor's account status with notice of payment in full or payment arrangement.
- If payment arrangements are not kept, Contractor shall notify the City by fax of the failed arrangement. If account is a court account and the debtor's driving privileges were reinstated per the arrangement, the City shall re-suspend the debtor's driver's license. Once a debtor has failed a payment arrangement and the driver's license has been re-suspended, the debtor must make payment in full to receive a reinstatement.
- If debtor has no telephone number and no mail returns have been received, Contractor shall search for assets. If employer or bank account is found through the search, Contractor shall start the litigation process. Once City approves of litigation, Contractor shall send a demand letter to debtor advising of a suit to be filed in ten days. If no response is received, Contractor shall proceed to litigation.
- If debtor has no assets and there is no way to contact debtor, Contractor shall follow-up quarterly by pulling credit reports and skip tracing.
- Once a month, Contractor shall generate check and remittance advices for payments within the last calendar month. The check and remittance shall be delivered to the City by Contractor or through the U.S. Postal Service.
- Contractor shall notate every communication and process that occurs on every account. All notations will be time and date stamped.
- Contractor shall gear all correspondence and available payment methods in accordance with the Fair Debt Collection Practices Act (FDCPA).
- All complaints shall be handled through the Contractor's Office Manager.

MONITORING AND EVALUATION

City may evaluate collection efforts by requesting for unscheduled reports, review of collection methods, and record keeping. All such requests will focus on obtaining the most successful collection efforts possible. Contractor will be informed of the outcome of such requests and will be expected to work with the City to correct any issues identified.

EXHIBIT B

COMPENSATION

The City agrees to a commission rate of 25% that will be added to the principal amount collected on our behalf. The above rates are in compliance with the provisions of ORS 697.105. The City agrees to provide notice of such fee to debtors in accordance with ORS 293.231 and ORS 697.105.

Contractor is authorized to add interest at the legal rate of 9% from date of last charge in accordance with ORS 82.010.

Within fifteen days of the end of each month, Contractor shall make a remittance to City. The remittance shall include 100% of principal amounts collected and 50% of interest amounts collected. Contractor shall retain 50% of interest collected and the full amount of the 25% commission fee.

In the rare and unlikely event the City receives payment on an item, which had previously been sent to collection and not withdrawn, the City shall inform Contractor and make payment arrangements on a case-by-case basis.



Request for Proposals

for

Debt Collection Services

Issue Date: October 9, 2015

Proposal Due Date: November 9, 2015 at 5:00PM

City of Milwaukie
Finance Department
10722 SE Main Street
Milwaukie, OR 97222
(503) 786-7555

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Request for Proposals

City of Milwaukie—Debt Collection Services

The City of Milwaukie (City) is seeking proposals from qualified and experienced contractors to provide collection services of delinquent debts owed to the City. The City's objective is to enter into a Personal Services Agreement that will provide these comprehensive services.

The City is responsible for the collection of delinquent debts from utility accounts and municipal court accounts. Collection activities must comply with federal, state, and local laws and regulations and shall be conducted in a courteous and businesslike manner. The City's expectation of any contractor the City contracts with is that the contractor's values align with the City's values of highly ethical conduct, fiscal responsibility, respect for the City and others, and responsiveness to the City's customers.

The Request for Proposal documents may be obtained at <http://bids.milwaukieoregon.gov/>. Interested parties will need to create a free login account to view and download RFP documents. The account will also be used to notify interested parties of any addenda throughout the proposal process.

Successful proposers will be asked to sign a Personal Services Agreement with the City. A sample agreement is attached as part of the RFP documents. The City will require specific levels of insurance, a Milwaukie business registration, and a tax identification number. Proposers must evaluate this agreement and by executing the Proposal Form included as Attachment "B" thereby agree with the terms and conditions contained therein unless written objections are included as an addenda to the Proposal Form. The City will review the form and content of any such objection in the proposal evaluation process. Objections after the awarding of the contract will not be considered and are ground for subsequent denial of the contract.

Proposals shall be submitted either in a sealed envelope or by email plainly identifying the RFP and contractor's name and address. Proposals shall be delivered to City of Milwaukie, Carla Bantz, Finance Department, 10722 SE Main Street, Milwaukie, OR 97222 or emailed to bantzc@milwaukieoregon.gov.

Proposals will be received until 5:00PM on Monday, November 9, 2015 for the purpose of selecting a contractor to provide debt collection services. Proposals received after the 5:00PM deadline will not be considered and will be returned unopened to the proposer(s).

For additional information regarding this RFP, please contact Court Operations Supervisor, Carla Bantz, at (503) 786-7531 or by email at bantzc@milwaukieoregon.gov. The City of Milwaukie reserves the right to reject any and all proposals or to negotiate individually with one or more contractors, and to select one or more contractors if determined to be in the best interest of the City.

Dated this 9th day of October 2015.

SECTION 2: GENERAL INFORMATION

2.1 Introduction and Background

The City of Milwaukie is seeking proposals from qualified contractors to provide collection services of delinquent debts owed to the City. The City's objective is to enter into a Personal Services Agreement that will provide these comprehensive services.

2.2 Issuance of Request for Proposals Documents

The Request for Proposal (RFP) documents may be obtained at no cost from the City of Milwaukie website at <http://bids.milwaukieoregon.gov/>. Interested parties will need to create a free login account to view and download RFP documents. The account will be used to notify document holders of any addenda throughout the proposal process.

Court Operations Supervisor, Carla Bantz, is the sole point of contact for all questions, concerns, and protests related to this RFP. She can be reached at 503-786-7531 or by email at bantzc@milwaukieoregon.gov.

2.3 Submission for Proposals

Sealed proposals shall be submitted by 5:00PM, Monday, November 9, 2015 in pdf format via email, in person, or by U.S. Postal Service to:

Carla Bantz
City of Milwaukie
Finance Department
10722 SE Main Street
Milwaukie, OR 97222
bantzc@milwaukieoregon.gov

If proposals are submitted in-person or by U.S. Postal Service, each Proposer must provide four (4) complete copies of their proposal, including Attachments A, B, and C, in type-written format sealed in an envelope plainly identifying requested services and proposer's name and address. If submitted via email, the proposal, including Attachments A, B, and C, shall be in pdf format. Proposals shall be addressed and submitted to the above location by the deadline. Phone and facsimile proposals will not be accepted. There will be no formal opening of bids.

2.4 Schedule of Events

The City anticipates the following general timeline for receiving and evaluating the proposals and selecting a contractor for debt collection services. This schedule is subject to change if it is in the City's best interest to do so.

- | | |
|--|--------------------------|
| • Request for Proposal Release | October 9, 2015 |
| • Deadline for Clarifications/Questions/Changes to RFP | October 28, 2015, 5:00PM |
| • Deadline for Protests of RFP | October 30, 2015, 5:00PM |
| • Proposals Due | November 9, 2015, 5:00PM |

- Evaluations of Proposals Complete November 17, 2015
- Posting of Notice of Intent to Award November 18, 2015
- Deadline for Protests of Award November 25, 2015, 5:00PM
- City Council hearing December 8, 2015
- Notice of Award December 9, 2015
- Commencement of Personal Services Agreement January 1, 2016

2.5 Changes to the Solicitation by Addenda

The City reserves the right to make changes to the RFP by written addenda. Addenda shall be sent to all prospective proposers known to have obtained the solicitation documents at the time addenda is issued.

Proposers should consult the City’s Bid Management System (<http://bids.milwaukieoregon.gov/>) regularly until the proposal due date and time to assure that they have not missed any addendum announcements. By submitting a proposal, each Proposer thereby agrees that it accepts all risks, and waives all claims, associated with or related to its failure to obtain addendum information.

A prospective Proposer may request a change in the RFP by submitting a written request to the address set forth in Subsection 2.3. The request must specify the provision of the RFP in question, and contain an explanation of the requested change. All requests for changes to the RFP must be submitted to the City no later than the date set forth in Subsection 2.4.

The City will evaluate any request submitted, but reserves the right to determine whether to accept the requested change. Changes that are accepted by the City shall be issued in the form of an addendum to the RFP. All addenda shall have the same bidding effect as though contained in the main body of the RFP. Written or oral instructions or information concerning the scope of work of the project given out by anyone other than Carla Bantz shall not bind the City.

No addenda will be issued later than the date set in Subsection 2.4, except an addendum, if necessary, postponing the date for receipt of proposals, withdrawing the invitation, modifying elements of the proposal resulting from delayed process, or requesting additional information, clarification, or revisions of proposals leading to obtaining best offers or best and final offers. Each Proposer is responsible for obtaining all addenda prior to submitting a proposal. Receipt of each addendum shall be acknowledged in writing as part of the proposal.

2.6 Confidentiality

All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the proposals for which Proposer requests exception from disclosure consistent with Oregon Law. All requests shall be in writing, noting specifically which portion of the proposal the Proposer requests exception from disclosure. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the City as a result of this RFP. Proposer should not mark the entire proposal document “Confidential.”

2.7 Cancellation

The City reserves the right to cancel contract award for Debt Collection Services at any time before execution of the contract by both parties if cancellation is deemed to be in the City's best interest. In no event shall the City have any liability for the cancellation of contract award.

2.8 Late Proposals

All proposals that are not received by the proposal due date in Subsection 2.4 will not be considered and will be returned unopened to the Proposer(s). Phone and facsimile proposals will not be accepted. Delays due to mail and/or delivery handling, including, but not limited to delays within the City's internal distribution systems, do not excuse the Proposer's responsibility for submitting the proposal to the correct location by the proposal due date.

2.9 Disputes

In case of any doubt or differences of opinion as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the City shall be final and binding upon all parties.

2.10 Proposer's Representation

Proposers, by the act of submitting their proposals, represent that:

- A. They have read and understand the proposal documents and their proposal is made in accordance therewith;
- B. They have familiarized themselves with the local conditions under which the work will meet their satisfaction;
- C. Their proposal is based upon the requirements described in the proposal documents without exception, unless clearly stated in the response.

2.11 Conditions of Submittal

By the act of submitting a proposal in response to this RFP, the Proposer certifies that:

- A. The Proposer and each person signing on behalf of any Proposer certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or part by the City, has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof other than as fully described in the Proposer's response to this solicitation.
- B. The Proposer has examined all parts of the RFP, including all requirements and contract terms and conditions thereof, and, if its proposal is accepted, the Proposer shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Proposer.
- C. The Proposers, if an individual, is of lawful age; is the only one interested in this proposal; and that no person, firm, or corporation, other than that named, has any interest in the proposal, or in the proposed contract.

- D. The Proposer has quality experience providing debt collection services in a capacity similar to the duties outlined within the scope of services.

2.12 Proposer Requests Interpretation of Request for Proposal Documents

Proposers shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of the proposal documents. Proposers requiring clarification or interpretation of the proposal documents shall make a written request for the same to Court Operations Supervisor, Carla Bantz.

The City shall make interpretations, corrections, or changes to the proposal documents in writing by published addenda in accordance with Subsection 2.5. Interpretations, corrections, or changes to the proposal documents made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes.

2.13 Proposer Requests for Additional Information

Requests for information regarding City services, programs, or personnel, or any other information shall be submitted in writing to Court Operations Supervisor, Carla Bantz, prior to the deadline to request additional information stated in Subsection 2.4.

The City shall respond to requests for additional information in writing by published addenda in accordance with Subsection 2.5. Responses to requests for additional information made in any other manner will not be binding.

2.14 Competition

Proposers are encouraged to comment, either with their proposals or at any other time, in writing, on any specification or requirement with this RFP, which the Proposer believes, will inordinately limit competition.

2.15 Complaints and Inequities

All complaints or perceived inequities related to the RFP or award of work referenced herein shall be in writing and directed to Court Operations Supervisor, Carla Bantz. Such submittals will be reviewed upon receipt and will be answered in writing.

2.16 Cost of Request for Proposals and Associated Responses

The City is not liable for any costs incurred by a Proposer in the preparation and/or presentation of a proposal. The City is not liable for any cost incurred by a Proposer in protesting the City's selection decision.

2.17 City Requests for Clarification, Additional Research, & Revisions

The City reserves the right to obtain clarification of any point in a proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in a finding that the Proposer is non-responsive and consequent rejection of the proposal.

The City may obtain information from any legal source for clarification of any proposal or for information of any Proposer. The City need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The City may perform, at its sole option, investigations of the responsible Proposer. Information may include, but shall not necessarily be limited to current litigation and contracting references. All such documents, if requested by the City, become part of the public records and may be disclosed accordingly.

The City reserves the right to request revisions of proposals after the submission of proposals and before award for the purpose of obtaining best offers or best and final offers.

2.18 Rejection of Proposals

The City reserves the right to reject any or all Proposals received as a result of this RFP. Proposals may be rejected for one or more of the following reasons, including but not limited to:

- A. Failure of the Proposer to adhere to one or more of the provisions established in the RFP.
- B. Failure of the Proposer to submit a proposal in the format specified herein.
- C. Failure of the Proposer to submit a proposal within the time requirements established herein.
- D. Failure of the Proposer to adhere to ethical and professional standards before, during, or following the proposal process.

The City may reject any proposal not in compliance with all prescribed public procurement procedures and requirements, and may reject for good cause any or all proposals upon a finding of the City that it is in the public interest to do so.

2.19 Modification or Withdrawal of Proposal by Proposer

A Proposal may not be modified, withdrawn, or canceled by the proposer for 60 calendar days following the time and date designated for the receipt of proposals. Proposals submitted early may be modified or withdrawn only by notice to the City, at the Proposal submittal location, prior to the proposal due date. Such notice shall be in writing over the signature of the Proposer and submitted to Court Operations Supervisor, Carla Bantz. All such communication shall be so worded as not to reveal material contents of the original Proposal.

Withdrawn proposals may be resubmitted up to the proposal due date and time, provided that they are then fully in conformance with the RFP.

2.20 Proposal Ownership

All Proposals submitted become and remain the property of the City and, as such, are considered public information and subject to public disclosure within the context of the federal Freedom of Information Act and Oregon Revised Statutes (ORS) 192.501 and ORS 192.502. Unless certain pages or specific information are specifically marked "proprietary" and qualify as such within the context of the regulations stated in the preceding paragraph, the City shall make available to any person requesting information through the City processes for disclosure of public records, any and all information

submitted as a result of this RFP without obtaining permission from any Proposer to do so after the Notice of Intent to Award has been released.

2.21 Duration of Proposal

Proposal prices, terms and conditions shall be firm for a period of at least 60 days from the proposal due date. The successful proposal shall not be subject to future price escalation or changes of terms if accepted during the 60-day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

2.22 Affirmative Action/Nondiscrimination

By submitting a proposal, the Proposer agrees to comply with the Fair Labor Standard Act, Civil Rights Act of 1964, Executive order 11246, Fair Employment Practices, Equal Employment Opportunity Act, Americans with Disabilities Act, and Oregon Revised Statutes. By submitting a proposal, the Proposer specifically certifies, under penalty of perjury, that the Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

SECTION 3: SCOPE OF WORK

3.1 Term of Service

The Personal Services Agreement resulting from this RFP shall be for a period of five (5) years, commencing January 1, 2016. The City shall reserve the right to extend the term of the contract for two (2) additional one (1) year periods.

3.2 Scope of Work

The selected Contractor shall be responsible for the accurate, timely, and professional provision of collection services for the City's past-due accounts for utility billings, traffic violations, and municipal code violations. At present, approximately 60 court-related accounts (traffic and code) and 12 utility accounts are turned over for collections each month.

Specific Responsibilities:

- A. Prior to the start of collection, the selected Contractor and the City shall agree upon a uniform, specific set of reinstatement procedures for those collections clients whose drivers licenses have been suspended by the Municipal Court of the City of Milwaukie. Such procedures may accompany every transaction between the selected Contractor and City clients, and so should be clear and easily understood by the client needing reinstatement upon payment of past due fines.
- B. In addition, the selected Contractor shall provide the City with written monthly, quarterly, and annual reports. Reports are to be provided to City within two weeks of the applicable period end. Because the City operates on a July 1 fiscal year, all reports should be presented for the time period July 1 through June 30. Information needed in each report is as follows:

1. **Monthly** – for those accounts turned over for collection:
 - a. Total amount referred for the month and to-date for the fiscal year;
 - b. Total amount collected (including any interest charges to the client by the Contractor), amount due to the City on each account that had collection activity during the month, for the month and for the fiscal year to date;
 - c. Length of time the contractor has had each account;
 - d. A list of accounts (and balances) the contractor does not expect to collect; and
 - e. A list of accounts currently being litigated in the court system.
2. **Quarterly** – a summary of monthly collection reports:
 - a. Open to date;
 - b. Paid to date (by fiscal year); and
 - c. Balances at quarter's end.
3. **Annually** – a summary of the fiscal year's collection activity:
 - a. Number of accounts open at the start of the fiscal year, referred during the year, closed/fully collected during the year, abandoned during the year, and open at fiscal year-end with collections in process; and
 - b. Account balances at the beginning of the fiscal year, added during the year, collected during the year, abandoned during the year, and the outstanding balances at year-end.

3.3 Optional Services

In addition to the required services described, City requests proposals and ideas for optional services. Proposers are encouraged to identify and describe other services, progressive improvements in existing services or techniques that would be in the best interest of the City and reduce costs and/or increase revenues.

3.4 Other Services

If the City develops need for additional services during the life of the agreement, those services shall be provided with the same conditions as apply to existing accounts at the time.

If regulatory bodies establish new regulations, contractor shall demonstrate full compliance with those regulations. If the contractor develops other services, the City is to be furnished with any information that City may use to consider these services.

SECTION 4: PROPOSAL AND PROPOSER REQUIREMENTS

4.1 Submittal of Proposals

If proposals are submitted in-person or by U.S. Postal Service, each Proposer must provide four (4) complete copies of their proposal, including Attachments A, B, and C. All proposals must arrive at the issuing office on or before the proposal due date and time. A person who has been authorized to make

such a commitment on behalf of the contractor must sign the proposals. Proposals shall be sealed in an envelope, plainly identifying requested services and proposer's name and address and addressed and delivered to the issuing office. If submitted via email, the document shall be addressed and delivered as identified in Subsection 2.3.

4.2 Proposer Requirements

Any contractor submitting a proposal must meet the following minimum requirements:

- A. All Proposers must be licensed to perform business in the State of Oregon;
- B. All Proposers must have been in business as a firm for at least five (5) years;
- C. All Proposers must be experienced in collections programs similar to those of the City;
- D. The qualified principal or account person must have a minimum of two (2) years active experience in collections including significant experience with government entities;
- E. All Proposers must agree to execute the City's Personal Services Agreement, if awarded; and
- F. All Proposers must carry errors and omissions insurance, naming the City an additional insured.

4.3 Proposal Format

Proposals shall be type-written with body text consisting of a 11 or 12-point font. Proposals shall be printed double-sided. The City requests that submittal materials contain post-consumer recycle content and are readily recyclable. The City discourages the use of materials that cannot be readily recycled, such as PVC binder, spiral bindings, and plastic or glossy covers or dividers. One page is considered to be one side of a single 8 ½" x 11" sheet.

Proposals being submitted electronically must be in pdf format.

4.4 Proposal Requirements

All proposals submitted in response to this Request for Proposal must include the following:

- A. **Attachment "A"** is a Proposal Content Questionnaire. Each Proposer must fully address each question, giving complete information regarding current and relevant references. Proposers may submit additional materials relating to their ability to perform the service.
- B. **Attachment "B"** is the Proposal Form. Each Proposer must complete this form. Proposer may submit additional information or materials if Proposers considers such additional information or materials important to the selection process.
- C. **Attachment "C"** is the Personal Services Agreement. Each Proposer must evaluate this contract form and by executing the Proposal Form included as Attachment "C" thereby agree with the terms and conditions contained therein unless written objections are included as an addenda to the Proposal Form. The City will review the form and content of any such objection in the proposal evaluation process.
- D. Technical experience of key personnel expected to do the work (identify the proposed contract manager).

- E. Supplemental material—materials and data not specifically requested for consideration may be included as supplemental information.
- F. All Proposers shall submit all Addenda of this RFP as part of the proposal. Receipt of each Addendum, if any, shall be acknowledged by the Proposer by signing in the appropriate designated location. Each Proposer shall ascertain, prior to submitting a proposal, that the proposer has received all Addenda issued by the City.

4.5 No Proposal

If a Proposer cannot meet a service requirement, then the term "No Proposal" should be entered on the proposal form for that specific requirement. In the case of a "No Proposal" response, the Proposer must offer an equivalent alternative service.

4.6 Protest Procedures for Proposal Requirements

Any and all complaints regarding this solicitation must be presented in writing no less than seven (7) calendar days prior to the proposal due date, as identified in Section 2.4. The City will address all timely submitted protests within a reasonable time following the City's receipt of the protest and will issue a written decision to the protesting Proposer. Protests shall be addressed as follows:

Carla Bantz
City of Milwaukie
Finance Department
10722 SE Main Street
Milwaukie, OR 97222
bantzc@milwaukieoregon.gov

Protests must include:

- A. The identity of the Proposer;
- B. A clear reference to this RFP;
- C. Reason for the protest;
- D. Proposed changes to the RFP provisions and/or statement of work; and
- E. All required information as described in ORS 279B.405(4).

Protests that do not include the required information will not be considered by the City.

SECTION 5: PROPOSAL SELECTION AND EVALUATION

5.1 General Information

Each proposal will be judged on its completeness and quality of its content. The City reserves the right to reject any and all proposals and is not liable for any cost the Proposer incurs while preparing or presenting the proposal. All proposals will become part of the public file, without obligation to the City. Upon the completion of the evaluations, the City intends to negotiate a Personal Services Agreement with the Proposer whose proposal is deemed to be most advantageous to the City.

5.2 Selection Review Committee

The Selection Review Committee will be comprised of four members. The role of the Selection Review Committee is to evaluate the proposals submitted and make a recommendation of award to City Council.

Scoring will be completed covering all areas listed in Section 5.3. If additional information is deemed necessary as part of the evaluations, such information will be solicited in order to allow the committee to complete the evaluation process.

5.3 Scoring and Evaluation Criteria

The criteria listed below will be used to determine the finalists and apparent successful Proposer. Proposals will be evaluated in accordance with the following criteria:

- | | |
|--|-------------|
| A. Proposal submitted on time | Pass / Fail |
| B. Firm and service team qualifications
<i>The evaluation of the contractor and team members' qualifications as listed under Section 4.2 of this RFP. Experience and competence with governmental and municipal entities will be evaluated.</i> | 20 points |
| C. Service understanding and approach
<i>Evaluation of Proposer's work plan, general understanding of the services as detailed, and customer service features.</i> | 40 points |
| D. Service timeframe
<i>Evaluation of Proposer's practical approach to meeting the City's deadlines as detailed.</i> | 15 points |
| E. Fee evaluation
<i>Evaluation of the proposed rates and methodology as it applies to the City's financial practices.</i> | 25 points |

5.4 Ranking of Proposals

Proposals will be ranked by the Selection Review Committee based on evaluation of responses with the first-ranked Proposal being that Proposer which is deemed to be the most appropriate and fully able to perform the services, and the second ranked Proposal being the Proposer next most appropriate, all in the sole judgment of the Selection Review Committee.

Proposal scores will be totaled and ranked. Any Proposal in response to this RFP shall be considered de facto permission to the City to disclose the results, when completed, to selected reviewers at the sole discretion of the City.

5.5 Proposal Rejection

The City reserves the right to:

- A. Reject any and all proposals not in compliance with all public procedures and requirements;
- B. Reject any proposal not meeting the specifications set forth herein;
- C. Waive any or all irregularities in proposals submitted;

- D. Award any or all parts of any proposal; and
- E. Request references and other data to determine responsiveness.

5.6 Intent of Award

Upon evaluation and ranking of the proposals submitted, the City will provide written notice of its intent to award the contract to the contractor who best meets the overall needs of the City.

5.7 Protest of Award

In accordance with the City's Public Contracting Rule 30.135, any adversely affected or aggrieved proposers has seven (7) calendar days from the date of the written notice of award to file a written protest, as identified in Section 2.4.

SECTION 6: CONTRACT REQUIREMENTS

6.1 Contract Negotiation

The City reserves the right to negotiate final terms of a Personal Services Agreement as the City determines to be in its best interest.

The City will negotiate the agreement once the Selection Review Committee has chosen the top-ranked Proposer. If the City cannot come to terms with the top-ranked Proposer, the City will enter into negotiations with the second-ranked Proposer. This process will continue until the City reaches an agreement which the City deems appropriate for the services.

6.2 Contract Award

The award of a contract is accomplished by executing a written Personal Services Agreement that incorporates the Proposer's proposal, clarifications, addenda, additions, and insurance. All such materials constitute the contract documents.

ATTACHMENT A

Proposal Content Questionnaire

All questions must have a response. Please clearly identify the question number that belongs to each response. Any question not answered or left blank may be grounds for discontinued consideration of proposal further.

1. Identify your firm's name, physical address, phone number, fax number, and email address.
2. Identify the name and title of the person answering the questions.
3. How many years has your firm been in the debt collection business?
4. Indicate your firm's approximate annual collection volume (in dollars).
5. Does your firm carry Professional Liability Insurance?
 - a. If yes, please indicate the insurance company and amount of coverage.
6. Would the City's account be serviced from your office at the address listed in Question #1?
 - a. If not, from what address or office?
7. List three references to which you are currently providing debt collection services. At least one must be comparable or similar to the services proposed under this RFP. Provide name and telephone number of contact for each reference.
8. Does your company have a customer service policy?
 - a. If yes, please describe the policy.
9. Give a brief history of your company and the types of services you are qualified to perform.
10. Describe qualifications of the company's team members. Identify individuals and subcontractors who will complete the work, their experience, and their individual qualifications.
11. Indicate the extent to which the City personnel would be expected to contribute to the service work effort.
12. Describe the collection process, and if applicable, provide samples of:
 - a. Time estimates (in hours) for each significant segment of the collection process
 - b. Method of documenting collection attempts
 - c. Method for locating debtors
 - d. Types of contact made (letters, phone calls, other)
 - e. Customer service approach, including bilingual collectors, business hours, credit/debit card payment option or other approaches
 - f. Debtor complaint processes and procedures
13. List any information that has not been covered and that you feel is important about your company.
14. Sign and date the proposal.

ATTACHMENT B

Proposal Form

City of Milwaukie
Carla Bantz, Court Operations Supervisor
10722 SE Main Street
Milwaukie, Oregon 97222

Dear Carla:

We have read the Request for Proposal (RFP) and fully understand its intent. We certify that we have adequate personnel, equipment, and facilities to fulfill the requirements. We understand that our ability to meet the criteria and provide the required services shall be judged solely by designated staff of the City of Milwaukie. We have reviewed the Personal Services Agreement, included as Attachment C with the RFP, and agree to execute such upon award of the contract by City.

It is further understood that all information included in, attached to, or required by this RFP shall be public record upon its delivery to the City.

We propose to provide Debt Collection Services in accordance with the specifications contained in the proposal submitted in response to the RFP for an initial five-year period with possible contract extensions at the option of the City.

Proposed Rates

SERVICES	RATE
Commission rate	
Principal remitted to City	
Interest remitted to City	
Principal retained by Contractor	
Interest retained by Contractor	
Account sent to affiliate agency	
Second placement*	
Other services offered:	
Other applicable rates:	

*Second placement is an account previously held by another collection agency and transferred.

This rate price schedule is proposed by:

Firm

Print Name and Title

Date

Signature



**PERSONAL SERVICES AGREEMENT
WITH THE CITY OF MILWAUKIE, OREGON
FOR DEBT COLLECTION SERVICES**

THIS AGREEMENT made and entered into this (Day) day of (Month), 2015 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and (Contractor's Name) hereinafter called Contractor.

RECITALS

WHEREAS City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

WHEREAS City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

1. SERVICES TO BE PROVIDED

Contractor shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

2. EFFECTIVE DATE AND DURATION

This Agreement shall become effective on January 1, 2016 and shall expire, unless otherwise terminated or extended, by December 31, 2020. All work under this Agreement shall be completed prior to the expiration of this Agreement. The City shall also retain the rights to two (2) one-year extensions to the Contract.

3. COMPENSATION

City agrees to pay Contractor not to exceed (Amount in written form) (\$Amount in numerical form) for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor must pay all contributions or amounts due from Contractor to the Industrial Accident Fund

incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. OWNERSHIP OF WORK PRODUCT

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

5. ASSIGNMENT/DELEGATION

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be

solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

7. **INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

8. **INSURANCE**

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier. Such insurance shall be primary and non-contributory.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverage:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$3,000,000
Products-Completed Operations Aggregate	3,000,000
Personal & Advertising Injury	3,000,000
Each Occurrence	2,000,000
Fire Damage (Any one fire)	500,000
Medical Expense (Any one person)	5,000

B. Commercial Automobile Insurance

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.

C. Professional Liability Insurance Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$2,000,000. Annual aggregate limit shall not be less than \$2,000,000.D. Workers' Compensation Insurance

The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under this Contract who are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide workers' compensation coverage for their workers that complies with ORS 656.126. Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident shall be included.

E. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.

F. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days' notice of cancellation to the City.

G. Insurance Carrier Rating

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

H. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read "Insurance certificate pertaining to contract for Debt Collection Services. The City of Milwaukie, its officers, directors and employees shall be added as additional insureds with respects to this contract. A notation stating that "Insured coverage is primary" shall appear in the description portion of certificate.

I. Independent Contractor Status

The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.

J. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

K. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in the general liability policy.

Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Milwaukie
Attn: Finance
10722 SE Main Street
Milwaukie, Oregon 97222

Business Phone: 503-786-7555
Business Fax: 503-653-2444
Email Address: finance@milwaukieoregon.gov

Such policies or certificates must be delivered prior to commencement of the work.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

9. **METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, email or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

City	Contractor
City of Milwaukie	Company: (insert name of firm)
Attn: Accounts Payable	Attn: (insert contract manager's name)
10722 SE Main Street Milwaukie, Oregon 97222	Address: (insert contract manager's address)
Phone: 503-786-7523	Phone: (insert #)
Fax: 503-786-7528	Fax: (insert #)
Email Address: ap@milwaukieoregon.gov	Email Address: (insert address)

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

10. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

11. TERMINATION WITHOUT CAUSE

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

12. TERMINATION WITH CAUSE

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:
- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
 - 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

13. ACCESS TO RECORDS

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

14. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

15. NON-WAIVER

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

16. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with

Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

17. ERRORS

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

18. EXTRA (CHANGES) WORK

Only the Finance Director, Casey Camors, or Court Operations Supervisor, Carla Bantz, may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

19. WARRANTIES

All work shall be guaranteed by Contractor for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this Agreement.

20. ATTORNEY'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

21. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

22. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement

23. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

24. AUDIT

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

25. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

26. COMPLETE AGREEMENT

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

CITY OF MILWAUKIE

CONTRACTOR

Signature

Signature

Printed Name & Title

Printed Name & Title

Date

Date

EXHIBIT A
SCOPE OF WORK (SERVICES TO BE PROVIDED)



CITY OF MILWAUKIE
"Dogwood City of the West"

Resolution No.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
TO AUTHORIZE THE CITY MANAGER, TO SIGN A CONTRACT FOR DEBT
COLLECTION SERVICES WITH VALLEY CREDIT SERVICE INC.**

WHEREAS, it is the policy and practice of the City of Milwaukie to contract with a professional collection agency to recover uncollected debt on Municipal Court and Utility accounts and,

WHEREAS, the City of Milwaukie performed a request for proposal for debt collection services due to expiration of the existing contract for debt collection services and,

WHEREAS, the evaluation committee reviewed the proposals and selected Valley Credit Service Inc. for the contract award for debt collection services.

Now, Therefore, be it Resolved that the City Council of the City of Milwaukie, Oregon, directs the City Manager to sign a personal services contract with Valley Credit Service Inc. effective January 1, 2016.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

RS 3. C.
Dec. 15, 2015

To: Mayor and City Council

Through: Bill Monahan, City Manager
Alma Flores, Community Development Director

Subject: **Urban Renewal – Council Resolution**

From: Denny Egner, Planning Director

Date: December 7, for the December 15, 2015, Regular Session

ACTION REQUESTED

Adopt a resolution confirming the direction given regarding urban renewal planning at the December 1, 2015 Council work session.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

December 1, 2015: The Council held a work session and received a presentation from Nick Popenuk of ECONorthwest regarding urban renewal feasibility in Milwaukie.

November 3, 2015: The Council held a work session at which the City's consultant team consisting of ECONorthwest and Elaine Howard provided an overview of issues related to urban renewal.

June 30, 2015: The City Council held a study session regarding their 2015 Goal to develop an urban renewal strategy for the downtown and the north industrial area.

May 19, 2015: The City Council adopted goals for the 2015-16 fiscal year including a goal to develop an "Urban Renewal Strategy for the Downtown and the North Industrial Area."

BACKGROUND AND DISCUSSION

Staff is seeking Council approval of a resolution confirming the direction given at the December 1 Council work session. At the work session, the ECONorthwest team recommended preparation of an urban renewal plan for the downtown and central Milwaukie. It also recommended waiting until after the North Milwaukie Industrial Area Plan is completed to consider an urban renewal plan for that area. The Council members expressed support for the recommendations.

CONCURRENCE

No other departments reviewed the draft report.

FISCAL IMPACTS

The urban renewal feasibility and plan project carries out a Council goal and was included in the Community Development Department budget.

WORK LOAD IMPACTS

The work associated with this project is assumed to be within the normal workload capacity of the Planning and Community Development staff.

ALTERNATIVES

The resolution documents the Council direction to prepare an urban renewal plan. No alternative approaches have been explored.

ATTACHMENTS

1. Draft Resolution



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, providing direction to prepare a draft urban renewal plan encompassing the downtown and central Milwaukie.

WHEREAS, on May 19, 2015, the City Council adopted goals for the 2015-16 fiscal year including a goal to develop an "Urban Renewal Strategy for the Downtown and the North Industrial Area;

WHEREAS, the City hired an expert consultant team consisting of ECONorthwest and Elaine Howard Consulting to analyze the feasibility of using urban renewal in Milwaukie;

WHEREAS, on December 1, 2015, the consultant team recommended that the City pursue preparation of a draft urban renewal district plan for the downtown and central Milwaukie and that consideration of an urban renewal plan for the North Milwaukie Industrial Area be delayed until the Metro funded planning effort for that area is complete;

WHEREAS, the consultant's scope of work to prepare a draft urban renewal plan for the downtown and Central Milwaukie provides extensive opportunities for community discussion about district boundaries, development assumptions, financial forecasts, urban renewal projects, and impacts on taxing districts;

NOW, THEREFORE, BE IT RESOLVED that:

1. The City staff and the consultant team are directed to prepare a draft urban renewal plan (with stakeholder input) for the downtown and Central Milwaukie areas.
2. The downtown and Central Milwaukie areas should be combined as one urban renewal area.
3. The City should wait to make any decisions about the use of urban renewal in the North Milwaukie Industrial Area until after the North Milwaukie Industrial Area Plan is complete.

Introduced and adopted by the City Council on **December 15, 2015**.

This resolution is effective on **December 15, 2015**.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



To: Mayor Gamba and Milwaukie City Council

Through: Bill Monahan, City Manager

From: Steve Bartol, Chief of Police

Date: November 20, 2015

Subject: O.L.C.C. Application – Beer Store Milwaukie – 10610 SE Main Street

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Beer Store Milwaukie – 10610 SE Main Street.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 3. E.**
Meeting Date: **Dec. 15, 2015**
Added Dec. 10, 2015

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Milwaukie / Clackamas County Intergovernmental Agreement**

From: Samantha Vandagriff, Building Official

Date: December 15th, 2015

ACTION REQUESTED

Renewal of the contract allowing shared resources of the Clackamas County and Milwaukie Building Departments.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Original Intergovernmental Agreement signed July 1st, 1997.

Intergovernmental Agreement updated and signed May 15th, 2001 reflected updated costs.

BACKGROUND

The Milwaukie Building department has participated in an agreement with the Clackamas County Building Department to account for staff shortages and/or vacations for the City of Milwaukie since 1997. The reimbursement costs in the current contract have however become outdated. New language in the contract addresses the rights to system access for the parties, updated reimbursement costs for inspections and plan review, and the transfer of the electrical permits from Clackamas County to the City of Milwaukie permit system. The new language in the Intergovernmental Agreement also makes this a mutual agreement in that Clackamas County may now request the City of Milwaukie employees for coverage as needed.

CONCURRENCE

Clackamas County has reviewed and concurs on the language therein.

The City of Milwaukie Building Official has reviewed and concurs with the language therein.

FISCAL IMPACTS

A new reimbursement cost for shared employees will be implemented causing the reimbursement fees to rise for both parties. The percentage of the fees that the City of Milwaukie retains for the electrical program has also been increased to reflect that City employees will now be managing all of the paperwork for the permits.

WORK LOAD IMPACTS

N/A

ALTERNATIVES

The alternative would be to not accept the IGA and to cease using Clackamas County to provide coverage for the building department as needed.

ATTACHMENTS

1. Milwaukie / Clackamas County IGA for Building Permit and Inspection Services
2. Resolution

RECORD COPY

Intergovernmental Agreement For Provisions of
Building Inspection/Plan Review (BI/PR) Services

This Agreement is entered into by and between City of Milwaukie (A political subdivision of the State of Oregon) and the following counties or cities, each of which is an Oregon municipal corporation:

County of Clackamas

RECITALS

- A. ORS 190.010 authorizes and allows the parties to this Agreement to perform the functions and activities that another party to this Agreement has authority to perform.
- B. Each of the parties has staff that provides BI/PR services for their respective jurisdictions.
- C. With the fluctuations in development and construction activity in Oregon the parties have experienced variations in demand for BI/PR services over the course of the last few fiscal years; and the parties believe it may be more cost effective and better serve the public to share experienced staff of another jurisdiction rather than independently hiring additional staff.

AGREEMENT

Now, therefore, based on the foregoing, the signatories agree as follows:

- 1. Definitions. As used herein, the following words and phrases mean:
 - 1.1. "Borrowing Party" is the governmental entity requesting and obtaining staff assistance from another signatory to this Agreement.
 - 1.2. "Building Inspection/Plan Review Services" (BI/PR) are services related to the issuance of permits under the provisions of ORS Chapters 197.215, 227 or 455.
 - 1.3. "Originating Party" is the entity loaning one or more of its employees to another signatory for staff assistance related to BP/PR.
 - 1.4. "Reimbursement Costs" are those charges related to a Shared Employee as set forth in a fee schedule adopted by an Originating Party. The charges shall be set out as an hourly rate for inspection services, and a percentage of the plan review fee for plan review services.
 - 1.5. "Shared Employee" is the Originating Party's employee loaned to a Borrowing Party under this Agreement.
- 2. Requested Use of Shared Employees. Each Party to this Agreement shall make available its employees providing BP/PR, to the extent these employees are (in the opinion of the Originating Party) available for loan. The Borrowing Party shall inform the Originating Party, that it desires staff assistance related to BP/PR from of the Originating Party stating the number of positions and the minimum qualifications of the staff requested. The request shall also set out when the Shared Employee would be needed and an estimate of the duration for the need.
- 3. Response to Request for Use. The Originating Party shall promptly provide Borrowing Party with the name(s) of employee(s) that are available and a brief description of the employees' qualifications. It shall be in the sole discretion of the Originating Party to select the employees subject to this Agreement. This process is to be quick and

responsive such that a Borrowing Party may make a request in the morning and be lent a Shared Employee that same day.

4. Payment for Use of Shared Employee and Revenue Sharing.

4.1 Inspections services, excluding electrical, the payment shall be at the rate of \$95.00 per hour and shall include travel time between jurisdictions.

4.2 Plan review services, excluding electrical, shall be paid at 70% of the plan check fee.

4.3 Plan review and inspection services for electrical shall have the revenue collected by the City dispersed accordingly; the City shall forward to the County seventy percent (70%) of the permit revenues collected on a monthly basis for electrical permits. The City shall retain the other thirty percent (30%) of the permit revenues. The City shall maintain records to assure compliance with ORS 479.845(1) and remit to the State Building Codes Division all surcharge due according to ORS 455.210(4)

5. Accounting for Shared Employee. The Originating Party shall provide to the Borrowing Party an accounting of hours spent performing inspections services for the Borrowing Party. This information shall be provided monthly and may be provided via e-mail or fax. Each party shall keep a running total of the hours worked by each party for the other. Both parties shall prepare an accounting and pay all reimbursement costs within 30 days of the end of each month.

6. Status of Shared Employee. A Shared Employee shall:

6.1. Account for the number of hours in service to a Borrowing Party;

6.2. Remain an employee of the Originating Party continuing to be paid and receiving employee benefits therefrom without entitlement or claim to any salary, compensation or other benefits from the Borrowing Party;

6.3. Continue working the number of hours specified in his or her contract of employment with the Originating Party while loaned to a Borrowing Party, unless the Originating Party, Borrowing Party and the Shared Employee agree otherwise;

6.4. In the event of any dispute between the Shared Employee and Borrowing Party about the performance of services under this Agreement, Shared Employee shall be subject to the exclusive direction and control (including personnel actions and discipline) of the Originating Party.

6.5. Administer the building code and the adopted policies of the Borrowing Party, and shall defer to the direction of the building official of the Borrowing Party on matters relating to the BI/PR services and the issuance of permits. It is agreed by and between the parties that the Shared Employee is carrying out a function on behalf of the Borrowing Party, and the Borrowing Party has the right of direction or control of the manner in which the Borrowing Party delivers services under this Agreement and exercises control over the activities of the Shared Employee when providing agreed upon services.”

7. Obligations of Borrowing Party. If the Shared Employee does not meet the needs or is otherwise not satisfactory to Borrowing Party, Borrowing Party's sole recourse shall be the return of Shared Employee to Originating Party. The Borrowing Party shall provide a written explanation to the Originating Party for the return of the Shared Employee(s). Borrowing Party shall provide a Shared Employee with all material(s) and work space necessary to perform the requested BP/PR.

8. Obligations of Originating Party. In addition to its other obligations set out elsewhere in this Agreement, the Originating Party shall be responsible for provision of any official motor vehicle necessary for performance of services by a Shared Employee.

9. General Provisions.

- 9.1 Compliance with Laws. Every party shall comply with all applicable federal, state and local laws, including those related to discrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability and all applicable laws and regulations regarding the handling and expenditure of public funds.
- 9.2 Oregon Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.
- 9.3 Time is of the Essence. Time is of the essence in the performance of this Agreement.
- 9.4 System Access. The borrowing party agrees to provide the originating party access to the borrowing parties permitting system. The Borrowing Party may limit access to any materials or information systems that the Borrowing Party determines, in its sole discretion, is not necessary to perform the requested BI/PR services.
- 9.5 Default. A party shall be deemed in default if it fails to comply with any provision of this Agreement. The non-defaulting party shall provide defaulting party written notice of the default and an explanation thereof and allow the defaulting party thirty (30) days within which to cure. In the event of default, the non-defaulting party may terminate this Agreement immediately upon written notice provided to the defaulting party.
- 9.6 Indemnification. Each entity in its capacity as an Originating Party hereby agrees to indemnify, defend and hold harmless- those entities acting as Borrowing Parties(including their officers, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Originating Party its, officers, employees(including Shared Employees) and agents pursuant to the terms of this Agreement. Each party shall give the other parties to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- Each entity in its capacity as a Borrowing Party hereby agrees to indemnify, defend and hold harmless the entity acting as the Originating Party (including their officers, commissioners, employees and agents) from and against all claims, demands and causes of actions and suits of any kind or nature made by a third party for personal injury, death or damage to property arising out of the service(s) performed by the Borrowing Party its, officers, commissioners, employees (including Shared Employees) and agents pursuant to the terms of this Agreement. Each party shall give the other party to this Agreement notice of any claim made or case filed that relates to this Agreement or services performed hereunder.
- 9.7 Insurance. Each party agrees to maintain liability and workers compensation insurance in accordance with statutory requirements at levels necessary to protect against liabilities allowed by law. Each Originating Party shall maintain workers compensation coverage for any Shared Employee loaned under this Agreement.
- 9.8 Modification. This agreement may be amended in writing as may be mutually agreed to between the parties.
- 9.9 Dispute Resolution. The parties shall first attempt to informally resolve any dispute concerning this Agreement. A neutral party may be used to facilitate those negotiation. In the event of an impasse, the issue shall be submitted to the governing bodies for a recommendation or resolution.
- 9.10 Enforcement. Subject to the provisions in paragraph 9.6, any party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement.
- 9.11 Excused Performance In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delays or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations,

new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control of the party to be excused.

9.12 Termination. A party may terminate its participation in this Agreement, with or without cause and at any time, by providing thirty (30) days written notice to the other parties to this Agreement.

9.13 Severability. If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

9.14 Entire Agreement. This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

10. Term of Agreement. This Agreement shall take effect on the date that both parties have signed the agreement and continue thereafter from year to year in perpetuity unless terminated by the parties consistent with section 9 above.

11. Contact Persons. Communications about this Agreement and any notice sent under its terms shall be sent by and to the following contact persons for the respective parties:

<u>Jurisdiction</u>	<u>Contact Person</u>	<u>Address</u>
City of Milwaukie	Samantha Vandagriff	6101 SE Johnson Creek Blvd.
Clackamas County	Scott Caufield	150 Beaver creek Rd

12. Appropriations Clause. The obligations of the parties are subject to appropriations by their governing bodies. This Agreement is subject to the debt limitations in Oregon Constitution, Article XI, section 10 and any debt limitations contained in a city charter.

13. Terms Specific to this Agreement. This Agreement is effective January 1st, 2016.

City of Milwaukie
Jurisdiction

Signature

Date

Bill Monahan
Printed Name

City Manager
Title

Address: 10722 SE Main Street Milwaukie OR, 97222

City of Clackamas County
Jurisdiction

Signature:

_____ Date

_____ Printed Name

_____ Title

Address: 150 Beaver Creek Rd, Oregon City, OR, 97045



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO UPDATE AN INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF CLACKAMAS FOR SHARING OF EMPLOYEES FOR BUILDING INSPECTION/ PLAN REVIEW SERVICES

WHEREAS, The City of Milwaukie currently has an intergovernmental agreement with the County of Clackamas; and

WHEREAS, ORS 190.010 authorizes a unit of local government to enter into a written agreement with any other unit or units of local government for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have authority to perform; and

WHEREAS, The past 18 years of the existing intergovernmental agreement have been mutually beneficial such that all parties support the continuance of the relationship; and

Now, Therefore, be it Resolved that City council approves the renewal of an Intergovernmental Agreement with the County of Clackamas to continue provided mutual services as needed between the jurisdictions and granting the City Manager approval to sign the Agreement.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



**Regular Session
Agenda Item No.**

5

Public Hearing



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 5. A. 1.**
Meeting Date: **Dec. 15, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager
Alma Flores, Community Development Director
Dennis Egner, Planning Director

Subject: **Moving Forward Milwaukie: Central Milwaukie Plan
and Code Amendments (CPA-2015-001, ZA-2015-
001) Hearing #6**

From: Vera Kalias, Associate Planner

Date: December 7, 2015

ACTION REQUESTED

Second reading of the ordinance adopting amendments to the Milwaukie Comprehensive Plan, Milwaukie Zoning Ordinance, Milwaukie Zoning Map, and adopt the Central Milwaukie Land Use and Transportation Plan (Attachment 1).

STAFF RECOMMENDATION

Read the ordinance for the second time to formalize adoption of the amendments.

KEY FACTS & INFORMATION SUMMARY

The proposed amendment package is a result of Phase 2 of the Moving Forward Milwaukie: Enhancing Our Commercial Districts (Moving Forward Milwaukie) project. This is the second package of amendments being proposed as a result of the project.

City Council read the first ordinance for the first time by title only on December 1, 2015.

FISCAL IMPACTS

These amendments are part of the Moving Forward Milwaukie project scope. An outcome of adoption of these amendments is increased flexibility for new development, which may make new development more likely.

WORK LOAD IMPACTS

It is anticipated that the streamlined code and land use review procedures, coupled with increased interest in central Milwaukie, will result in increased development activity in the General Mixed Use Zone and Flex Space Overlay. This may result in an increased workload for Planning, Engineering, and Building Department staff.

ALTERNATIVES

None.

ATTACHMENTS

1. Ordinance amending the Comprehensive Plan and Milwaukie Municipal Code (Titles 14 and 19)



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, amending the Comprehensive Plan text, maps, and ancillary documents (a new Central Milwaukie Land Use and Transportation Plan and the Transportation System Plan); Title 14 Sign Ordinance; Title 19 Zoning Ordinance; and amending the Zoning Map (File #CPA-2015-001, ZA-2015-001).

WHEREAS, the City of Milwaukie desires to encourage development in central Milwaukie and ensure that new development reflects the desires of the community; and

WHEREAS, the City Council approved Resolution 53-2013 to execute an intergovernmental agreement with Metro's Construction Excise Tax grant program to provide resources to the City to address barriers to development in central Milwaukie; and

WHEREAS, the *Moving Forward Milwaukie: Enhancing Our Commercial Districts* project has identified policy and regulatory barriers to development in central Milwaukie; and

WHEREAS, all central Milwaukie property owners and tenants were notified of the amendments and opportunity for public input has been provided at multiple public meetings and through the City website; and

WHEREAS, the City has prepared amendments to the Comprehensive Plan text, maps, and ancillary documents (a new Central Milwaukie Land Use and Transportation Plan and the Transportation System Plan); the Municipal Code; and the Zoning Map that address barriers to development; and

WHEREAS, the City Council finds that the amendments will result in updated development and design standards that reflect the community's vision for future development in central Milwaukie; 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; and

WHEREAS, the City Council finds that the amendments are extensive in scope and require 60 days from the date of adoption to put into effect.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments and which are the basis in support of this Ordinance are hereby adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Comprehensive Plan and Milwaukie Municipal Code are amended as described in Exhibit B (Comprehensive Plan underline/strikeout version), Exhibit C (Comprehensive Plan clean version), Exhibit D (Central Milwaukie

Land Use and Transportation Plan clean version only), Exhibit E (Transportation System Plan underline/strikeout version), Exhibit F (Transportation System Plan clean version), Exhibit G (Titles 14 Signs and 19 Zoning underline/strikeout version), Exhibit H (Titles 14 Signs and 19 Zoning clean version), and Exhibit I (Zoning Map).

Section 3. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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 _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 5. A. 2.**
Meeting Date: **Dec. 15, 2015**

To: Mayor and City Council

Through: Bill Monahan, City Manager
Alma Flores, Community Development Director
Dennis Egner, Planning Director

Subject: **Moving Forward Milwaukie: Central Milwaukie Plan and Code Amendments (CPA-2015-001, ZA-2015-001) Hearing #6**

From: Vera Koliass, Associate Planner

Date: December 7, 2015

ACTION REQUESTED

Adopt the Ordinance in Attachment 1. This action would adopt amendments to the Public Art Ordinance to reflect revisions to the central Milwaukie zones.

STAFF RECOMMENDATION

Read the ordinance to formalize adoption of the amendments.

KEY FACTS & INFORMATION SUMMARY

The proposed amendment package is a result of Phase 2 of the Moving Forward Milwaukie: Enhancing Our Commercial Districts (Moving Forward Milwaukie) project. This is the second package of amendments being proposed as a result of the project.

Two ordinances were part of the City Council amendment package on December 1, 2015. Council read the first ordinance for the first time by title only, but did not read the second ordinance; staff requests that Council complete the first and second readings on December 15. This ordinance reflects the central Milwaukie zoning amendment that repealed the Residential-Office-Commercial Zone, replacing it with the General Mixed Use Zone.

ALTERNATIVES

None.

ATTACHMENTS

1. Ordinance amending the Milwaukie Municipal Code (Title 20)



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, amending the Milwaukie Municipal Code Title 20 Public Art (File # ZA-2015-001).

WHEREAS, the immediately previous and related ordinance repealed Milwaukie Municipal Code Section 19.303 Residential-Office-Commercial Zone, replacing it with a new zone (General Mixed Use); and

WHEREAS, Milwaukie Municipal Code Subsection 20.04.060 lists the Residential-Office-Commercial Zone and needs to be updated to reflect the change; and

WHEREAS, the City has prepared amendments to the Municipal Code to update that subsection; and

WHEREAS, notice of the proposed amendment was posted as required 30 days in advance of the hearing; and

WHEREAS, the City Council finds that the amendments are in keeping with the previously adopted ordinance; and

WHEREAS, the City Council held a duly advertised public hearing on the establishment of Title 20, with notice provided per the requirements of the Milwaukie Municipal Code and Oregon Revised Statutes; and

WHEREAS, the City Council finds that these amendments should go into effect on the same date as the previously adopted ordinance amendments.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Amendments. The Milwaukie Municipal Code Title 20 Public Art is amended as described in Exhibit A (underline/strikeout version) and Exhibit B (clean version).

Section 2. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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 _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item: **RS 5. B.**
Meeting Date: **Dec. 15, 2015**

To: Mayor and City Council
Through: Bill Monahan, City Manager
Alma Flores, Community Development Director
Dennis Egner, Planning Director
Subject: **ZA-2015-002 – Neighborhood Main Streets
Amendments Hearing #2**
From: Li Alligood, Senior Planner
Date: December 8, 2015, for December 15, 2015, Public
Hearing

ACTION REQUESTED

Approve application ZA-2015-002 and adopt the Ordinance found in Attachment 1. This action would adopt amendments to the Milwaukie Zoning Map and Milwaukie Zoning Ordinance.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

November 17, 2015: Council discussed the proposed amendments and directed staff to make minor changes. These changes have been incorporated into the proposed amendments.

May 2013: Council approved an intergovernmental agreement (IGA) with Metro to accept Construction Excise Tax (CET) grant funds for the Moving Forward Milwaukie: Enhancing Our Commercial Districts project (MFM), which was intended to address barriers to development in downtown, central Milwaukie, and the "neighborhood main streets" of 32nd and 42nd Avenues, and authorized the Council President to sign the agreement on behalf of the Mayor (Res. 36-2013). The IGA was executed on May 21, 2013.

June 2012: Horizon Planning, a group of graduate urban planning students from Portland State University, presented the Neighborhood Main Streets Project and recommendations for the "neighborhood main streets" of 32nd and 42nd Avenues.

January 2010: Council passed Resolution #06-2010, authorizing application for a Metro Construction Excise Tax (CET) grant. Part of the work proposed in the grant included revisions to the zoning for commercial areas within Milwaukie's residential areas. The CET grant was unavailable between 2010 and 2013 due to ongoing litigation with the Home Builders Association of Metropolitan Portland.

BACKGROUND

A. Council Direction and Requests

At the November 17 public hearing, Council discussed the proposed amendments and provided direction regarding the following:

- Allow cottage cluster housing in the NMU Zone as a Conditional Use
- No height bonuses permitted in the NMU Zone

- Do not add Airbnb to the Commercial Lodging use category, as it is being addressed through a separate code amendment process
- Retain Parking Facilities as a use category and allow as a Conditional Use
- Retain proposed multifamily density ranges of 11.6-14.5 dwelling units per acre
- Revise Finding 5.b.2.b.c to clarify that it may be appropriate to apply the NMU Zone to other commercial areas in the future.

Council also requested information regarding potential approaches to exempt the existing Safeway store at 42nd Ave and King Rd from the proposed use limit of 10,000 sq ft.

B. Other Changes

In addition to the direction provided above, "housekeeping" revisions have been made to the proposed code amendments and are highlighted in red text in Exhibit B:

- MMC 19.303.4.E.2.d has been revised to clarify that the provision applies when development is on the corner of 32nd or 42nd Avenues and another street
- MMC 19.605.3.B.1 has been revised to reference the NMU Zone

KEY QUESTIONS

Summary

The existing Safeway building is approximately 45,000 sq ft in area; applying the proposed 10,000 sq ft by-right use limit to the Safeway building would convert it from an outright permitted use to a de facto nonconforming use. With a de facto nonconforming use status, alterations to the building or use could require land use review, and the nonconforming status would be lost if the building were vacant for more than 2 years. After 2 years, any use in the building would need to conform to the proposed size limitations (e.g. be 10,000 sq ft or less, or seek approval as a Conditional Use).

Dieringer's Properties, Inc., which developed the commercial center that includes the Safeway site, testified at the November 17 hearing and requested relief from the size limitation due to the long re-tenanting process needed for large-format buildings and the potential for loss of nonconforming status if that process exceeded 2 years.

Council directed staff to prepare revisions to the proposed amendments that would:

- Exempt the existing Safeway building and the use it contains (a grocery store/supermarket) from the proposed 10,000 sq ft by-right size limit and allow it to continue as a conforming use
- Identify which uses could be permitted in the building if the Safeway store vacated the building

The distinction between a grocery store and supermarket is the type of goods they sell (groceries and groceries in addition to other goods, respectively). In addition to groceries, Safeway sells prepared foods and household items and includes a coffee shop (Starbucks), bank, and pharmacy, and so is more accurately classified as a supermarket than a grocery store.

Staff is seeking Council direction regarding which of the following approaches should be included in the final amendments, or if an alternative approach is desired. Staff recommends approach C, which provides the most flexibility and ease of administration.

A. Retain conforming status and restrict future uses to a supermarket (a subcategory of "retail-oriented sales")

This approach would allow the Safeway store to retain its existing conforming status, but would restrict any future use to a supermarket.

Advantages:

- Allows the existing store to retain its conforming status.
- Responds to the desire of the community to retain a supermarket store in this location

Disadvantages:

- Very little flexibility for the building owner
- If Safeway vacates the site due to changing market performance or consolidation, it may be very difficult or impossible to locate another supermarket in the space
- Restricting the permitted conforming use to a supermarket could result in long-term vacancy of the building
- Any use other than a supermarket would be required to receive Type III Conditional Use approval before locating in the building

B. Retain conforming status and restrict future uses to "retail-oriented sales"

This approach would allow the Safeway store to retain its existing conforming status, but would allow a full range of retail uses in the future.

Advantages:

- Allows the existing store to retain its conforming status
- Allows more flexibility for the property owner than Option A
- Retail uses continue to provide activity at the site

Disadvantages:

- Restricting the permitted conforming use to a retail use could result in long-term vacancy of the building
- There is no way to regulate which retail use locates in the space
- There is no assurance that the new retail use would serve the surrounding neighborhoods
- Any use other than "retail-oriented sales" would be required to receive Type III Conditional Use approval before locating in the building

C. Retain conforming status and allow any permitted use

This approach would allow the Safeway store to retain its existing conforming status, and would permit the full range of uses permitted by the NMU Zone in the future. This is the approach recommended by staff.

Advantages:

- Allows the existing store to retain its conforming status
- Allows maximum flexibility for property owner
- Ease of code administration

Disadvantages:

- Could convert to an office or other low-activity use, which may not contribute to the pedestrian environment or vibrant commercial district. However, the location of the Safeway building on the interior of the site could offset this potential disadvantage.

Questions for Council Discussion

- Which approach (A, B, or C) should be included in the final adoption draft of the amendments?

CONCURRENCE

The Community Development and Engineering Departments participated in the drafting of the amendments. The Moving Forward Milwaukie PAC directed and reviewed the proposed amendments and concurred. The Planning Commission unanimously recommended approval of the amendments as proposed on October 13, 2015.

FISCAL IMPACTS

These amendments are part of the Moving Forward Milwaukie project scope.

WORK LOAD IMPACTS

These amendments are part of the Planning work program for 2015.

ALTERNATIVES

None. Council may direct staff to consider alternate approaches to proposed regulations.

ATTACHMENTS

1. Ordinance

Exhibit A. Findings in Support of Approval

Exhibit B. Proposed Code Amendments – Underline/Strikeout Version

Exhibit C. Proposed Code Amendments – Clean Version

Exhibit D. Proposed Zoning Map Amendments

2. Comments Received since November 17, 2015



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE (TITLES 14 SIGNS AND 19 ZONING), AND AMENDING THE ZONING MAP (FILE #ZA-2015-002).

WHEREAS, it is the intent of the City of Milwaukie to support neighborhood-serving small businesses and pedestrian-scale development in the "neighborhood main streets" of 32nd and 42nd Avenues; and

WHEREAS, the City Council approved Resolution 53-2013 to execute an intergovernmental agreement with Metro's Construction Excise Tax grant program to provide resources to the City to encourage appropriate development in these areas; and

WHEREAS, the *Neighborhood Main Streets and Moving Forward Milwaukie: Enhancing Our Commercial Districts* projects have identified zoning code and map revisions to encourage small businesses and pedestrian-scale development in these areas; and

WHEREAS, all affected property owners and tenants were notified of the amendments and opportunity for public input has been provided at multiple public meetings and through the City website; and

WHEREAS, the City has prepared amendments to the Municipal Code and Zoning Map that will result in updated use, development and design standards that reflect the community's vision for future development in the "neighborhood main street" commercial areas; 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 with duly advertised public hearings on the proposed amendments before the Planning Commission and City Council; and

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code is amended as described in Exhibit B (Titles 14 and 19 underline/strikeout version), Exhibit C (Titles 14 and 19 clean version), and Exhibit D (Zoning Map).

Section 3. Effective Date. The amendments shall become effective 60 days from the date of adoption.

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 _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

EXHIBIT A

Findings in Support of Approval File #ZA-2015-002, Neighborhood Main Streets Code and Map Amendments

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

1. The applicant, the City of Milwaukie, proposes to amend various commercial regulations that are contained in Title 14 Sign Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC) and the Zoning Map. The land use application file number is ZA-2015-002.
2. The purpose of the proposed code amendments is to encourage appropriately-scaled, pedestrian friendly development and uses in the city's "neighborhood main street" commercial areas. While the proposed amendments are located in several titles of the municipal code, the most substantive amendments are proposed to the following chapters of Title 19:

- Chapter 19.303 General Mixed Use Zone
- Chapter 19.500 Supplementary Development Regulations

Additionally, amendments are proposed to Title 14 to coordinate with the proposed amendments to Title 19.

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1008 Type V Review
4. 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 are proposed by the City of Milwaukie and were initiated by the Planning Director on August 28, 2015.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:
 - (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. Staff held a public open house on June 3, 2015, for review of the draft amendments. The Planning Commission has had 1 worksession about the proposed amendments. The draft amendments were sent to members of the project steering committee, for review on May 14, 2015. In addition, property owners within 400 ft of the affected properties received mailed notice. Comments received are summarized in Finding 6.

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

A notice of the Planning Commission's October 13, 2015, hearing was posted as required on September 11, 2015, at City Hall, Leding Library, Public Safety

Building, and Johnson Creek Facility. A notice of the City Council's November 17, 2015, hearing was posted as required on October 16, 2015, at the same locations.

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

The proposed amendments will apply to properties in the 32nd Ave Limited Commercial Zone C-L roughly between Boyd St to the north and Kelvin St to the south; and the 42nd Ave General Commercial Zone C-G between King Rd to the north, 44th Ave to the east, Jackson St to the south, and 1-2 parcels west of 42nd Ave to the west. Although specific property owner notice is not required, given the scope of these amendments, all affected property owners were notified of the hearing date via the Measure 56 notice (see Finding 4.b.6). In addition, property owners within 400 ft of the affected properties received mailed notice.

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

The first evidentiary hearing was held before the Planning Commission on October 13, 2015. Notice of the proposed amendments was sent to DLCD on September 8, 2015.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

The first evidentiary hearing was held before the Planning Commission on October 13, 2015. Notice of the proposed amendments was sent to Metro on August 28, 2015.

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

The proposed amendments would affect uses and development on properties in the proposed Neighborhood Mixed Use Zone NMU. The City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all property owners in the proposed NMU Zone on September 8, 2015.

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

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015.

5. MMC Chapter 19.902 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. The City Council finds that these requirements have been met as follows.

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

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

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015. Public notice was provided in accordance with MMC Subsection 19.1008.3.

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

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

The proposed amendments expand the permitted uses and establish pedestrian-friendly development and design standards for new development and significant renovations in the proposed NMU Zone. The amendments do not conflict with any provision of the Milwaukie Municipal Code. All other code provisions remain effective and can be enforced..

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

The proposed amendments are consistent with the relevant goals and policies of the MCP, which are contained in Chapter 4: Land Use.

Economic Base and Industrial/Commercial Land Use Element

- *Objective #9, Policy 3*

This policy establishes protections for residential areas adjacent to commercial areas. The proposed land use changes will not change the existing transition area measures, which provide adequate visual buffers to adjacent residential areas, including devices such as landscaping and fencing.

Neighborhood Element

- *Objective #2, Neighborhood Area 2, Guideline #4*

This policy supports the rehabilitation of existing buildings in the existing 32nd Ave C-L Zone area. The proposed amendments will provide additional flexibility for property and business owners, which could encourage rehabilitation of existing buildings.

- *Objective #3, Policy 6*

This policy recommends zoning regulations to support the King Road Neighborhood Center vision to encourage land uses that will enhance its value as a commercial and residential neighborhood center. These recommendations include a mix neighborhood scale uses, pedestrian-friendly development standards, and a mix of housing types. The proposed amendments establish pedestrian-friendly development and design standards and allow housing as part of mixed-use development, as well as single-family and multifamily development as conditional uses.

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

The Urban Growth Management Functional Plan is Section 3.07 of the Metro Code. The plan provides tools to meet goals of the 2040 Growth Concept, Metro's long-range growth management plan for the Portland metropolitan area. The proposed amendments are consistent with Functional Plan and relevant regional policies, which are contained in Title 1 and Title 8.

- *Title 1: Requirements for Housing and Employment Accommodation*

The proposed amendments would not reduce the City's housing capacity or the region's employment capacity. The new NMU zone replaces a commercial-only zone and allows mixed-use development (commercial and residential) and live/work units, which has the effect of increasing the City's housing capacity.

- *Title 8: Compliance Procedures*

The City's land use regulations and Comprehensive Plan are in compliance with the Functional Plan. The proposed amendments shall be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by MMC Subsection 19.1008.3.C, the City provided notice of the proposed amendments to Metro's Chief Operating Officer at least 45 days prior to the initial evidentiary hearing on the proposed amendments.

In processing the proposed amendment, the City followed its own requirements for citizen involvement as described in Finding 4.

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

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

Relevant Statewide Planning Goals include Goal 10 Housing. The proposed amendments clarify that standalone residential development in the proposed NMU Zone (including multifamily, rowhouse, and live/work unit development) is subject to the clear and objective multifamily design standards of MMC 19.505.3 Design Standards for Multifamily Housing; 19.505.5 Standards for Rowhouses; and 19.505.6 Design Standards for Live/Work Units.

The proposed amendments are consistent with the Milwaukie Transportation System Plan (TSP), which is in turn consistent with the Regional Transportation Plan (RTP) and the Transportation Planning Rule (TPR). The TSP projects future travel demand based on land uses and projected development. The existing zoning in the proposed NMU Zone areas is commercial, which permits a range of commercial, retail, and office uses. The proposed amendments introduce residential uses, which generate less traffic than currently permitted commercial uses, and do not

affect project development patterns or introduce additional traffic generation.

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

No federal regulations are relevant to the proposed zoning text amendment.

- b. MMC 19.902.5 establishes requirements for amendments to the Zoning Map. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.6.A states that changes to the Zoning Map shall be evaluated through either a Type III or a Type V review.

The Zoning Map amendments involve approximately 63 properties and 45.4 acres. The amendments are legislative in nature and subject to Type V review.

The Planning Commission held a duly advertised public hearing on October 13, 2015, 2015. The City Council held a duly advertised public hearing on November 17, 2015. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.6.B contains approval criteria for changes to the Zoning Map.

- (a) The proposed amendment is compatible with the surrounding area based on the following factors:

- a. Site location and character of the area.

The NMU Zone areas are commercial in nature and permit a broad range of commercial and office uses. The proposed amendments would retain and enhance the commercial character of the areas while ensuring that new development is attractive and pedestrian-friendly. Both commercial areas are well-served by public transit.

- b. Predominant land use pattern and density of the area.

The predominant land use pattern of the NMU Zone areas is medium and large parcels developed with small- and medium-scale buildings. The proposed amendments would encourage a more compact and pedestrian-friendly land use pattern that would complement the surrounding residential areas.

- c. Expected changes in the development pattern for the area.

The development pattern for the area is expected to intensify as Milwaukie's high quality of life and affordability continue to attract residents. The NMU Zone will shape this new development so that it supports a pedestrian-friendly commercial district.

- (b) The need is demonstrated for uses allowed by the proposed amendment.

The existing regulations of the C-L Zone restrict potential uses, while the C-G Zone allows a broad range of uses that are not appropriate in a neighborhood commercial district. The proposed amendments are intended standardize the regulations and allow a broad range of uses that serve the daily needs of the surrounding neighborhoods. The proposed amendments

retain the current mix of uses and add additional uses requested by the community, including live/work units and eating establishments.

- (c) The availability is shown of suitable alternative areas with the same or similar zoning designation.

The most suitable area in Milwaukie for the application of the proposed NMU Zone are the "neighborhood main street" commercial areas of 32nd and 42nd Avenues as identified by the 2000 King Road Neighborhood Center Concept and 2012 Neighborhood Main Streets Project. There may be other sites that are suitable candidates for the NMU Zone in the future (including sites in the C-G, C-L, and/or C-N zones, but the Moving Forward Milwaukie project is focused on the commercial areas of 32nd and 42nd Avenues.

- (d) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The public transportation facilities, public utilities, and services in the proposed NMU Zone are adequate to support both the current and proposed uses. The proposed amendment does not intensify the development potential of the NMU Zone areas, and the existing level of development intensity has been evaluated by the Transportation System Plan and the Regional Transportation Plan. The proposed amendments introduce residential uses, which have lower demand on infrastructure than commercial uses, and so would not increase the demand on the facilities, utilities, or services in the proposed NMU Zone.

- (e) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The proposed amendment does not intensify the development potential of the NMU Zone areas, and the existing level of development intensity has been evaluated by the Transportation System Plan, and a transportation impact study is not required. The proposed amendment may have the effect of reducing vehicle usage in the subject areas through the encouragement of mixed-use development.

- (f) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The subject area is designated Commercial C. The proposed amendments are consistent with the relevant goals and policies of the MCP related to commercial uses, which are contained in Chapter 4: Land Use.

Economic Base and Industrial/Commercial Land Use Element

- *Objective #9, Policy 1*

The proposed NMU Zone will support the continuation of the 42nd and King Rd area as a District Center and one of the primary commercial

areas in the City, and provide for the day-to-day shopping needs of City residents.

- *Objective #10, Policy 2*

Application of the NMU Zone to the "convenience center" of 32nd Ave as well as the "district center" of 42nd Ave will allow the uses and development of these areas to support and complement each other by providing day-to-day needs for surrounding property owners.

Neighborhood Element

- *Objective #3, Policy 6*

This policy recommends zoning regulations to support the King Road Neighborhood Center vision to encourage land uses that will enhance its value as a commercial and residential neighborhood center. The NMU Zone will allow a range of neighborhood scale uses, pedestrian-friendly development standards, and a mix of housing types. The proposed amendments establish pedestrian-friendly development and design standards and allow housing as part of mixed-use development, as well as single-family and multifamily development as conditional uses.

- (g) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

See Finding 4.c.2.c.

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

See Finding 4.c.2.d.

- 6. In addition to the Measure 56 notice sent to affected property owners in advance of the Planning Commission and City Council hearings, the application was referred to the following on September 23 and October 16, 2015:

- Ardenwald, Hector-Campbell, and Lewelling Neighborhood District Association Chairpersons and Land Use Committees
- Property owners and tenants within 400 ft of affected properties

The comments received are summarized as follows: Concerns about conversion of existing uses to nonconforming uses; concerns about noise due to increased outdoor seating and activity; concerns about parking impacts from new businesses along 32nd Ave; and requests for height bonuses in the NMU Zone.

Underline/Strikeout Amendments

Title 14 Signs

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

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

"Other commercial zones" means the C-L, Limited Commercial; ~~DMU, Downtown Mixed Use~~; C-CS, Community Shopping Commercial; GMU, General Mixed Use; NMU, Neighborhood Mixed Use Zone; and C-G, General Commercial, Zones, as defined in the Zoning Ordinance.

CHAPTER 14.16 SIGN DISTRICTS

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040
Standards for Signs in Commercial Zones C-L, C-CS, NMU, and GMU

Zoning Ordinance

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Transient occupancy" means a period of occupancy that does not exceed 30 days.

CHAPTER 19.300 BASE ZONES

19.303 ~~GENERAL~~COMMERCIAL MIXED-USE ZONES GMU

19.303.1 Purpose

- A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.
- B. The Neighborhood Mixed Use Zone is intended to recognize 32nd and 42nd Avenues as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the ~~GMU commercial mixed-use~~ Zzones are listed in Table 19.303.2 with a "P." These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as "CU" are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the ~~GMU commercial mixed-use~~ Zzones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and ~~FG~~ below, are prohibited. Uses listed with an "N" in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards. ~~For the purposes of this section, drive-through facilities are considered accessory uses and must conform to Subsection 19.606.3.~~

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

FG. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2			
Uses Allowed in General Commercial Mixed-Use Zones Uses			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
<u>Single-family detached</u>	<u>N</u>	<u>CU</u>	Subsection 19.505.1 Single Family Dwellings Section 19.905 Conditional Uses
Rowhouse ¹	P	<u>CU</u>	Subsection 19.505.5 Rowhouses
Multifamily	P	<u>CU</u>	Subsection 19.505.3 Multifamily Housing
Cottage cluster housing	P	<u>CU</u>	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	<u>P</u>	
Live/work units	P	<u>P</u>	Subsection 19.505.6 Live/Work Units
Senior and retirement housing	P	<u>CU</u>	Subsection 19.505.3 Multifamily Housing
<u>Accessory dwelling units</u>	<u>N</u>	<u>CU</u>	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Commercial^{3,4}			
General office General office means professional, executive, management, or administrative offices of firms or organizations. Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; and medical and dental clinics.	P	<u>P</u>	
<u>Drinking establishments</u> <u>Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption.</u> <u>Examples include taverns, bars, or cocktail lounges.</u>	<u>P</u>	<u>CU</u>	Section 19.905 Conditional Uses

Proposed Code Amendment

<p>Eating and drinking establishments</p> <p>Eating and drinking establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. <u>Eating establishments may include incidental sales of alcoholic beverages.</u></p> <p>Examples include restaurants, delicatessens, retail bakeries, taverns, brewpubs, coffee shops, concession stands, and espresso bars.</p>	P	<u>P</u>	
<p>Indoor recreation</p> <p>Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature.</p> <p>Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; and movie theaters.</p>	P	<u>P</u>	
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media. May also include vehicle sales and other auto-oriented retail uses, including boats, RVs, and motorcycles.²</p>	P	<u>P</u>	
<p><u>Vehicle sales and rentals⁵</u></p> <p><u>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</u></p>	<u>P</u>	<u>N</u>	
<p>Personal-service-oriented</p> <p>Personal-service-oriented firms are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.</p>	P	<u>P</u>	

<p>Repair-oriented³</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers; and some automobile and boat service and repair.</p>	<p>P</p>	<p><u>P</u></p>	
<p>Vehicle repair and service⁶</p> <p><u>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</u></p> <p><u>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</u></p>	<p><u>P</u></p>	<p><u>CU</u></p>	<p>Section 19.905 Conditional Uses</p>
<p>Day care.^{4z}</p> <p>Day care is the provision of regular childcare, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before- and after-school care facilities, and child development centers.</p>	<p>P</p>	<p><u>P</u></p>	
<p>Commercial lodging.</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.</p>	<p>P</p>	<p><u>P</u></p>	

Proposed Code Amendment

<p>Boarding, lodging, or rooming house</p> <p>Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.</p> <p>Examples include boarding house and cooperative housing.</p>	<p>CU</p>	<p><u>CU</u></p>	<p>Section 19.905 Conditional Uses</p>
<p><u>Parking facility</u></p> <p><u>Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</u></p> <p><u>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</u></p>	<p><u>N</u></p>	<p><u>CU</u></p>	<p>Section 19.611 Parking Structures</p>
<p>Medical marijuana facility</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	<p>P</p>	<p><u>P</u></p>	<p>Subsection 19.303.6 Standards for Medical Marijuana Facilities</p>

Manufacturing and Production			
<p>Manufacturing and production.⁵⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	<u>P</u>	
Institutional			
Community service uses	CSU	<u>CSU</u>	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive rowhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.

2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.

3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.

4. The existing building at 4320 SE King Rd (the Safeway store) is exempt from the nonresidential use size limitation described in footnote 3. Redevelopment of the site is subject to all standards of Table 19.303.2.

25. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).

36. ~~Repair-oriented~~ Vehicle repair and service uses are permitted in the GMU Zone commercial mixed-use zones only when conducted within a completely enclosed building.

47. Day care and childcare uses are limited to 5,000 sq ft.

58. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the GMU Zone commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Table 19.303.3 summarizes some of the development standards that apply in the GMU Zone commercial mixed-use zones. Development standards are presented in full detail in Subsection 19.303.3 (B) 19.303.4.

Table 19.303.3 General Commercial Mixed Use Zones—Summary of Development Standards			
Standard	GMU	<u>NMU</u>	Standards/ Additional Provisions
A. Lot Standards			
1. Minimum lot size (sq ft)	1,500	<u>1,500</u>	
2. Minimum street frontage (ft)	25	<u>25</u>	
B. Development Standards			
1. Minimum floor area ratio	0.5:1	<u>0.5:1</u>	Subsection 19.303.4.A Floor Area Ratio
2. Building height (ft)			Subsection 19.303.4.B Building Height
a. Base maximum	45	<u>45</u>	Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
b. Maximum with height bonus	57–69	<u>Height bonus not available</u>	
3. Street setbacks (ft)			Subsection 19.303.4.C Street Setbacks
a. Minimum street setback	0–15 ¹	<u>None</u>	Section 19.501.2 Yard Exceptions
b. Maximum street setback	10–20 ²	<u>10</u>	
c. Side and rear setbacks	None	<u>None</u>	
4. Frontage occupancy	50%	<u>None</u>	Subsection 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	<u>85%</u>	
6. Minimum vegetation	15%	<u>15%</u>	Subsection 19.504.7 Minimum Vegetation
7. Primary entrances	Yes	<u>Yes</u>	Subsection 19.303.4.E Primary Entrances
8. Off-street parking required	Yes	<u>Yes</u>	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	<u>Yes</u>	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	<u>Yes</u>	Subsection 19.504.6 Transition Area Measures
C. Other Standards			
1. Residential density requirements (dwelling units per acre)			Subsection 19.202.4 Density Calculations
a. Stand-alone residential			Subsection 19.303.4.F

(1) Minimum	25	<u>11.6</u>	Residential Density Subsection 19.501.4 Density Exceptions
(2) Maximum	50	<u>14.5</u>	
b. Mixed-use buildings	None	<u>None</u>	
2. Signs	Yes	<u>Yes</u>	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.
2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- 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.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

1. Intent

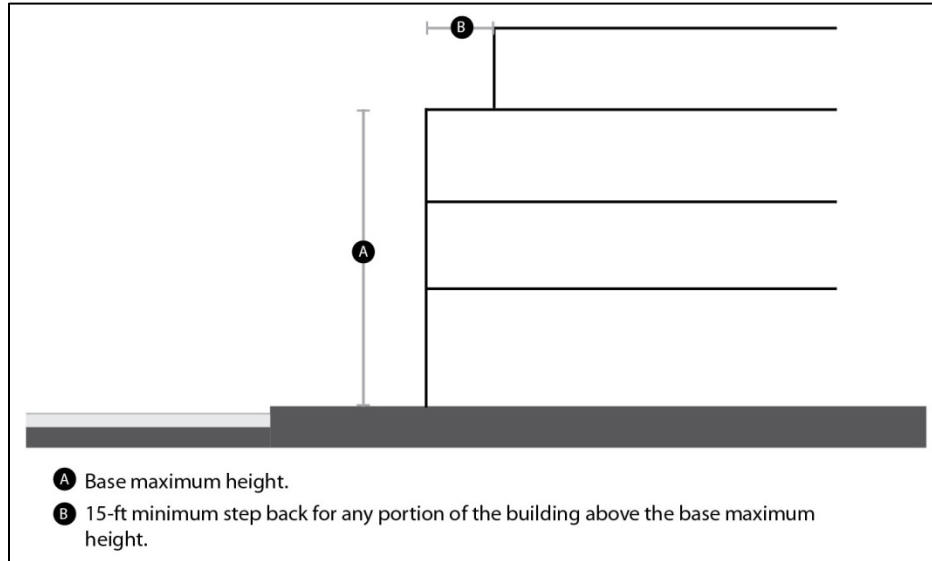
Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.

- c. The maximum building height in the NMU Zone is 3 stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

**Figure 19.303.4.B.2.b
Building Height Standards**



3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components, increase area vibrancy, and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and 3.b, for a total of 2 stories or 24 ft of additional height, whichever is less. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

a. Residential

New buildings that devote at least 1 story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

b. Green Building

Project proposals that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Green Globes, or Earth Advantage) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

C. Street Setbacks

1. Intent

Buildings are allowed and encouraged to build up to the street right-of-way in the commercial mixed-use zones ~~GMU Zone~~. This ensures that buildings engage the street right-of-way.

2. Standards

a. No minimum street setbacks are required, except for residential street edges per Subsection 19.303.5.

b. In the GMU Zone, mMaximum street setback is 20 ft. For properties shown as having a commercial edge on Figure 19.303.4.C.2.b, the following standards apply:

(1) No minimum street setback is required. Maximum street setback is 10 ft.

(2) The area within the street setback, if provided, shall be landscaped.

c. In the NMU Zone, the maximum street setback is 10 ft unless the yard exception standards of Subsection 19.501.2 apply.

ed. The setback area may include usable open space such as plazas, courtyards, terraces, and small parks.

de. Usable open space may be counted toward the minimum vegetation requirement in Subsection 19.303.3.B.6.

ef. No vehicle parking is permitted between the building and the street. Vehicle parking must be located behind and/or to the side of buildings, except in cases of a through-lot or lots which front on 3 or more streets, in which case this standard applies to 2 streets.

D. Frontage Occupancy Requirements

1. Intent

The intent of this standard is to establish a consistent street wall along key streets. Minimum frontage occupancy requirements are established for block faces identified on Figure 19.303.4.D.

2. Standards

a. For block faces identified in Figure 19.303.4.D, 50% of the site frontage must be occupied by a building or buildings.

b. If the development site has frontage on more than 1 street, the frontage occupancy requirement must be met on 1 street only.

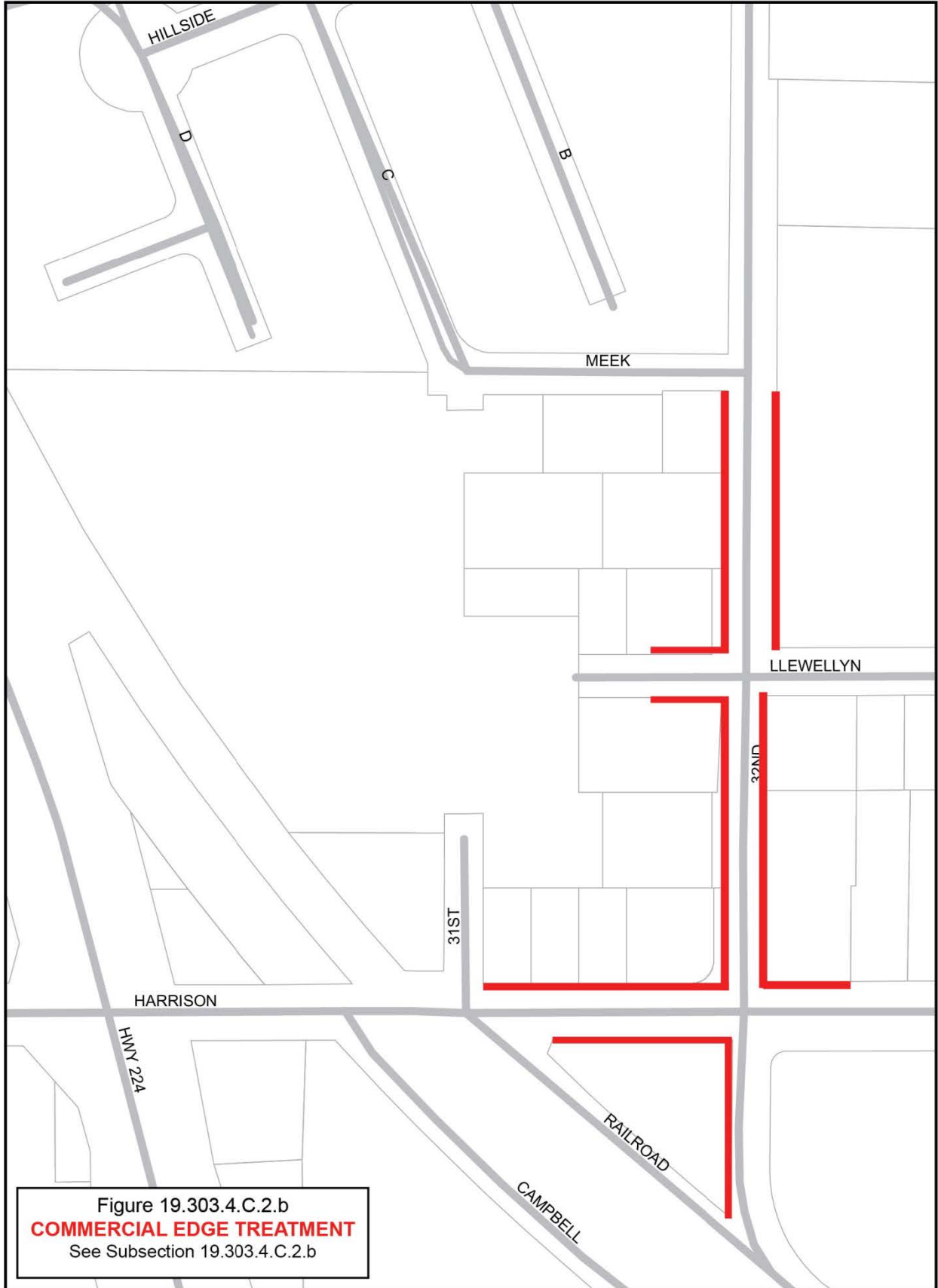


Figure 19.303.4.C.2.b
COMMERCIAL EDGE TREATMENT
See Subsection 19.303.4.C.2.b



E. Primary Entrances

1. Intent

To promote pedestrian-friendly development by providing building entrances that are oriented to the sidewalk or other public space and connected with clearly marked pedestrian walkways.

2. Standards

- a. All new buildings shall have at least 1 primary entrance facing an abutting public street (i.e., within 45 degrees of the street property line); or, if the building entrance must be turned more than 45 degrees from the public street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.
- b. Where a development contains multiple buildings and there is insufficient public street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to a plaza, courtyard, or similar pedestrian space containing pedestrian amenities. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway.
- c. If a development is on a corner in the GMU Zone, the primary entrance may be oriented toward either street.
- d. If a development is on the corner of 32nd Ave or 42nd Ave and another street in the NMU Zone, the primary entrance must be oriented toward 32nd Ave or 42nd Ave.

F. Residential Density

1. Intent

Minimum densities are applied to residential development in the commercial mixed-use zones ~~GMU Zone~~ to assure efficient use of land at densities that support transit use and nearby businesses.

2. Standards

- a. Minimum density for stand-alone residential development in the GMU Zone is 25 units per acre, and maximum density is 50 units per acre.
- b. Minimum density for stand-alone residential development in the NMU Zone is 11.6 units per acre, and maximum density is 14.5 units per acre.
- ~~b. There are no minimum density requirements when residential units are developed as part of a mixed-use building or development.~~
- ~~c. Maximum residential densities for mixed-use buildings are controlled by height limits.~~

3. Exemptions

There are no minimum or maximum density requirements when residential units are developed as part of a mixed-use building. Maximum residential densities for mixed-use buildings are controlled by height limits.

19.303.5 Standards for Residential Street Edges

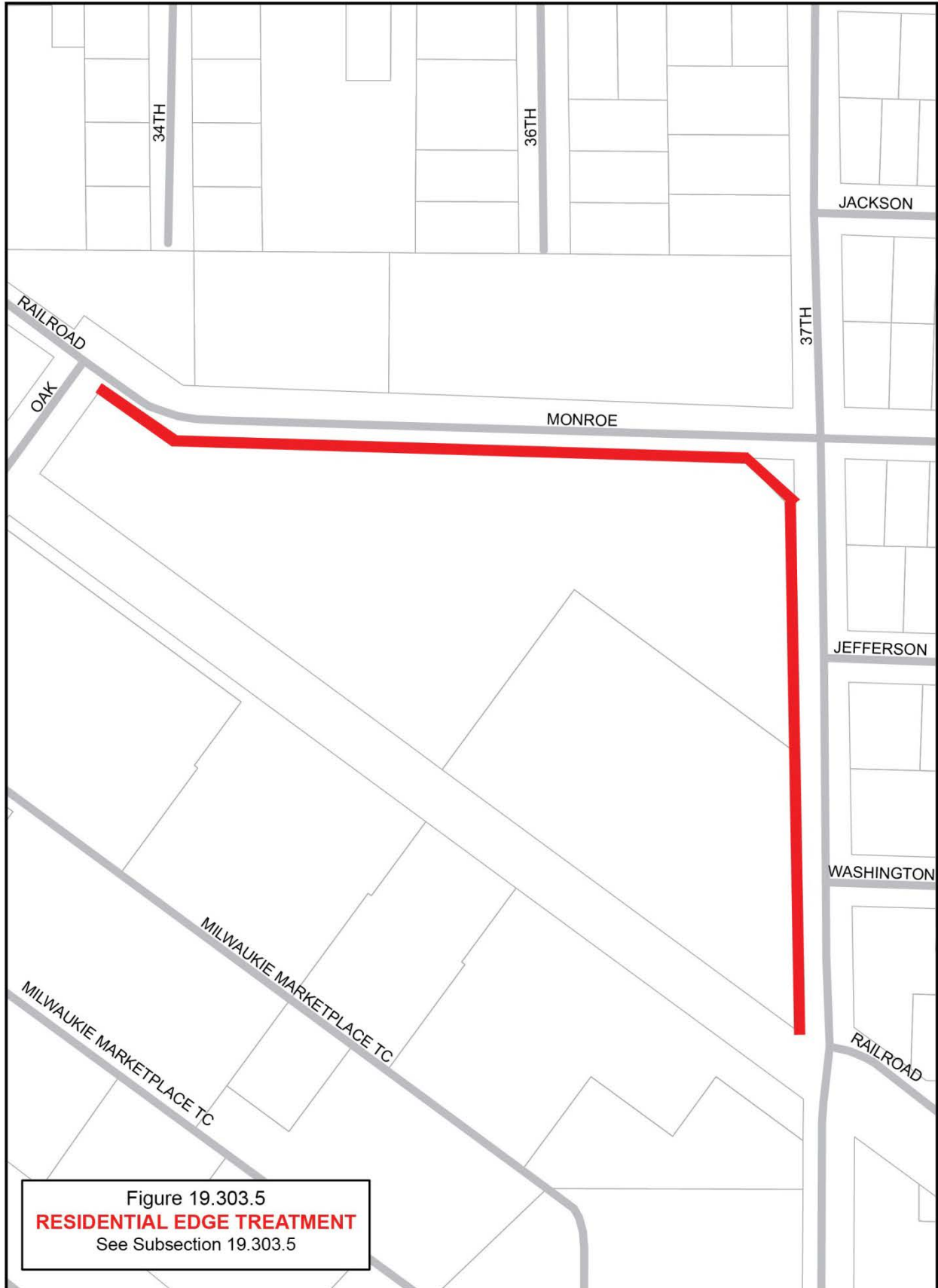
For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting an R-3 or R-5 Zone, the following standards apply:

- A. A minimum setback of 15 ft shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Ave and Monroe St shall provide a step back of at least 15 ft for any portion of the building above 35 ft.
- C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

19.303.6 Standards for Medical Marijuana Facilities

In the commercial mixed-use zones ~~GMU Zone~~, medical marijuana facilities shall meet the following standards:

- A. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.
- B. A medical marijuana facility shall not be colocated with another business.
- C. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
- D. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.



19.303.7 Additional Provisions

Depending upon the type of use and development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

A. Section 19.500 Supplementary Development Regulations

This section contains standards for site and building design that will apply to most new types of development, including residential and commercial. Relevant sections include:

1. 19.501 General Exceptions
2. 19.502 Accessory Structures
3. 19.503 Accessory Uses
4. 19.504 Site Design Standards
5. 19.505 Building Design Standards

B. Section 19.600 Off-Street Parking and Loading

Contains standards for vehicle and bicycle parking, including required number of spaces and design standards for parking and loading areas.

C. Section 19.700 Public Facility Improvements

Contains standards for transportation, utility, and other public facility improvements that may be required as part of development.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.
- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen lower-density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.

19.505 BUILDING DESIGN STANDARDS

19.505.7 Nonresidential Development

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards support development of an attractive, cohesive, and pedestrian-friendly commercial area. The design standards do not prescribe a particular building or architectural style.

B. Applicability

1. The design standards in this section generally apply to the street-facing facades of new commercial, institutional, manufacturing, and mixed-use buildings within the commercial mixed-use zones ~~GMU Zone~~.
- ~~2.~~ The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Subsection 19.505.3 Multifamily Housing.
- ~~3.~~ The standards in this section do not apply to rowhouses or live/work units. Rowhouses and live/work units are subject to the design standards in Subsections 19.505.5 Rowhouses and 19.505.6 Live/Work Units.
4. The standards in this section do not apply to cottage cluster housing. Cottage cluster housing is subject to the design standards in Subsection 19.505.4 Design Standards for Cottage Cluster Housing.

C. Building Design Standards

All buildings that meet the applicability provisions in Subsection 19.505.7.B shall meet the following design standards.

An applicant may request a variance to the building design standards in Subsection 19.505.7.C through a Type II review, pursuant to Subsection 19.911.3.B.7.

1. Corners

The intent of this standard is to reinforce intersections as an important place for people to gather.

Buildings located at a key corner in the GMU Zone, as shown on Figure 19.505.7.C.1, shall incorporate one of the following features:

- a. The primary entry to the building located at the corner.
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at, or within 20 ft of, the corner of the building.
- c. The corner of the building cut at a 45-degree angle.

2. Weather Protection

The intent of this standard is, through the use of awnings and canopies along the ground floor of buildings, to protect pedestrians from rain and provide shade, to encourage window shopping and lingering, and to create visual interest on the ground floor of a building.

Buildings shall provide weather protection for pedestrians as follows:

a. Minimum weather protection coverage

All ground-floor building entries (excluding loading docks, bays, etc.) shall be protected from the weather by canopies or recessed at least 3 ft behind the front building façade.

b. Weather protection design

Weather protection shall comply with applicable building codes ~~and shall be designed to be visually compatible with the architecture of a building.~~ Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

3. Exterior Building Materials

The intent of this standard is to provide a sense of permanence, through the use of certain permitted building materials; to provide articulation and visual interest to larger buildings; and to allow for a variety of materials and designs.

The following standards are applicable to the exterior walls of new buildings facing streets, courtyards, and/or public squares. Table 19.505.7.C.3 specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 60% of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40% of each applicable building facade.
- c. Accent materials are permitted on no greater than 10% of each applicable building facade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not utilize materials listed as (N) prohibited material.
- e. For existing development, façade modifications that affect more than 50% of the façade shall comply with standards in this subsection. The Planning Director may

waive this requirement if application of the standards would create an incongruous appearance of existing and new materials.

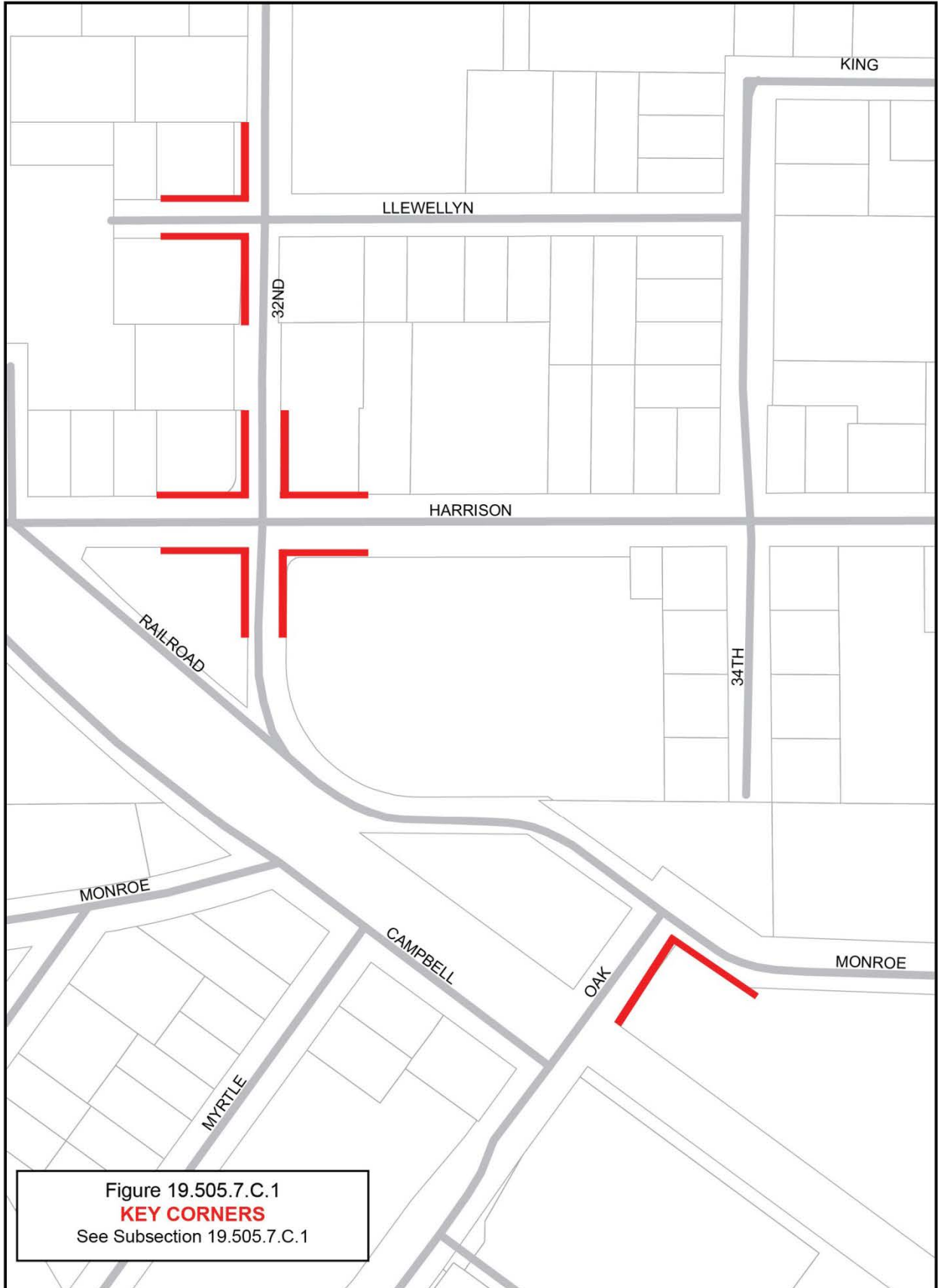


Table 19.505.7.C.3 Commercial Exterior Building Materials	
Material Type	Nonresidential and Mixed-Use
Brick	P
Stone/masonry	P
Stucco	P
Glass (transparent, spandrel)	P
Concrete (poured in place or precast)	P
Finished wood, wood veneers, and wood siding	S
Finished metal panels—such as anodized aluminum, stainless steel, or copper—featuring polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished, or glazed finish)	S
Fiber-reinforced cement siding and panels	S
Ceramic tile	S
Concrete blocks with integral color (split-face finish)	A
Standing seam and corrugated metal	A
Glass block	A
Vegetated wall panels or trellises	A
Vinyl siding	N
Exterior insulation finishing system (EIFS)	N
Plywood paneling	N

P = Primary material

S = Secondary material

A = Accent material

N = Prohibited material

4. Windows and Doors

The standards of this section are intended to enhance street safety and provide a comfortable pedestrian environment by providing ground-level transparency between the interior of buildings and the sidewalk.

- a. For nonresidential and mixed-use buildings, 30% 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. For all buildings, the following applies:
 - (1) Nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.

- (2) Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
 - (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
 - (4) The bottom edges of windows along pedestrian ways shall be constructed no more than 36 in above grade.
 - (5) Ground-floor windows for nonresidential uses shall allow views into storefronts, working areas, or lobbies. Signs are limited to a maximum coverage of 50% of the required window area.
- c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.
 - d. For all building windows facing streets, courtyards, and/or public squares, the following window elements are prohibited:
 - (1) Reflective, tinted, or opaque glazing.
 - (2) Simulated divisions (internal or applied synthetic materials).
 - (3) Exposed, unpainted metal frame windows.
5. Roofs
- a. The intent of this standard is to enliven the pedestrian experience and create visual interest through roof form. The roof form of a building shall follow one (or a combination) of the following forms:
 - (1) Flat roof with parapet or cornice.
 - (2) Hip roof.
 - (3) Gabled roof.
 - (4) Dormers.
 - (5) Shed roof.
 - b. All sloped roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.
 - c. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.
 - d. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.
 - e. When an addition to an existing structure, or a new structure, is proposed in an existing development, the roof forms for the new structure(s) shall have similar slope and be constructed of the same materials as the existing roofing.
6. Rooftop Equipment and Screening
- The intent of this standard is to integrate mechanical equipment into the overall building design.

- a. The following rooftop equipment does not require screening:
 - (1) Solar panels, wind generators, and green roof features.
 - (2) Equipment under 2 ft in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft provided that the mechanical shaft is incorporated into the architecture of the building.
- c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft in height, shall be set back a minimum of 5 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
 - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
 - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- d. Required screening shall not be included in the building's maximum height calculation.

7. Ground-Level Screening

Mechanical and communication equipment, outdoor storage, and outdoor garbage and recycling areas shall be screened so they are not visible from streets, other ground-level private open space, or common open spaces.

8. Rooftop Structures

Rooftop structures related to shared outdoor space—such as arbors, trellises, or porticos related to roof decks or gardens—shall not be included in the building's maximum height calculation, as long as they do not exceed 10 ft in height.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the ~~Commercial General (C-G)~~ Neighborhood Mixed Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the ~~Commercial General (C-G)~~ Neighborhood Mixed Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

CHAPTER 19.900 LAND USE APPLICATIONS

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions²
BI	P1	P2	P2	P2
M	P1	P2	P2	P2
M-TSA	P1	P2	P2	P2
C-N	N	P2	P2	P2
C-G	N	P2	P2	P2
C-L	N	P2	P2	P2
C-CS	N	P2	P2	P2
OS	N	P2	P2	P2
DMU	N	P2	P2	P2
GMU	N	P2	P2	P2
<u>NMU</u>	<u>N</u>	<u>P2</u>	<u>P2</u>	<u>P2</u>
R-1-B	N	P2	P2	P2
R-1	N	N	P2	P2
R-2	N	N	P2	P2
R-2.5	N	N	P2	P2
R-3	N	N	P2	P2
R-5	N	N	P2	P2
R-7	N	N	P2	P2
R-10	N	N	P2	P2

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

P = Permitted **N** = Not Permitted

¹ Rooftop extensions are not to exceed 15 ft in height above the roof top and are not to project greater than 5 ft from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 ft. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 ft in height of the pole that is to be replaced.

F. Location and Size Restrictions

2. Height: maximum heights. Also see Table 19.904.11.C.

a. Height Restrictions

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

- (1) BI, M, and M-TSA Zones: 100 ft.
 - (2) New towers are not permitted in the R-1-B, R-1, R-2, R-2.5, R-3, R-5, R-7, R-7PD, R-10, R-10PD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.
-

Updates for Section References and Housekeeping Only

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

19.201

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill, boundaries, and embankments.

19.202.2.C

C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection ~~19.902.2.B.2~~ 19.202.B.2.

19.202.4.D.2

2. Density Calculation

The minimum number of dwelling units required is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

19.202.4.E.2

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.401 WILLAMETTE GREENWAY ZONE WG

In a ~~W-G~~ Zone the following regulations shall apply:

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

In an ~~HP~~ Zone the following regulations shall apply:

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

In an ~~L-F~~ Zone the following regulations shall apply:

19.707.1.C

C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-13b of the TSP.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

The City’s street design standards are based on the street classification system described in the TSP. Figure 8-13a of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

Table 19.901

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony	Subsection 19.503.1.D	III

Clean Amendments

Title 14 Signs

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 14.04 GENERAL PROVISIONS

14.04.030 DEFINITIONS

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

"Other commercial zones" means the C-L, Limited Commercial; C-CS, Community Shopping Commercial; GMU, General Mixed Use; NMU, Neighborhood Mixed Use Zone; and C-G, General Commercial, Zones, as defined in the Zoning Ordinance.

CHAPTER 14.16 SIGN DISTRICTS

14.16.040 COMMERCIAL ZONES

No sign shall be installed or maintained in the C-L, C-CS, NMU, and GMU Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.040.

Table 14.16.040
Standards for Signs in Commercial Zones C-L, C-CS, NMU, and GMU

Zoning Ordinance

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107 ZONING

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Transient occupancy" means a period of occupancy that does not exceed 30 days.

CHAPTER 19.300 BASE ZONES

19.303 COMMERCIAL MIXED-USE ZONES

19.303.1 Purpose

- A. The General Mixed Use Zone is intended to recognize the importance of central Milwaukee as a primary commercial center and promote a mix of uses that will support a lively and economically robust district. It is also intended to ensure high-quality urban development that is pedestrian-friendly and complementary to the surrounding area.
- B. The Neighborhood Mixed Use Zone is intended to recognize 32nd and 42nd Avenues as neighborhood commercial centers. This zone allows for a mix of small-scale retail and services, along with residential uses, that meet the needs of nearby residents and contribute to a vibrant, local economy. It is also intended to provide a safe and pleasant pedestrian environment while maintaining a neighborhood-scale identity.

19.303.2 Uses

A. Permitted Uses

Uses allowed outright in the commercial mixed-use zones are listed in Table 19.303.2 with a "P." These uses are allowed if they comply with the development and design standards and other regulations of this title.

B. Conditional Uses

Uses listed in Table 19.303.2 as "CU" are permitted only as conditional uses in conformance with Section 19.905.

C. Nonconforming Uses, Structures, and Development

Existing structures and uses that do not meet the standards for the commercial mixed-use zones may continue in existence. Alteration or expansion of a nonconforming use, structure, or development that brings the use, structure, or development closer to compliance may be allowed through development review pursuant to Section 19.906. Alteration or expansion of a nonconforming use or structure that does not bring the use or structure closer to compliance may be allowed through a Type III variance pursuant to Section 19.911. Except where otherwise stated in this section, the provisions of Chapter 19.800 Nonconforming Uses and Development apply.

D. Prohibited Uses

Uses not listed in Table 19.303.2, and not considered accessory or similar pursuant to Subsections 19.303.2.E and G below, are prohibited. Uses listed with an "N" in Table 19.303.2 are also prohibited.

E. Accessory Uses

Uses that are accessory to a primary use are allowed if they comply with all development standards.

F. Drive-Through Uses

For the purpose of this section, drive-through uses are not considered accessory uses and must be approved through a conditional use review in the NMU Zone in conformance with Section 19.905. Drive-through facilities must also conform to Section 19.606.3.

G. Similar Uses

The Planning Director, through a Type I review, may determine that a use that is not listed is considered similar to an example use listed in Table 19.303.2. The unlisted use shall be subject to the standards applicable to the similar example use.

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
Single-family detached	N	CU	Subsection 19.505.1 Single Family Dwellings Section 19.905 Conditional Uses
Rowhouse ¹	P	CU	Subsection 19.505.5 Rowhouses
Multifamily	P	CU	Subsection 19.505.3 Multifamily Housing
Cottage cluster housing	P	CU	Subsection 19.505.4 Cottage Cluster Housing
Mixed use ²	P	P	
Live/work units	P	P	Subsection 19.505.6 Live/Work Units
Senior and retirement housing	P	CU	Subsection 19.505.3 Multifamily Housing
Accessory dwelling units	N	CU	Section 19.905 Conditional Uses Subsection 19.910.1 Accessory Dwelling Units
Commercial^{3, 4}			
General office General office means professional, executive, management, or administrative offices of firms or organizations. Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; and medical and dental clinics.	P	P	
Drinking establishments Drinking establishments primarily involve the sale of alcoholic beverages for on-site consumption. Examples include taverns, bars, or cocktail lounges.	P	CU	Section 19.905 Conditional Uses

Proposed Code Amendment

<p>Eating establishments</p> <p>Eating establishments primarily involve the sale of prepared food and beverages for on-site consumption or takeout. Eating establishments may include incidental sales of alcoholic beverages.</p> <p>Examples include restaurants, delicatessens, retail bakeries, coffee shops, concession stands, and espresso bars.</p>	P	P	
<p>Indoor recreation</p> <p>Indoor recreation consists of facilities providing active recreational uses of a primarily indoor nature.</p> <p>Examples include gyms; dance studios; tennis, racquetball, and soccer centers; recreational centers; skating rinks; bowling alleys; arcades; shooting ranges; and movie theaters.</p>	P	P	
<p>Retail-oriented sales</p> <p>Sales-oriented retail firms are involved in the sale, leasing, and rental of new or used products to the general public.</p> <p>Examples include stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.</p>	P	P	
<p>Vehicle sales and rentals⁵</p> <p>Vehicle sales and rentals means a business that sells or leases consumer vehicles, including passenger vehicles, motorcycles, light and medium trucks, boats, and other recreational vehicles.</p>	P	N	
<p>Personal-service-oriented</p> <p>Personal-service-oriented firms are involved in providing consumer services.</p> <p>Examples include hair, tanning, and spa services; pet grooming; photo and laundry drop-off; dry cleaners; and quick printing.</p>	P	P	

<p>Repair-oriented</p> <p>Repair-oriented uses are establishments providing product repair of consumer and business goods.</p> <p>Examples include repair of televisions and radios, bicycles, clocks, jewelry, guns, small appliances, and office equipment; tailors and seamstresses; shoe repair; locksmiths; and upholsterers.</p>	<p>P</p>	<p>P</p>	
<p>Vehicle repair and service⁶</p> <p>Firms servicing passenger vehicles; light and medium trucks; and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Also includes quick-servicing activities, where the driver generally waits in the car before and while the service is performed.</p> <p>Examples include gas stations, quick oil change shops, car washes, vehicle repair, transmission or muffler shops, auto body shops, alignment shops, auto upholstery shop, auto detailing, and tire sales and mounting.</p>	<p>P</p>	<p>CU</p>	<p>Section 19.905 Conditional Uses</p>
<p>Day care.⁷</p> <p>Day care is the provision of regular childcare, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all State requirements.</p> <p>Examples include nursery schools, before-and after-school care facilities, and child development centers.</p>	<p>P</p>	<p>P</p>	
<p>Commercial lodging.</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.</p> <p>Examples include hotels, motels, and bed-and-breakfast establishments. Does not include senior and retirement housing.</p>	<p>P</p>	<p>P</p>	

Proposed Code Amendment

<p>Boarding, lodging, or rooming house</p> <p>Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied.</p> <p>Examples include boarding house and cooperative housing.</p>	<p>CU</p>	<p>CU</p>	<p>Section 19.905 Conditional Uses</p>
<p>Parking facility</p> <p>Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.</p> <p>Examples include structured parking, short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.</p>	<p>N</p>	<p>CU</p>	<p>Section 19.611 Parking Structures</p>
<p>Medical marijuana facility</p> <p>Medical marijuana facility means a business that dispenses medical marijuana in accordance with the regulations set forth by ORS Chapter 475 and related Oregon Administrative Rules. State-registered grow sites are not considered to be medical marijuana facilities and are not permitted under the City of Milwaukie's medical marijuana facility regulations.</p>	<p>P</p>	<p>P</p>	<p>Subsection 19.303.6 Standards for Medical Marijuana Facilities</p>

Manufacturing and Production			
<p>Manufacturing and production.⁸</p> <p>Manufacturing and production uses are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used.</p> <p>Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; weaving or production of textiles or apparel; woodworking, including cabinet makers; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; and production of artwork and toys.</p>	P	P	
Institutional			
Community service uses	CSU	CSU	Section 19.904 Community Service Uses

P = Permitted.

N = Not permitted.

CSU = Permitted with community service use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

1. The limit of 4 consecutive rowhouses established in 19.505.5 does not apply in the GMU Zone. In the GMU Zone, there is no limit on the number of consecutive rowhouses.
2. Residential uses built as part of a vertical mixed-use building are not subject to conditional use review in the NMU Zone.
3. In the NMU Zone, unless otherwise specified in this section, all nonresidential uses listed in Table 19.303.2 shall be no greater than 10,000 sq ft in area per use. A nonresidential use greater than 10,000 sq ft in area may be approved through a conditional use review pursuant to Section 19.905.
4. The existing building at 4320 SE King Rd (the Safeway store) is exempt from the nonresidential use size limitation described in footnote 3. Redevelopment of the site is subject to all standards of Table 19.303.2.
5. Vehicle retail sales are permitted in the GMU Zone only when conducted within a completely enclosed building (including inventory display and storage).
6. Vehicle repair and service uses are permitted in the commercial mixed-use zones only when conducted within a completely enclosed building.
7. Day care and childcare uses are limited to 5,000 sq ft.
8. Manufacturing and production uses are limited to 5,000 sq ft in floor area per use on the ground floor and are only permitted when associated with, and accessory to, a related retail-oriented sales or eating/drinking establishment use. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on the site would not be considered manufacturing or production.

19.303.3 Development Standards

These development standards are intended to ensure that new development in the commercial mixed-use zones is appropriate for a mixed-use district in terms of building mass and scale, how the building addresses the street, and where buildings are located on a site.

Table 19.303.3 summarizes some of the development standards that apply in the commercial mixed-use zones. Development standards are presented in detail in Subsection 19.303.4.

Table 19.303.3 Commercial Mixed Use Zones—Summary of Development Standards			
Standard	GMU	NMU	Standards/ Additional Provisions
A. Lot Standards			
1. Minimum lot size (sq ft)	1,500	1,500	
2. Minimum street frontage (ft)	25	25	
B. Development Standards			
1. Minimum floor area ratio	0.5:1	0.5:1	Subsection 19.303.4.A Floor Area Ratio
2. Building height (ft)			Subsection 19.303.4.B Building Height
a. Base maximum	45	45	Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone
b. Maximum with height bonus	57–69	Height bonus not available	
3. Street setbacks (ft)			Subsection 19.303.4.C Street Setbacks
a. Minimum street setback	0–15 ¹	None	Section 19.501.2 Yard Exceptions
b. Maximum street setback	10–20 ²	10	
c. Side and rear setbacks	None	None	
4. Frontage occupancy	50%	None	Subsection 19.303.4.D Frontage Occupancy Requirements Figure 19.303.4.D Frontage Occupancy Requirements
5. Maximum lot coverage	85%	85%	
6. Minimum vegetation	15%	15%	Subsection 19.504.7 Minimum Vegetation
7. Primary entrances	Yes	Yes	Subsection 19.303.4.E Primary Entrances
8. Off-street parking required	Yes	Yes	Chapter 19.600 Off-Street Parking and Loading
9. Transit street	Yes	Yes	Subsection 19.505.8 Building Orientation to Transit
10. Transition measures	Yes	Yes	Subsection 19.504.6 Transition Area Measures
C. Other Standards			
1. Residential density requirements (dwelling units per acre)			Subsection 19.202.4 Density Calculations
a. Stand-alone residential			Subsection 19.303.4.F Residential Density
(1) Minimum	25	11.6	

(2) Maximum b. Mixed-use buildings	50 None	14.5 None	Subsection 19.501.4 Density Exceptions
2. Signs	Yes	Yes	Subsection 14.16.040 Commercial Zone

1. Residential edge treatments apply to properties as shown in Figure 19.303.5.
2. Commercial edge treatments apply to properties as shown in Figure 19.303.4.C.2.b.

19.303.4 Detailed Development Standards

The following detailed development standards describe additional allowances, restrictions, and exemptions related to the development standards of Table 19.303.3.

A. Floor Area Ratio

1. Intent

The floor area ratio (FAR) is a tool for regulating the intensity of development. Minimum FARs help to ensure that the intensity of development is controlled. In some cases, FAR densities are provided for provision of a public benefit or amenity to the community.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.
- 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.

3. Exemptions

The following are exempt from the minimum FAR requirement:

- a. Parking facilities.
- b. Public parks and plazas.

B. Building Height

1. Intent

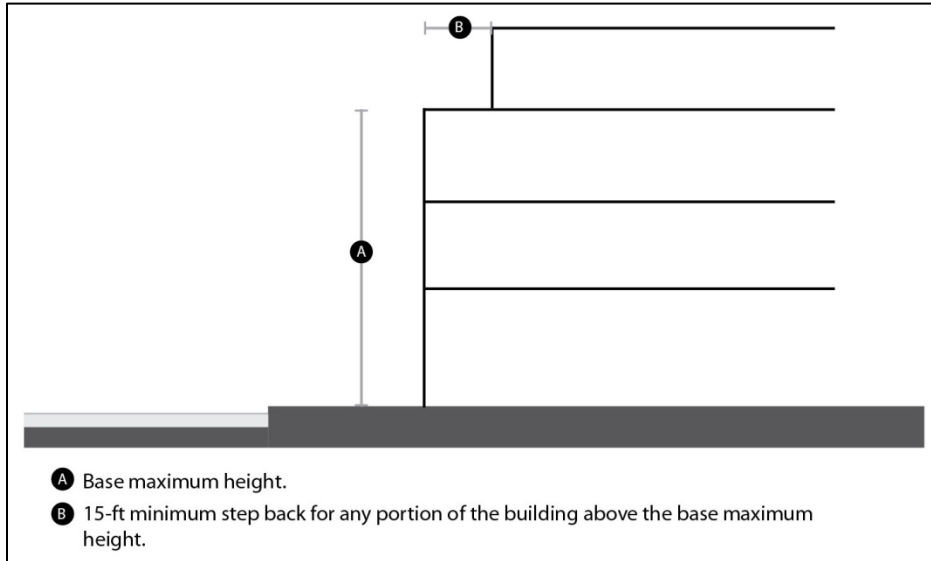
Maximum building height standards promote a compatible building scale and relationship of one structure to another.

2. Standards

- a. The base maximum building height in the GMU Zone is 3 stories or 45 ft, whichever is less. Height bonuses are available for buildings that meet the standards of Subsection 19.303.4.B.3.
- b. Buildings in the GMU Zone shall provide a step back of at least 15 ft for any street-facing portion of the building above the base maximum height as shown in Figure 19.303.4.B.2.b.

- c. The maximum building height in the NMU Zone is 3 stories or 45 ft, whichever is less. No building height bonuses are available in the NMU Zone.

**Figure 19.303.4.B.2.b
Building Height Standards**



3. Height Bonuses

To incentivize the provision of additional public amenities or benefits beyond those required by the baseline standards, height bonuses are available for buildings that include desired public amenities or components, increase area vibrancy, and/or help meet sustainability goals.

A building in the GMU Zone can utilize up to 2 of the development incentive bonuses in Subsection 19.303.4.B.3.a. and 3.b, for a total of 2 stories or 24 ft of additional height, whichever is less. Buildings that elect to use both height bonuses for a 5-story building are subject to Type III review per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

a. Residential

New buildings that devote at least 1 story or 25% of the gross floor area to residential uses are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

b. Green Building

Project proposals that receive certification (any level) under an ANSI-approved green building rating system (e.g., LEED, Green Globes, or Earth Advantage) are permitted 1 additional story or an additional 12 ft of building height, whichever is less.

c. Building Height Variance

Additional building height may be approved through Type III variance review, per Subsection 19.911.7 Building Height Variance in the General Mixed Use Zone.

C. Street Setbacks

1. Intent

Buildings are allowed and encouraged to build up to the street right-of-way in the commercial mixed-use zones. This ensures that buildings engage the street right-of-way.

2. Standards

- a. No minimum street setbacks are required, except for residential street edges per Subsection 19.303.5.
- b. In the GMU Zone, maximum street setback is 20 ft. For properties shown as having a commercial edge on Figure 19.303.4.C.2.b, the following standards apply:
 - (1) No minimum street setback is required. Maximum street setback is 10 ft.
 - (2) The area within the street setback, if provided, shall be landscaped.
- c. In the NMU Zone, the maximum street setback is 10 ft unless the yard exception standards of Subsection 19.501.2 apply.
- d. The setback area may include usable open space such as plazas, courtyards, terraces, and small parks.
- e. Usable open space may be counted toward the minimum vegetation requirement in Subsection 19.303.3.B.6.
- f. No vehicle parking is permitted between the building and the street. Vehicle parking must be located behind and/or to the side of buildings, except in cases of a through-lot or lots which front on 3 or more streets, in which case this standard applies to 2 streets.

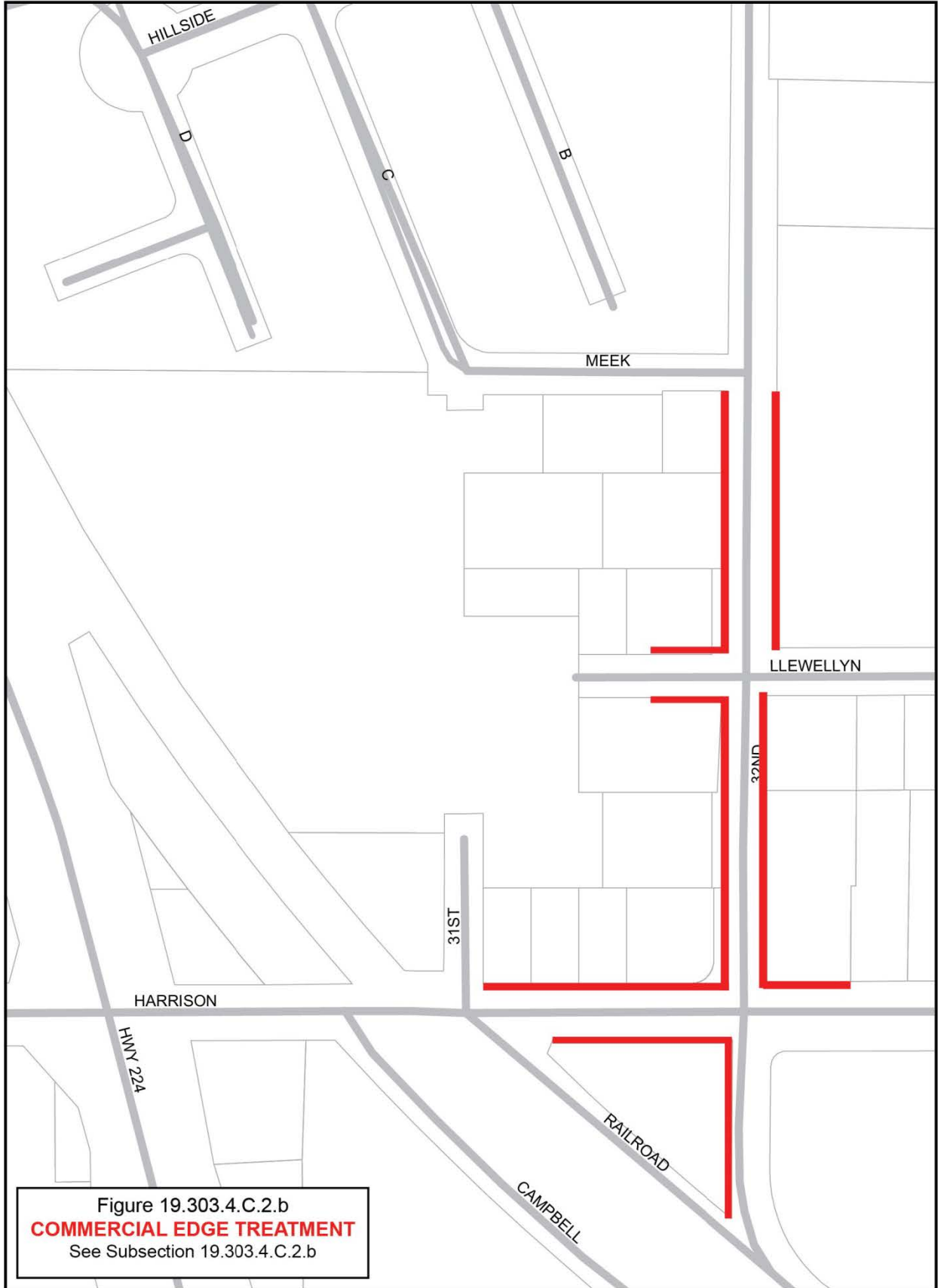
D. Frontage Occupancy Requirements

1. Intent

The intent of this standard is to establish a consistent street wall along key streets. Minimum frontage occupancy requirements are established for block faces identified on Figure 19.303.4.D.

2. Standards

- a. For block faces identified in Figure 19.303.4.D, 50% of the site frontage must be occupied by a building or buildings.
- b. If the development site has frontage on more than 1 street, the frontage occupancy requirement must be met on 1 street only.





E. Primary Entrances

1. Intent

To promote pedestrian-friendly development by providing building entrances that are oriented to the sidewalk or other public space and connected with clearly marked pedestrian walkways.

2. Standards

- a. All new buildings shall have at least 1 primary entrance facing an abutting public street (i.e., within 45 degrees of the street property line); or, if the building entrance must be turned more than 45 degrees from the public street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk.
- b. Where a development contains multiple buildings and there is insufficient public street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to a plaza, courtyard, or similar pedestrian space containing pedestrian amenities. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway.
- c. If a development is on a corner in the GMU Zone, the primary entrance may be oriented toward either street.
- d. If a development is on the corner of 32nd Ave or 42nd Ave and another street in the NMU Zone, the primary entrance must be oriented toward 32nd Ave or 42nd Ave.

F. Residential Density

1. Intent

Minimum densities are applied to residential development in the commercial mixed-use zones to assure efficient use of land at densities that support transit use and nearby businesses.

2. Standards

- a. Minimum density for stand-alone residential development in the GMU Zone is 25 units per acre, and maximum density is 50 units per acre.
- b. Minimum density for stand-alone residential development in the NMU Zone is 11.6 units per acre, and maximum density is 14.5 units per acre.

3. Exemptions

There are no minimum or maximum density requirements when residential units are developed as part of a mixed-use building. Maximum residential densities for mixed-use buildings are controlled by height limits.

19.303.5 Standards for Residential Street Edges

For properties shown as having a residential edge on Figure 19.303.5, and for development that occurs adjacent to or abutting an R-3 or R-5 Zone, the following standards apply:

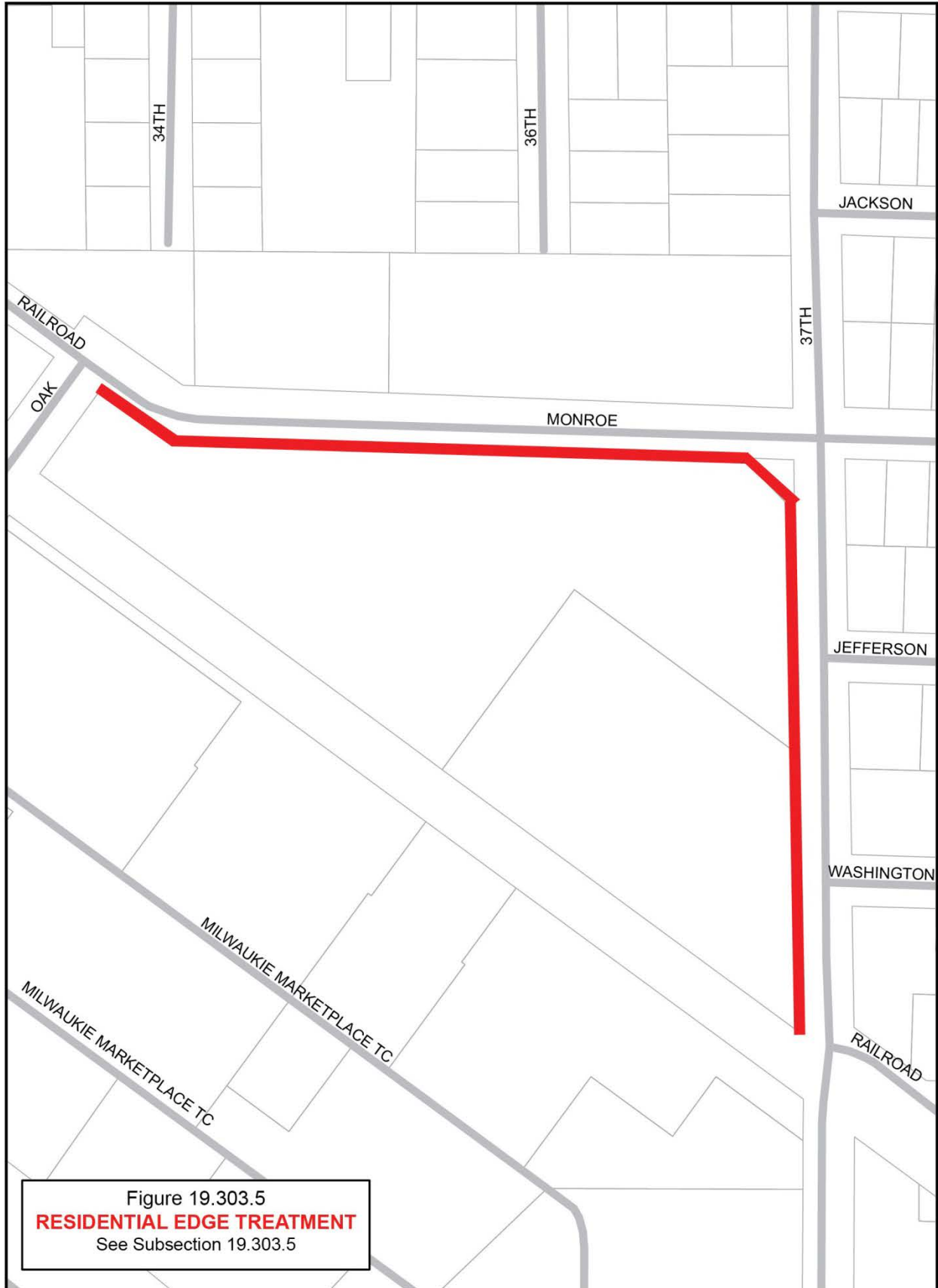
- A. A minimum setback of 15 ft shall apply.
- B. Along the property line adjacent to the residential zone, buildings within 50 ft of 37th Ave and Monroe St shall provide a step back of at least 15 ft for any portion of the building above 35 ft.

- C. An additional minimum 8-ft-wide densely planted buffer is required along property lines where flex space development abuts a residential zone.

19.303.6 Standards for Medical Marijuana Facilities

In the commercial mixed-use zones, medical marijuana facilities shall meet the following standards:

- A. As set forth by Oregon Administrative Rules, a medical marijuana facility shall not be located within 1,000 ft of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors or within 1,000 ft of another medical marijuana facility. In addition, a medical marijuana facility shall not be located within 1,000 ft of the Wichita and Hector Campbell school sites.
- B. A medical marijuana facility shall not be colocated with another business.
- C. Display of marijuana or marijuana products that are visible from outside of the facility is prohibited.
- D. The hours of operation for medical marijuana facilities shall be limited to the hours between 8:00 a.m. and 10:00 p.m.



19.303.7 Additional Provisions

Depending upon the type of use and development proposed, the following sections of the Milwaukie Municipal Code may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

A. Section 19.500 Supplementary Development Regulations

This section contains standards for site and building design that will apply to most new types of development, including residential and commercial. Relevant sections include:

1. 19.501 General Exceptions
2. 19.502 Accessory Structures
3. 19.503 Accessory Uses
4. 19.504 Site Design Standards
5. 19.505 Building Design Standards

B. Section 19.600 Off-Street Parking and Loading

Contains standards for vehicle and bicycle parking, including required number of spaces and design standards for parking and loading areas.

C. Section 19.700 Public Facility Improvements

Contains standards for transportation, utility, and other public facility improvements that may be required as part of development.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.
 - B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen lower-density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.
-

19.505 BUILDING DESIGN STANDARDS

19.505.7 Nonresidential Development

A. Purpose

The design standards contained in this section are intended to encourage building design and construction with durable, high-quality materials. The design standards support development of an attractive, cohesive, and pedestrian-friendly commercial area. The design standards do not prescribe a particular building or architectural style.

B. Applicability

- 1. The design standards in this section generally apply to the street-facing facades of new commercial, institutional, manufacturing, and mixed-use buildings within the commercial mixed-use zones.
- 2. The standards in this section do not apply to stand-alone multifamily housing. Stand-alone multifamily buildings are subject to the design standards in Subsection 19.505.3 Multifamily Housing.
- 3. The standards in this section do not apply to rowhouses or live/work units. Rowhouses and live/work units are subject to the design standards in Subsections 19.505.5 Rowhouses and 19.505.6 Live/Work Units.
- 4. The standards in this section do not apply to cottage cluster housing. Cottage cluster housing is subject to the design standards in Subsection 19.505.4 Design Standards for Cottage Cluster Housing.

C. Building Design Standards

All buildings that meet the applicability provisions in Subsection 19.505.7.B shall meet the following design standards.

An applicant may request a variance to the building design standards in Subsection 19.505.7.C through a Type II review, pursuant to Subsection 19.911.3.B.7.

1. Corners

The intent of this standard is to reinforce intersections as an important place for people to gather.

Buildings located at a key corner in the GMU Zone, as shown on Figure 19.505.7.C.1, shall incorporate one of the following features:

- a. The primary entry to the building located at the corner.
- b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof at, or within 20 ft of, the corner of the building.
- c. The corner of the building cut at a 45-degree angle.

2. Weather Protection

The intent of this standard is, through the use of awnings and canopies along the ground floor of buildings, to protect pedestrians from rain and provide shade, to encourage window shopping and lingering, and to create visual interest on the ground floor of a building.

Buildings shall provide weather protection for pedestrians as follows:

- a. Minimum weather protection coverage
All ground-floor building entries (excluding loading docks, bays, etc.) shall be protected from the weather by canopies or recessed at least 3 ft behind the front building façade.
- b. Weather protection design
Weather protection shall comply with applicable building codes. Where applicable, weather protection shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

3. Exterior Building Materials

The intent of this standard is to provide a sense of permanence, through the use of certain permitted building materials; to provide articulation and visual interest to larger buildings; and to allow for a variety of materials and designs.

The following standards are applicable to the exterior walls of new buildings facing streets, courtyards, and/or public squares. Table 19.505.7.C.3 specifies the primary, secondary, and prohibited material types referenced in this standard.

- a. Buildings shall utilize primary materials for at least 60% of the applicable building facades.
- b. Secondary materials are permitted on no greater than 40% of each applicable building facade.
- c. Accent materials are permitted on no greater than 10% of each applicable building facade as trims or accents (e.g. flashing, projecting features, ornamentation, etc.).
- d. Buildings shall not utilize materials listed as (N) prohibited material.
- e. For existing development, façade modifications that affect more than 50% of the façade shall comply with standards in this subsection. The Planning Director may waive this requirement if application of the standards would create an incongruous appearance of existing and new materials.

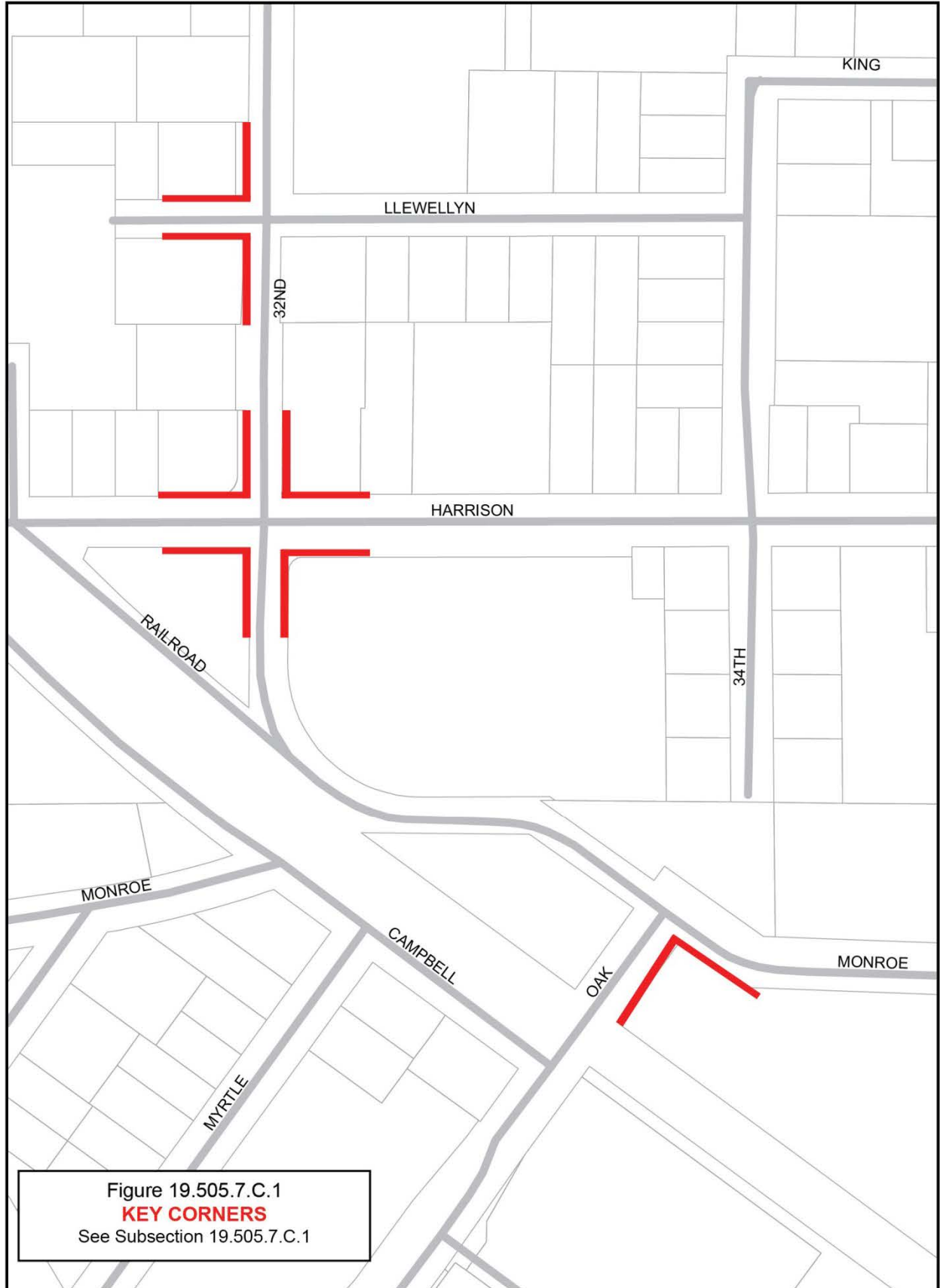


Table 19.505.7.C.3 Commercial Exterior Building Materials	
Material Type	Nonresidential and Mixed-Use
Brick	P
Stone/masonry	P
Stucco	P
Glass (transparent, spandrel)	P
Concrete (poured in place or precast)	P
Finished wood, wood veneers, and wood siding	S
Finished metal panels—such as anodized aluminum, stainless steel, or copper—featuring polished, brushed or patina finish	S
Concrete blocks with integral color (ground, polished, or glazed finish)	S
Fiber-reinforced cement siding and panels	S
Ceramic tile	S
Concrete blocks with integral color (split-face finish)	A
Standing seam and corrugated metal	A
Glass block	A
Vegetated wall panels or trellises	A
Vinyl siding	N
Exterior insulation finishing system (EIFS)	N
Plywood paneling	N

P = Primary material

S = Secondary material

A = Accent material

N = Prohibited material

4. Windows and Doors

The standards of this section are intended to enhance street safety and provide a comfortable pedestrian environment by providing ground-level transparency between the interior of buildings and the sidewalk.

- a. For nonresidential and mixed-use buildings, 30% 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. For all buildings, the following applies:
 - (1) Nonresidential ground-floor windows must have a visible transmittance (VT) of 0.6 or higher.

- (2) Doors and/or primary entrances must be located on the street-facing block faces and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.
 - (3) Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.
 - (4) The bottom edges of windows along pedestrian ways shall be constructed no more than 36 in above grade.
 - (5) Ground-floor windows for nonresidential uses shall allow views into storefronts, working areas, or lobbies. Signs are limited to a maximum coverage of 50% of the required window area.
- c. Windows shall be designed to provide shadowing. This can be accomplished by recessing windows 4 in into the façade and/or incorporating trim of a contrasting material or color.
 - d. For all building windows facing streets, courtyards, and/or public squares, the following window elements are prohibited:
 - (1) Reflective, tinted, or opaque glazing.
 - (2) Simulated divisions (internal or applied synthetic materials).
 - (3) Exposed, unpainted metal frame windows.
5. Roofs
- a. The intent of this standard is to enliven the pedestrian experience and create visual interest through roof form. The roof form of a building shall follow one (or a combination) of the following forms:
 - (1) Flat roof with parapet or cornice.
 - (2) Hip roof.
 - (3) Gabled roof.
 - (4) Dormers.
 - (5) Shed roof.
 - b. All sloped roofs exposed to view from adjacent public or private streets and properties shall have a minimum 4/12 pitch.
 - c. Sloped roofs shall have eaves, exclusive of rain gutters, that project from the building wall at least 12 in.
 - d. All flat roofs, or those with a pitch of less than 4/12, shall be architecturally treated or articulated with a parapet wall that projects vertically above the roofline at least 12 in and/or a cornice that projects from the building face at least 6 in.
 - e. When an addition to an existing structure, or a new structure, is proposed in an existing development, the roof forms for the new structure(s) shall have similar slope and be constructed of the same materials as the existing roofing.
6. Rooftop Equipment and Screening
- The intent of this standard is to integrate mechanical equipment into the overall building design.

- a. The following rooftop equipment does not require screening:
 - (1) Solar panels, wind generators, and green roof features.
 - (2) Equipment under 2 ft in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 ft provided that the mechanical shaft is incorporated into the architecture of the building.
- c. Satellite dishes, communications equipment, and all other roof-mounted mechanical equipment shall be limited to 10 ft in height, shall be set back a minimum of 5 ft from the roof edge, and shall be screened from public view and from views from adjacent buildings by one of the following methods:
 - (1) A screen around the equipment that is made of a primary exterior finish material used on other portions of the building, wood fencing, or masonry.
 - (2) Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- d. Required screening shall not be included in the building's maximum height calculation.

7. Ground-Level Screening

Mechanical and communication equipment, outdoor storage, and outdoor garbage and recycling areas shall be screened so they are not visible from streets, other ground-level private open space, or common open spaces.

8. Rooftop Structures

Rooftop structures related to shared outdoor space—such as arbors, trellises, or porticos related to roof decks or gardens—shall not be included in the building's maximum height calculation, as long as they do not exceed 10 ft in height.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the Neighborhood Mixed Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

CHAPTER 19.900 LAND USE APPLICATIONS

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions²
BI	P1	P2	P2	P2
M	P1	P2	P2	P2
M-TSA	P1	P2	P2	P2
C-N	N	P2	P2	P2
C-G	N	P2	P2	P2
C-L	N	P2	P2	P2
C-CS	N	P2	P2	P2
OS	N	P2	P2	P2
DMU	N	P2	P2	P2
GMU	N	P2	P2	P2
NMU	N	P2	P2	P2
R-1-B	N	P2	P2	P2
R-1	N	N	P2	P2
R-2	N	N	P2	P2
R-2.5	N	N	P2	P2
R-3	N	N	P2	P2
R-5	N	N	P2	P2
R-7	N	N	P2	P2
R-10	N	N	P2	P2

1 = Type III review—requires a public hearing in front of the Planning Commission

2 = Type II review—provides for an administrative decision

P = Permitted **N** = Not Permitted

¹ Rooftop extensions are not to exceed 15 ft in height above the roof top and are not to project greater than 5 ft from the wall of a building.

² Antennas placed on right-of-way utility poles may be extended 15 ft. If the pole cannot be extended, the carrier may replace the pole. The replacement utility pole shall not exceed 15 ft in height of the pole that is to be replaced.

F. Location and Size Restrictions

2. Height: maximum heights. Also see Table 19.904.11.C.

a. Height Restrictions

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

Proposed Code Amendment

- (1) BI, M, and M-TSA Zones: 100 ft.
 - (2) New towers are not permitted in the R-1-B, R-1, R-2, R-2.5, R-3, R-5, R-7, R-7PD, R-10, R-10PD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.
-

Updates for Section References and Housekeeping Only

*These amendments are based on the adoption of the **Downtown** amendments by Council on September 1, 2015, and the expectation that the **Central Milwaukie** amendments will have been adopted before these **Neighborhood Main Streets** amendments go to the Milwaukie City Council for adoption.*

19.201

“Physical characteristics” means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill, boundaries, and embankments.

19.202.2.C

C. Exterior Height of Accessory Structures

The exterior height of an accessory structure is the vertical distance above the average of the highest and lowest points of finished grade, within a 10-ft horizontal distance from the base of the building, and the top of a building described in Subsection 19.202.B.2.

19.202.4.D.2

2. Density Calculation

The minimum number of dwelling units required is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the minimum required dwelling unit density in the applicable base zone in Chapter 19.300.

19.202.4.E.2

2. Density Calculation

The maximum number of dwelling units allowed is calculated by dividing the net area by 43,560 sq ft to convert the area to acres, then by multiplying the acreage by the maximum allowed dwelling unit density in the applicable base zone in Chapter 19.300.

19.401 WILLAMETTE GREENWAY ZONE WG

In a W-G Zone the following regulations shall apply: **[REPEALED]**

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

In an HP Zone the following regulations shall apply: **[REPEALED]**

19.405 AIRCRAFT LANDING FACILITY ZONE L-F

In an L-F Zone the following regulations shall apply: **[REPEALED]**

19.707.1.C

C. Metro and Clackamas County: If the proposed development is within 200 ft of a designated arterial or collector roadway, as identified in Figure 8-1 of the TSP.

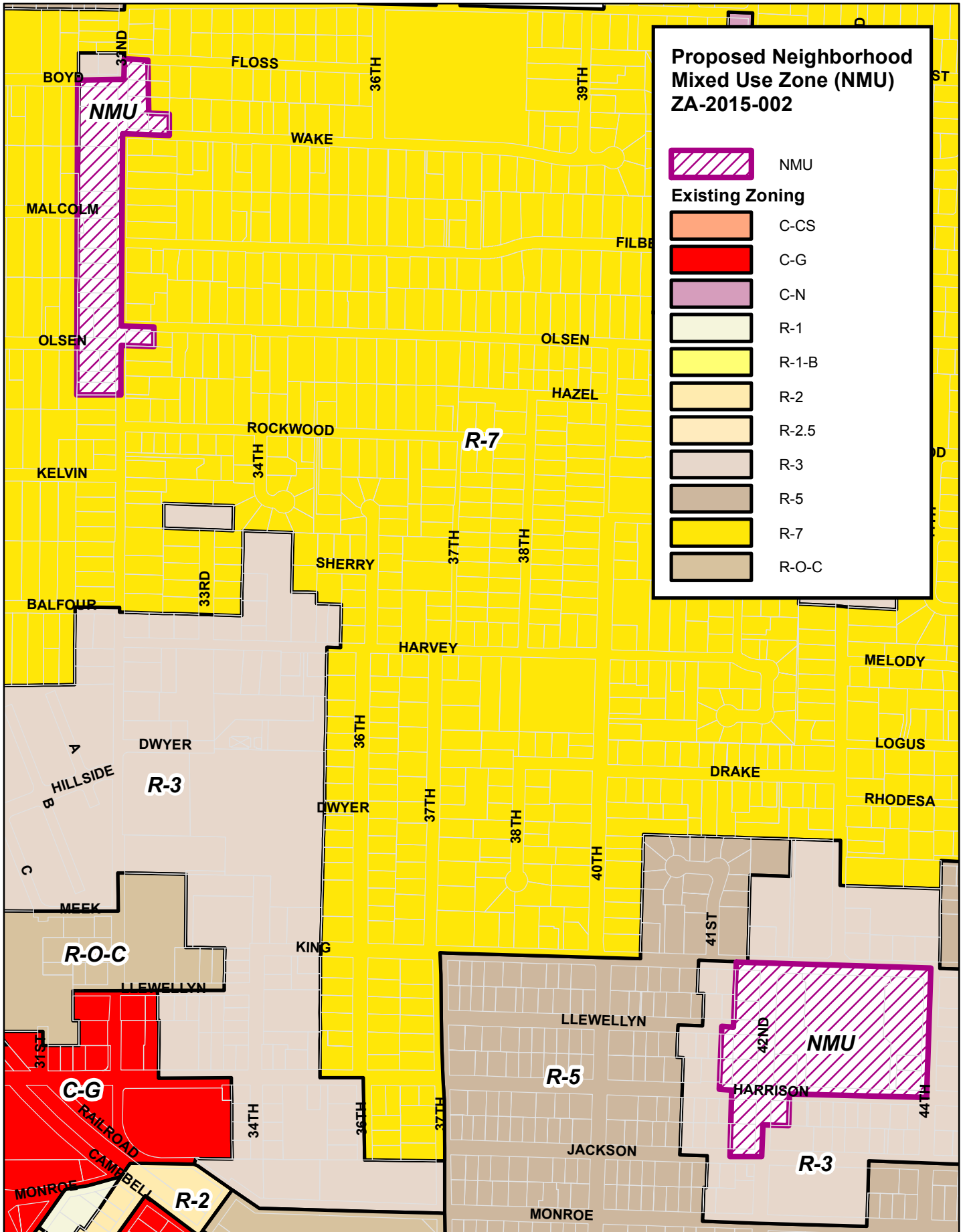
19.708 TRANSPORTATION FACILITY REQUIREMENTS

The City's street design standards are based on the street classification system described in the TSP. Figure 8-1 of the TSP identifies the functional street classification for every street in the City and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

Table 19.901

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Bee Colony <i>[THIS ROW REPEALED]</i>	Subsection 19.503.1.D	III

EXHIBIT D



RS134

ATTACHMENT 2

From: [Gene Dieringer](#)
To: [Churchill, Scott](#); [Batey, Lisa](#)
Cc: [Alligood, Li](#)
Subject: Fwd: NMU Testimony
Date: Wednesday, November 18, 2015 3:18:39 PM

Councilors Churchill and Batey,

I am forwarding/resending this email to each of you as I had typos in your email addresses in my first attempt. Everyone else received it.

Thank you.

Gene Dieringer

Dieringer's Properties, Inc.

503-659-1402

----- Forwarded message -----

From: **Gene Dieringer** <gene@dieringerinc.com>

Date: Wed, Nov 18, 2015 at 3:11 PM

Subject: NMU Testimony

To: "Alligood, Li" <AlligoodL@milwaukieoregon.gov>, "Egner, Dennis"

<EgnerD@milwaukieoregon.gov>, gambam@milwaukieoregon.gov,

churchhills@milwaukieoregon.gov, batyl@milwaukieoregon.gov,

parksw@milwaukieoregon.gov, powerk@milwaukieoregon.gov

Cc: Dave Aschenbrenner <dlasch@comcast.net>

Dear City Councilors and Planning Staff,

Thank you for allowing me to testify at City Council mtg 11/17/2015. I appreciate all the work you do for the City in trying to make the City a better place to live and work.

I don't always think fast on my feet when responding to questions. I would like to respond in a little more detail with some thoughts I had after I left the meeting.

Regarding extension of expiration of any conditional use (or non-conforming use) - I believe there should not be an expiration. I reiterate: I believe **re-tenanting** is different from "development" or "redevelopment". I believe allowed uses should be allowed in existing buildings of any size.

The city should not be able to make an existing building obsolete due to changes made to a code or ordinance standards. Re-development of larger buildings should be *market and economic* driven and not forced by code changes made by the City after a building was constructed and approved under earlier codes or ordinances. Economics and the market will dictate value and viability of an existing building.

I appreciated Li's comment or suggestion that buildings constructed as of a certain date (I presume the date would be when codes and ordinances are adopted) would be exempt. This allows owners of current properties with larger buildings to utilize the buildings for the purpose (or similar purpose) for which they were constructed and for their highest & best use. Limiting a use to only a "grocery store" as was suggested is just as damaging as it can still make a building of a larger size obsolete if a grocery tenant is not attracted to the site... but wherein another retailer or allowed user may have an interest.

Buildings such as the Safeway building are almost impossible to carve up into 10,000 or less square foot suites and still have it make sense to the user, building owner and the community.

Thanks your for your time and consideration

Gene Dieringer
Dieringer's Properties, Inc.
10505 SE 44th Ave
Milwaukie, OR 97222
[503-659-1402](tel:503-659-1402)