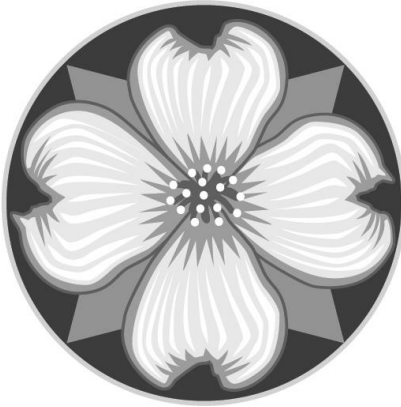




Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2,385th Meeting

REVISED AGENDA

AUGUST 1, 2023

(Revised July 28, 2023)

Council will hold this meeting in-person and through video conference. The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-353>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 831 8669 0512 and Passcode: 023745. To raise hand by phone dial *9.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov. Council will take verbal comments.

Note: agenda item times are estimates and are subject to change.

Page #

1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**
2. **ANNOUNCEMENTS** (6:01 p.m.) 1
3. **PROCLAMATIONS AND AWARDS**
 - A. **National Farmers Market Week – Proclamation** (6:05 p.m.) 4
Presenter: Mayor Batey and Melanie Bennett with Celebrate Milwaukie Inc.
4. **SPECIAL REPORTS**
 - A. **Parks Governance Check-In** (6:10 p.m.)
Presenter: Ann Ober, City Manager
5. **COMMUNITY COMMENTS** (6:15 p.m.)
To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**
6. **CONSENT AGENDA** (6:20 p.m.)
Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.
 - A. **Approval of Council Meeting Minutes of:** 6
 1. **July 11, 2023, special session**
 - B. **Consolidated Fee Schedule - Resolution** 8
 - C. **Stormwater System Plan (SSP) Contract Award - Resolution** 29
 - D. **Street Surface Maintenance Plan (SSMP) 2023 Improvements - Resolution** 33
 - E. **Codification Contract Reinstatement - Resolution** 36
 - F. **Waverly Heights Sewer Reconfiguration Project - Resolution** 39

7. BUSINESS ITEMS

- A. Annexation of 9931 SE Hollywood Avenue – Ordinance** (6:25 p.m.) **44**
Staff: Ryan Dyar, Assistant Planner

8. PUBLIC HEARINGS

- A. Psilocybin Code Adoption – Ordinance** (6:30 p.m.) **71**
Staff: Vera Kolias, Senior Planner

9. COUNCIL REPORTS

- A. Presentation from Local Business Leader - Report** (7:15 p.m.) tentative
Presenter: Local Business Leader

10. ADJOURNMENT (8:00 p.m.)

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2385th Meeting

MINUTES

August 1, 2023

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and Mayor Lisa Batey

Council Absent: Council President Desi Nicodemus

Staff Present: Ryan Dyar, Assistant Planner
Justin Gericke, City Attorney
Vera Kolias, Senior Planner
Toby LaFrance, Finance Director

Nicole Madigan, Deputy City Recorder
Ann Ober, City Manager
Peter Passarelli, Public Works Director
Laura Weigel, Planning Manager

Mayor Batey called the meeting to order at 6:01 p.m. and noted that Council President Nicodemus had been excused from the meeting.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including neighborhood park concerts, a picnic, and the August First Friday event.

3. PROCLAMATIONS AND AWARDS

A. National Farmers Market Week Proclamation

Melanie Bennett, Celebrate Milwaukie, Inc. (CMI) Board President, thanked Council for recognizing the market, noted it was the market's 25th season, and commented on the value of the market for the community. **Mayor Batey** proclaimed national farmers week.

4. SPECIAL REPORTS

A. Parks Governance Check-In

Ober explained that Council would discuss parks governance at a future meeting and the group briefly discussed the format of the next parks discussion item.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the public comment procedures and **Ober** reported there was no follow-up report from the July 18 community comments.

Greg Hemer, Milwaukie Historical Society, encouraged the city to name the community room in the new city hall building after Dorothy and Hurtis Hadley, owners of the first Black-owned bakery in Oregon. **Hemer** remarked on the historical society's work with city staff and the Equity Steering Committee (ESC) on the naming proposal.

Philip Moen, Milwaukie resident, remarked on the city's environment-related policies and suggested the city had levied excessive fines for climate-related code violations and that residents would regret not having natural gas to use when the power goes out.

6. CONSENT AGENDA

Mayor Batey removed Consent Agenda item 6. B. for separation consideration.

It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord to approve the Consent Agenda items A, C, D, E, and F.

A. City Council Meeting Minutes:

1. July 11, 2023, special session

~~B. Authorization of revised fees and charges and updated consolidated fee schedule for fiscal year 2024.~~

C. Resolution 39-2023: authorizing the city manager to approve a professional services contract with Water Systems Consulting, inc. (WSC) in the amount of \$349,512 to provide professional services related to the development of a stormwater system plan.

D. Resolution 40-2023: A resolution, acting as the Local Contract Review Board, approving the award of a contract for construction of 2023 Surface Streets Maintenance Program (SSMP) improvements (CIP-2023-S28) to Knife River Corporation - Northwest.

E. Resolution 41-2023: A resolution acting as the Local Contract Review Board, reinstating a personal services agreement with General Code, LLC for codification services.

F. Resolution 42-2023: A resolution authorizing a public improvements contract with Stantec Consulting Services Inc. for a not to exceed amount of \$840,090 for the Waverly Heights Sewer Reconfiguration Project (CIP-2023-X41)

Motion passed with the following vote: Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]

B. Authorization of revised fees and charges and updated consolidated fee schedule for fiscal year 2024. (Removed from the Consent Agenda)

Mayor Batey and Ober explained a proposed wording change to the item resolution that clarified that only certain sections of the fee schedule were attached to resolution.

It was moved by Councilor Stavenjord and seconded by Councilor Massey to approve the resolution authorizing a revision of the fees and charges and updating sections of 7, 11, 14, and 17 of the consolidated fee schedule for Fiscal Year 2024. Motion passed with the following vote: Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]

Resolution 38-2023:

A RESOLUTION AUTHORIZING REVISION OF FEES AND CHARGES AND UPDATING THE CONSOLIDATED FEE SCHEDULE FOR FISCAL YEAR 2024.

7. BUSINESS ITEMS

A. Annexation of 9931 SE Hollywood Avenue – Ordinance

Dyar asked if Council had questions about the annexation and it was noted that no Council member had any questions for staff regarding the annexation.

It was moved by Councilor Khosroabadi and seconded by Councilor Stavenjord for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as Tax Lot 1S2E30DD04900 and located at 9931 SE Hollywood Avenue into the city limits of the City of Milwaukie (File #A-2023-004).

Ober read the ordinance two times by title only.

Madigan polled the Council with Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]

Ordinance 2233:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DD04900 AND LOCATED AT 9931 SE HOLLYWOOD AVE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2023-004).

8. PUBLIC HEARING

A. Psilocybin Code Adoption – Ordinance

Call to Order: **Mayor Batey** called the public hearing on the proposed code adoption, file #ZA-2023-003, to order at 6:31 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to take public comment on the proposed psilocybin code adoption.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kolias** provided of an overview of the proposed psilocybin code amendments, reviewed the applicable state laws, and noted staff work, Council discussions, and Planning Commission hearings on the amendments.

Councilor Khosroabadi asked about the psilocybin facility applications that had been received while the city had been working on the code amendments and **Kolias** reported on the status of the two applications the city had received.

Mayor Batey and **Kolias** noted that the Oregon Health Authority (OHA) was the state governing body for psilocybin. They remarked on regulatory and reporting differences between marijuana and psilocybin production facilities.

Correspondence: No correspondence on the code adoption had been received.

Audience Testimony: No audience member addressed Council on the adoption.

Close Public Comment: **It was moved by Councilor Khosroabadi and seconded by Councilor Massey to close the public testimony part of the psilocybin code adoption hearing. Motion passed with the following vote: Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]**

Mayor Batey closed the public comment part of the hearing at 6:42 p.m.

Council Decision: **It was moved by Councilor Khosroabadi and seconded by Councilor Massey for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code (MMC) Title 19 zoning to make changes to select sections for the purpose of regulating psilocybin facilities (file #ZA-2023-003).**

Ober read the ordinance two times by title only.

Madigan polled the Council with Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]

Ordinance 2234:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 19 ZONING TO MAKE CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF REGULATING PSILOCYBIN FACILITIES (FILE #ZA-2023-003).

9. COUNCIL REPORTS

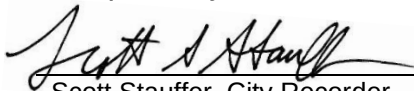
Ober noted a state-led affordable housing conversation that Council would be looped into soon.

10. ADJOURNMENT

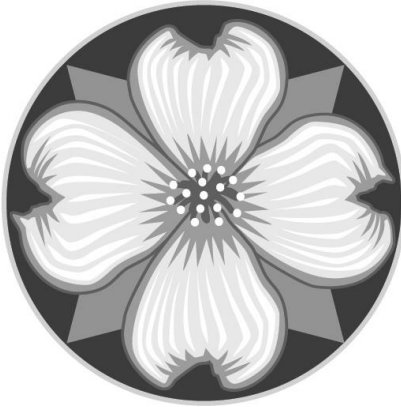
It was moved by Councilor Massey and seconded by Councilor Stavenjord to adjourn the Regular Session. Motion passed with the following vote: Councilors Stavenjord, Khosroabadi, Massey, and Mayor Batey voting “aye.” [4:0]

Mayor Batey adjourned the meeting at 6:47 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder



RS Agenda Item

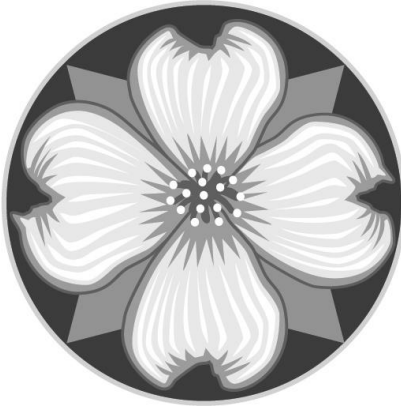
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Announcements



Mayor's Announcements – August 1, 2023

- **Lewelling Concerts in the Park – Wednesdays in August (6:30 PM)**
 - Join the Lewelling Neighborhood District Association (NDA) at their annual concerts in the park series
 - Ball Michel Park, 9781 SE Stanley Ave.
- **Ardenwald-Johnson Creek (AJC) Concerts in the Park – Thursdays in August (7 PM)**
 - Join the AJC Neighborhood District Association (NDA) at their annual concerts in the park series
 - Aug. 3 concert is also National Night Out that begins at 6 PM
 - Ardenwald Park, 3667 SE Roswell St.
- **First Friday – August 4 (5 – 8 PM)**
 - The downtown Milwaukie community comes together every First Friday for the city's largest block party from June through October
 - For more information, email info@firstfridaymilwaukie.com or visit firstfridaymilwaukie.com.
- **Lake Road Neighborhood Picnic – Saturday, August 5 (11 AM – 3 PM)**
 - Join the Lake Road Neighborhood District Association (NDA) for live music, food trucks, and a photo booth!
 - Please walk, bike, or carpool as parking is very limited.
 - Milwaukie Floral and Garden, 3306 SE Lake Road
- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV OR CALL 503-786-7555**



RS Agenda Item

3

Proclamations & Awards

PROCLAMATION

WHEREAS farmers markets are an integral part of Oregon's food system and agricultural economy, and are important sales outlets for farmers and food business owners, generating revenue that supports the sustainability of family farms and the revitalization of rural communities, and

WHEREAS farmers markets provide residents of all income levels with access to healthful, locally produced foods through the Milwaukie Farmers Market and over 70 other Oregon markets that accept supplemental nutritional assistance program (SNAP) benefits and other critical food access programs, and

WHEREAS the Milwaukie Farmers Market is celebrating 25 years as a cornerstone of our community, well-loved by customers and vendors who come from Milwaukie and far beyond.

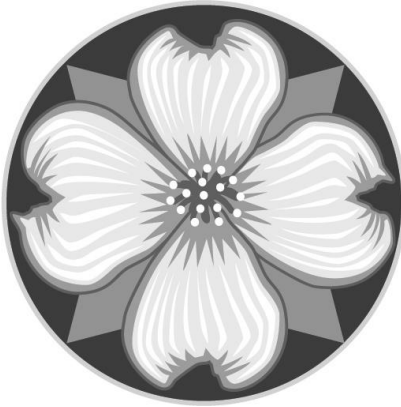
NOW, THEREFORE, I, Lisa Batey, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, with the consent of the City Council do hereby proclaim the week of **AUGUST 6-12, 2023**, as **FARMERS MARKET WEEK**, in conjunction with National Farmers Market Week, and do call upon all Milwaukians to celebrate and support the Milwaukie Farmers Market and other area farmers markets.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 1st day of August 2023.

Lisa Batey, Mayor

ATTEST:

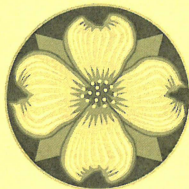
Nicole Madigan, Deputy City Recorder



RS Agenda Item

5

Community Comments



CITY OF MILWAUKIE CITY COUNCIL

10722 SE Main Street
P) 503-786-7502
F) 503-653-2444
ocr@milwaukieoregon.gov

Speaker Card

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

Name: Greg Wemer

Address: 3737 SE Adams St.

Organization: Milw Historical Society

Phone:

Email: milwaukiehistoricalsociety@gmail.com

Meeting Date: 8/1/23

Topic: Hadley Family of Community Room

Agenda Item You Wish to Speak to:

You are Speaking...

☒ **#5 Community Comments**

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

☐ **#7 Other Business, Topic:** _____

☐ **#8 Public Hearing, Topic:** _____

☐ **in Support**

☐ **in Opposition**

☐ **from a Neutral Position**

☐ **to ask a Question**

Comments:



Milwaukie Historical Society

3737 SE Adams St. Milwaukie, OR 97222

www.milwaukiehistoricalsociety.com

milwaukiemuseum@gmail.com

Proud Member



To: City of Milwaukie
Mayor, City Council and City
From: Milwaukie Historical Society
Steve Bennett – President Milwaukie Historical Society
milwaukiemuseum@gmail.com

8/01/2023

Proposal

Name City Hall Main Floor Community Room Dorothy and Hurtis Hadley Sr. Community Room

Purpose:

Milwaukie Historical Society is seeking the support of the proposal by City Council and City Manager

Objective:

Name the Main Floor Community Room in the soon to be opened City Hall after Dorothy and Hurtis Hadley Sr. Included would be signage explaining why the Community Room is named after the Hadley's with their accomplishments and credentials towards the residents of Milwaukie and our City.

Background:

City Hall

In 2020 City of Milwaukie purchased the Advantis building located at 10501 SE Main St. The purpose was to remodel the building and move City Hall from its current location from 10722 SE Main St.

On the main floor is a large Community Room much like the one at Ledding Library.

City of Milwaukie expects the ribbon cutting to open the new City Hall in early October.

The Hadley's

In the early 1960's, Hurtis Mixon Hadley, Sr. began his career as a Baker's Helper at Bohemian Bakery and Restaurant in Portland. At that time, African Americans were discouraged from joining the Baker's Union so, after five years at Bohemian, Hurtis took his skills to Albertsons where he was accepted into the three year Oregon Baker's Apprenticeship Program. Two years later in 1967 Hurtis became the first African American in Oregon to graduate and be state certified as a Journeyman Baker.

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Milwaukie Historical Society

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milwaukiemuseum@gmail.com

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After completing his apprenticeship, Hurtis was promoted to Bakery Manager at Albertsons, becoming the first African American to hold that position in Oregon. While at Albertsons, he was promoted once more to Bakery Trainer and was responsible for training store directors and bakers. Despite his credentials, knowledge and success Hurtis was passed over for a District Manager position and was told “southern Oregon communities will not accept a black man in this position of authority.”

In 1977 Hurtis and his wife Dorothy Bishop Hadley, struck out on their own and purchased Milwaukie Pastry Kitchen at 10607 SE Main St. It became the first African American owned full line bakery operating in Oregon and the first African American owned business in Milwaukie. Hurtis handled the baking and produced many varieties of cakes, pastries, breads, and donuts. Dorothy ran the front counter and handled sales. After eight successful years the bakery closed, but Hurtis continued on as a Baker and Bakery Trainer at Safeway, then as a Mixer at Franz Bakery and Orowheat before retiring in 1997.

The Hadley’s are also represented at Milwaukie Museum with a permanent display and in 2020 Welcome to Milwaukie Mural was created celebrating the Hadley’s and Ah Bing on 40th and Harvey St.

Greg Hemer Communication Director for Milwaukie Historical Society, has corresponded with the Hadley’s to use their names without objection.

Rules for naming City of Milwaukie Government places

After some brief conversations with City of Milwaukie Attorney and an extensive search by City of Milwaukie Recorder, it has been determined that there are no rules governing naming public government buildings or rooms inside such places. Rules do exist for naming parks. It begins with a proposal to City of Milwaukie Parks Board for a recommendation which then gets forwarded to North Clackamas Parks District and City Council for acceptance. Greg Hemer was part of the team that renamed Riverfront Park to Milwaukie Bay Park.

With no rules in place Milwaukie Historical Society thought our best step was to receive acceptance and approval from City of Milwaukie Equity Steering Committee before approaching the City Manager and City Council. The Equity Steering Committee sent the request back to the City Manager.

City of Milwaukie and North Clackamas School District both have policies in place for naming public spaces or places enshrined into the public perception:

City of Milwaukie:

Parks:

Park Naming policy lists four main criteria for consideration when naming parks:

1. Any person who has made a significant contribution to the City or community,

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2. A person, group, place or feature, particularly identified with the public land or facility or of historical or cultural significance,
3. Geographic location (neighborhood, streets, etc),
4. Natural features or resources.

17.20.030 GENERAL INFORMATION TO BE SHOWN ON THE PRELIMINARY PLAT

B. The following general information shall be submitted with the preliminary plat:

1. Proposed name of the subdivision/partition. The name shall not duplicate nor resemble the name of another subdivision in the county. Subdivision names shall be approved by the County Surveyor in accordance with ORS Chapter 92;

Naming of New Streets

Planning Department does not have specific code language related to street naming.

Developers work with staff to ensure consistency. Here is the basic process for new streets in subdivisions:

Engineering takes the lead in approving the names of new streets (provided by developer), and will generally follow the numbering system and Ave. designation for N/S streets and allowing names to be used for E/W streets.

After the plat is recorded, CD/Engineering Admin will provide email notification to emergency providers, utility companies and others based on a list that engineering will assemble.

When we send out referrals, we highlight that a new street name is proposed to be sure that we get reviews on that as well (e.g. from Clackamas Fire).

North Clackamas School District:

Naming a new school/facility:

Consideration may be given to, but is not limited to, geographic location, historic events, or to local, state, national or international persons who have made a significant contribution to the field of education or humanity. Such persons may be living or honored posthumously, but shall not have been staff members of the district in the three previous years at the time the honor is bestowed.

1. The Board may select a name or may appoint an advisory committee. The advisory committee will consist of a number of members determined by the Board. Membership may include members of the general community, district staff, students and others determined by the Board. Community members on the advisory committee must live in the school district or be the parent of a current student. The executive director of community relations or as designated by the superintendent will serve as the chair of the advisory committee;
2. Advisory committee meetings are public meetings and will follow public meeting laws. Advisory committee agendas will be posted on the district website prior to meeting. Advisory committee meeting minutes will be posted on the district website;

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milwaukiemuseum@gmail.com

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3. The advisory committee will publicize the request to name a new school/facility. Nominations from parents, students, staff, and the community shall be submitted in writing and include a justification Naming Facilities – FF 2-2 for the nomination. The advisory committee will consider all nominations and may nominate additional names for consideration;
4. The advisory committee will seek to reach a recommendation through consensus among all members. In the absence of full consensus, the majority opinion will determine the recommendation. The advisory committee will make a recommendation to the Board that will include a minimum of one name, but no more than three names. The advisory committee's recommendation to the Board will include the reasons for the recommended names. If the advisory committee supports the request to name a school/facility after a person, the advisory committee will attempt to ascertain the feelings of the honored individual or the individual's family. This information will be communicated to the Board;
5. The Board shall then:
 - a. Make the final selection of the name from the name(s) recommended by the advisory committee;
 - or
 - b. Make a selection of its own choice.

During the Happy Valley area new schools, the district added a diversity, equity, and inclusion statement asking the advisory committee to consider someone of a different background and experience than those names that have been chosen before.

Obligations:

Financial Obligation

At this time Milwaukie Historical Society does not anticipate any financial support for the signage, plaque, or any other recognition City of Milwaukie would like to honor and represent the naming of the room. If there is a need, Milwaukie Historical Society would be happy to seek the funding needed.

Time Obligation

As it is getting close to the opening of City Hall, Milwaukie Historical Society would love to have a decision by City of Milwaukie as soon as possible. A Milwaukie Historical Society representative is happy to present at any juncture to discuss the opportunity.

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Proud Member



Reasoning of Naming the Room:

1. The Hadley's are inspirations to the young and old. They have continued to be a part of Milwaukie in Historical Society programing and are role models of our great City. Hurtis, Sr. and Dorothy are proud of their accomplishments and prove that even when the odds and portions of society are against you, your intelligence, persistence, and hard work can over come those odds and biases. The Hadley's fondly remember their bakery, the patrons, and still will recall stories of bigotry from a small segment of the community.
2. In 2016 Milwaukie Historical Society along with the Oregon Black Pioneers sought to have a plaque placed on the address of 10607 SE Main St., currently Canby Asparagus and Wind Horse owned by Reliable Credit Union. This attempt although not rejected, the current owner of building was granted a variance to remove the structure and make it a parking lot. The owner does not want to "mark" the building as a historical site, but if the buildings are removed, the owner is willing to create a plaque then.
3. With the uncertainty of the removal of the buildings and the very close proximity of the new City Hall the naming of the Community Room is near the location of the business and guarantees a historical marker for the Hadley's accomplishments and achievements.

Conclusion

Milwaukie Historical Society is asking City Council to make a decision on naming the Main Floor Community Room after Hurtis, Sr and Dorothy Hadley. The decision based upon other actions of the City and other local entities can be made on your own.

Thank you for considering this matter. If you would like more information, please contact Steve Bennett. We apologize for the time crunch, but the Society did not realize City Hall was opening this soon and was unaware that there were no rules regarding this matter.

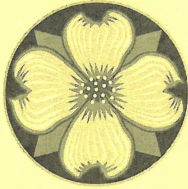
Steve Bennett

President

Milwaukie Historical Society

milwaukiemuseum@gmail.com

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CITY OF MILWAUKIE
CITY COUNCIL

10722 SE Main Street
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ocr@milwaukieoregon.gov

Speaker Card

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Name: Philip Moen

Organization:

Address: 3826 SE Leewellyn St

Phone: 503-786-6979

Email:

Meeting Date: 8-1-23 Topic: Environment

Agenda Item You Wish to Speak to:

☐ #5 Community Comments

Note: Council generally does not respond to comments during this meeting. The city manager will respond to comments at the next regular session.

☐ #7 Other Business, Topic: Environment

☐ #8 Public Hearing, Topic: _____

Comments:

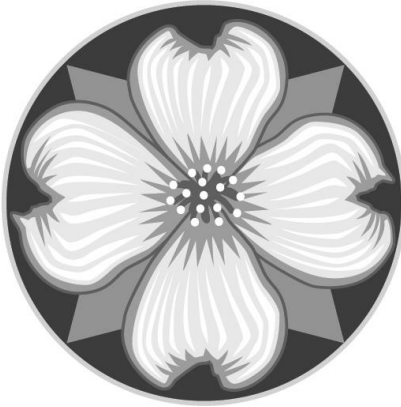
You are Speaking...

☐ in Support

☐ in Opposition

☐ from a Neutral Position

☐ to ask a Question



RS Agenda Item

6

Consent Agenda



COUNCIL SPECIAL SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

JULY 11, 2023

Council Present: Councilors Adam Khosroabadi and Robert Massey and Mayor Lisa Batey

Council Absent: Councilor Rebecca Stavenjord and Council President Desi Nicodemus

Staff Present: Adam Moore, Parks Development Coordinator Scott Stauffer, City Recorder
Ann Ober, City Manager

Mayor Batey called the meeting to order at 5:16 p.m. and announced that Council President Nicodemus and Councilor Stavenjord had been excused from the meeting.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including concerts in the park, Milwaukie's Porchfest events, and a city manager open door session.

3. PROCLAMATIONS AND AWARDS

A. None Scheduled.

4. SPECIAL REPORTS

A. Paul Klein Remembrance – Remarks

Mayor Batey remarked on the life and community involvement of longtime Milwaukie resident Paul Klein who had recently passed away.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the comment procedures. **Ober** reported there was no follow-up report from the June 20 comments. No audience member wished to address Council.

6. CONSENT AGENDA

It was moved by Councilor Khosroabadi and seconded by Councilor Massey to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. June 6, 2023, Work Session, and
2. June 6, 2023, Regular Session.

B. Resolution 34-2023: A resolution of the City Council of the City of Milwaukie, Oregon, affirming the nomination of a Park and Recreation Board (PARB) member to represent the city on the North Clackamas Parks and Recreation District (NCPRD) District Advisory Committee (DAC).

C. An Oregon Liquor and Cannabis Commission (OLCC) application for Taqueria Portland, 5821 SE Johnson Creek Boulevard – On-Premises Sales

Motion passed with the following vote: Councilors Khosroabadi and Massey and Mayor Batey voting “aye.” [3:0]

Mayor Batey recessed the meeting at 5:28 p.m. so Council could meet as the Milwaukie Redevelopment Commission (MRC). The meeting reconvened at 5:31 p.m.

7. BUSINESS ITEMS

A. Neighborhood Parks Update – Report

Moore provided an update on the development and funding of three neighborhood parks, noted construction timelines, and reported on park design engagement events.

Councilor Massey appreciated staff’s community engagement work and **Moore** noted the involvement of city staff from multiple departments.

Mayor Batey and **Moore** commented on how many contracts would be needed for the three park projects, steps staff would take to keep project costs down, and what inclusive playground design elements each park would include. **Moore** explained why the city would use rubber surfacing around park playgrounds instead of wood chips.

Mayor Batey and **Moore** remarked on the city’s grant funding applications for the park projects and whether Council or PARB could do anything more to support the applications.

8. PUBLIC HEARING

A. None Scheduled.

9. COUNCIL REPORTS

There were no Council reports.

10. ADJOURNMENT

It was moved by Councilor Massey and seconded by Councilor Khosroabadi to adjourn the Regular Session. Motion passed with the following vote: Councilors Khosroabadi and Massey and Mayor Batey voting “aye.” [3:0]

Mayor Batey adjourned the meeting at 6:04 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Brent Husher, Library Director

From: Michael Osborne, Assistant Finance Director

Subject: **Update to Library Fines Fee Schedule**

Date Written: July 25, 2023

ACTION REQUESTED

Council is asked to approve the consolidated fee schedule.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

This topic was introduced at the [July 18, 2023 meeting](#).

ANALYSIS

At the July 18, 2023 meeting, staff was able to respond to a majority of questions that arose during the meeting. A link to that meeting is above. However, a question did arise regarding library fines and the financial impact of reducing our existing fine structure. In 2013, the amount of library fines collected was \$61,000. Since then, library fines have been trending downward with \$31,000 collected in 2019 and \$26,000 collected in our most recent fiscal year (FY) ending 6/30/2023. The reasons for this reduction include the following:

- 1) There are fewer physical items circulating than ten years ago, meaning there are fewer opportunities for fines;
- 2) More library patrons are checking-out eBooks. These items are checked-in automatically so there are no associated fines;
- 3) Before August 2022, each city library retained all fines and fees collected at individual locations regardless of whether the city owned the item or assessed the fee. Because Milwaukie library patron's check-out items that are not owned locally, this system previously benefited city revenues because we were able to keep other cities' fines and fees in addition to our own; and
- 4) As of August 2022, the county department that supports libraries added a new online payment option for payment of library fines and fees. All fines paid through this new online option are collected by the county and distributed to each city quarterly. This means that fines and fees that were previously paid and retained in Milwaukie can now be paid online and distributed to the city associated with whatever library owns a particular item.

BUDGET IMPACT

Library fines are budgeted in the General Fund to collect \$76,000 in revenue during the FY23/24 biennium. Staff estimates this change will reduce revenue to General Fund by approximately \$4,500.

WORKLOAD IMPACT

None.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

Staff is in agreement with the proposed fees.

STAFF RECOMMENDATION

Council approves the consolidated fee schedule.

ALTERNATIVES

Council may elect to make no change to the library fee schedule.

ATTACHMENTS

1. Resolution
2. Consolidated Fee Schedule FY 23-24



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AND UPDATING THE CONSOLIDATED FEE SCHEDULE FOR FISCAL YEAR 2024.

WHEREAS it is the policy and practice of the city to require the discernment and recovery of certain city costs from fees and charges levied in providing various services, products, and regulations, and

WHEREAS the city manager shall periodically cause a review of city fees and charges to recover city costs in providing services, products, and regulations, and recommend adjustments to the City Council, and

WHEREAS Milwaukie advisory boards, commissions, and committees periodically recommend adjustments to the fees and charges levied in providing services, products, and regulations, and

WHEREAS the city manager has caused a review of all city fees and charges, has received guidance from advisory boards, commissions, committees, and city staff, and has finalized the updated master fee schedule.

Now, Therefore, be it Resolved that:

SECTION 1. The City of Milwaukie Consolidated Fee Schedule included as Attachment A to this resolution is adopted.

SECTION 2. This resolution supersedes previously adopted fee resolutions.

Introduced and adopted by the City Council on **August 1, 2023**.

This resolution is effective on **August 1, 2023**.

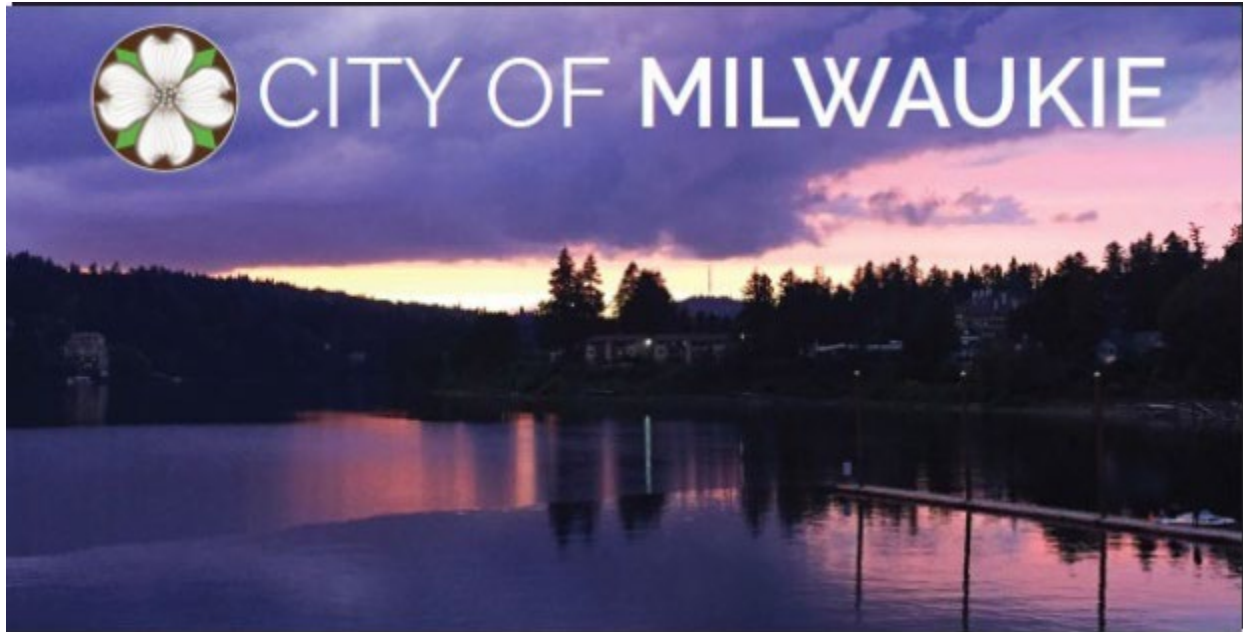
Lisa Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney



Fiscal Years 2023 & 2024

Fee Schedule

7. LIBRARY

The Library collects fines for overdue books, lost or damaged items, and photocopying services.

Overdue Fines	Fiscal Year 2023 Fee	Fiscal Year Maximum	Fiscal Year 2024 Fee	Fiscal Year Maximum
Adult	\$0.25	\$3.00	\$0.10	\$1.00
Juvenile	\$0.25	\$1.00	\$0.10	\$1.00
Cultural Pass – State Parks pass	\$5.00	Replacement cost	\$5.00	Replacement cost
Library of Things	\$1.00 - \$5.00 per day	Replacement cost	\$1.00 per day	Replacement cost

Fees and Charges	Fiscal Year 2023	Fiscal Year 2024
Printing and Copies, per side		
Black and white	\$0.10	\$0.10
Color	\$0.50	\$0.50
Microfilm copies	\$0.10	
Lost or damage items		Up to Replacement Cost
Barcode	\$1.00	
RFID tag	\$1.00	
Book jacket	\$2.00	
Barcode and book jacket	\$3.00	
Audio book CD	\$10.00	
Missing pages and booklets		
Lost item		
Damaged material		
Library of things item		
Bike lock	\$40.00	
Replacement media		
CD, DVD Cover sheet	\$1.00	
Audiobook case	\$5.00	
CD, DVD case	\$1.00	
Public Computer Printing, per side		
Black and white (first 5 free)	\$0.10	
Color (first one 1 free)	\$0.50	
Non-district citizen library use (annual pass)	\$95.00	\$95.00

11. TREES IN THE CITY

Trees are considered valuable urban infrastructure that should be nurtured and protected as a community asset. The Milwaukie Municipal Code Chapter 16.32 Tree Code, Council Ordinance 2197 is to establish, maintain, and increase the quantity and quality of tree cover on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

Per the City of Milwaukie Tree Code, a right-of-way (ROW) tree removal permit is required for all trees that are over 2" DBH (diameter at breast height) that are located in the ROW or on city property. A tree is considered to be in the ROW if any portion of its trunk falls in the ROW. A pruning permit is required if more than 20% of the tree's canopy is going to be removed or if more than 10% of its root system will be impacted. To prune or remove a tree that is in the ROW, an ROW permit application must be submitted along with a \$50.00 application processing fee. A permit application is typically approved if the tree is invasive, dead/dying, diseased, has significant infrastructure impacts that cannot be reasonably mitigated, or poses an unreasonable risk to public safety. Replanting a street tree from Milwaukie's approved Street Tree List is a condition of permit approval.

Public Trees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Public Tree Removal or Major Pruning Permit	\$50.00	\$50.00
Public Tree Permit (Planting)	No charge	No charge
Healthy Public Tree Removal Fee		
2" or less diameter of breast height (DBH)	\$40.00	\$40.00
2" to less than 4" DBH	\$60.00 per inch DBH	\$60.00 per inch DBH
4" to less than 8" DBH	\$80.00 per inch DBH	\$80.00 per inch DBH
8" to less than 14" DBH	\$100.00 per inch DBH	\$100.00 per inch DBH
14" to less than 20" DBH	\$150.00 per inch DBH	\$150.00 per inch DBH
20" or greater DBH	\$200.00 per inch DBH	\$200.00 per inch DBH
Public Tree Planting and Establishment Fee (in lieu of planting)	\$675.00 per tree	\$675.00 per tree
Public Tree Enforcement/Restoration Fee		
Failure to Replant		2X Planting and Establishment Fee
Damaged Tree	\$225.00 per inch DBH	\$225.00 per inch DBH
Removed Tree or Tree Topping	\$450.00 per inch DBH	\$450.00 per inch DBH

Trees in the City continued

On April 19th, 2022, residential tree code (Ord. 2216) was adopted unanimously by city council as a way to compliment the comprehensive plan housing and parking code updates while preserving and enhancing tree canopy in Milwaukie. Being a primarily residentially zoned community, the majority of Milwaukie's tree canopy is located on private property. To meet the established canopy goals of 40% canopy cover by 2040, Milwaukie adopted residential tree protections as a way to preserve existing trees and require the replanting of trees if another is removed. Development sites must also meet robust tree standards to ensure that new housing units are constructed with the community's canopy goals in mind.

Effective May 19th, 2022, trees that are greater than 6" DBH on residentially zoned private properties are regulated by the Milwaukie Tree Code (MMC 16.32.042). Property owners looking to remove a tree in a non-development situation must apply for a Type 1 or Type 2 tree permit before removal. Type 1 tree permits are for removal circumstances where the tree is dead, dying, hazardous, or impacting infrastructure or public safety in ways that cannot be mitigated. Type 1 tree permit applications are available at no cost to the applicant, and no removal fees are required. Type 2 tree permits are for the elective removal of healthy trees. Type 2 tree permits incur a \$50.00 application fee and if approved, applicants must pay healthy tree removal fees. Replanting is a condition of approval for most permitted tree removals.

Development tree code applies when new or additional housing units are constructed on residentially zoned properties, or when a property is being subdivided with the intention of constructing new housing units. The development tree code includes standards for tree preservation, tree planting, tree protection and soil volume requirements which must be met or mitigated for. Milwaukie's urban forest staff work with the city's community development department and engineering department, as well as the developers themselves, to meet the standards of the new tree code and integrate the requirements with the existing land use code and Public Works standards to create development sites that achieve the city's housing, parking and canopy goals.

Trees in the City continued

Private Non-Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Tree Application Fee (Type 1)	\$0.00	\$0.00
Residential Tree Application Fee (Type 2)	\$50.00	\$50.00
Healthy private tree removal fee beyond one tree per 12-month period ¹ Measurements are in diameter at breast height (DBH). 6 to <12" DBH (approx. 19" - 38" circumference) 12 to <18" DBH (approx. 38" -57" circumference) 18" to <24" DBH (approx. 57" -75" circumference) 24" to <30" DBH (approx. 75" -94" circumference) 30" to <36" DBH (approx. 94" -113" circumference) 36" or greater (greater than 113" circumference) Rare or Threatened Tree Removal	\$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH	\$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$60.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH
Planting and Establishment Fee in lieu of Replanting for Non-Development Private Residential Trees	\$675.00 per tree	\$675.00 per tree

Private Enforcement and Restoration Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Violation Review Fee (Development)	\$200.00	\$200.00
Damaged Private Tree Tree Protection Violation Zone Fee	\$225.00 per inch DBH	\$225.00 per inch DBH \$225.00 per inch DBH
Unpermitted Private Tree Removal Fee (Development) 6" to <12" DBH 12" to <18" DBH 18" to <24" DBH 24" to <36" DBH 36" or greater DBH	\$2,000.00 per tree \$167.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH \$300.00 per inch DBH	\$2,000.00 per tree \$167.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH \$300.00 per inch DBH
Unpermitted Private Tree Removal or Tree Topping (Non-Development)	2 x Permit Cost	2 x Permit Cost + \$200
Failure to Replant a Tree (Non-Development)		2 x Fee in Lieu

¹ No removal fee for 1st tree less than 12" DBH removed under type 1 permit.

Trees in the City continued

Private Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Construction Tree Plan Review Fee	\$200.00	\$200.00
Site Inspection Fee	\$50.00	\$50.00
Site Re-inspection Fee	\$175.00	\$175.00
Fee in lieu of preservation standard in residential development <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i>	\$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$4000.00 <22.5%-15%: \$4000.00 <15%-7.5%: \$4000.00 <7.5%-0%: \$4000.00	\$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$4000.00 <22.5%-15%: \$4000.00 <15%-7.5%: \$4000.00 <7.5%-0%: \$4000.00
Fee in lieu of preservation standard for eligible residential affordable housing <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i>	\$2000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$2000.00 <22.5%-15%: \$2000.00 <15%-7.5%: \$2000.00 <7.5%-0%: \$2000.00	\$2000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$2000.00 <22.5%-15%: \$2000.00 <15%-7.5%: \$2000.00 <7.5%-0%: \$2000.00

Trees in the City continued

Significant Tree Credits		
<i>Retained significant trees in diameter at breast height (DBH)</i>		
Retained significant tree 12" to <20" DBH	125% existing or future canopy multiplier	125% existing or future canopy multiplier
Retained significant tree >20" DBH	150% existing or future canopy multiplier	150% existing or future canopy multiplier
Retained significant tree >36" DBH	175% existing or future canopy multiplier	175% existing or future canopy multiplier
Rare or Threatened Tree	\$250.00 per inch DBH	\$250.00 per inch DBH
Fees in Lieu of Planting Standard	\$5.00 per square foot of canopy necessary to meet 40% site coverage	\$5.00 per square foot of canopy necessary to meet 40% site coverage
Bonding Requirements		
Tree Protection	150% of appraised value of protected trees held for 3 years	\$3,500 per protected tree held for 3 years
Post Development	\$3,500.00 per newly planted tree for a 5-year period	\$3,500.00 per newly planted tree held for a 5-year period

14. UTILITIES

The City of Milwaukie provides water, wastewater, stormwater, and street maintenance service to residents. These services are billed monthly at the following rates¹:

Water	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Water Volume Charge (per CCF of consumption)		
0-3 Units (residential only)	\$4.14	\$4.24
4 or more units (residential or all multi-family/commercial)	\$4.27	\$4.38
Low Use Discount		
Single Family Residential low use discount (3 or less CCF per month)	\$(5.00)	\$(5.00)

Residential & Commercial Meters – Fixed Charge²		
Meter Size	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
5/8" – 3/4"	\$9.08	\$9.25
1"	\$12.85	\$13.27
1 1/2"	\$20.71	\$21.40
2"	\$32.18	\$33.24
3"	\$79.33	\$81.95
4"	\$136.38	\$140.88
6"	\$201.20	\$207.84
Standby Service for fire Flow Purposes – Fixed Charge		
Meter Size	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
2"	\$13.72	\$14.17
4"	\$49.39	\$51.02
6"	\$71.91	\$74.28
8"	\$97.60	\$100.82
10"	\$123.31	\$127.38
12"	\$149.02	\$153.94

¹ The Citizens Utility Advisory Board reviews the existing rate structure and capital improvement plan to advise City Council on utility rates.

² Customers participating in the City's Low-Income Utility Assistance program are exempt from the monthly fixed charge.

*Utilities continued***Wastewater**

Account Type	Fiscal Year 2023 Fees		
	Treatment (per EDU)	Billing and Administration (per account)	Volume ¹ (per CCF of water consumption)
Residential	\$33.52	\$4.88	\$3.90
Low Income	\$16.76	\$2.44	\$1.95
Multi-family/Commercial – 3/4"	\$33.52/\$72.86	\$9.90	\$3.90
Multi-family/Commercial – 1"	\$33.52/\$72.86	\$11.99	\$3.90
Multi-family/Commercial – 1 1/2"	\$33.52/\$72.86	\$13.48	\$3.90
Multi-family/Commercial – 2"	\$33.52/\$72.86	\$14.98	\$3.90
Multi-family/Commercial – 3"	\$33.52/\$72.86	\$17.97	\$3.90
Multi-family/Commercial – 4"	\$33.52/\$72.86	\$20.96	\$3.90
Multi-family/Commercial – 6"	\$33.52/\$72.86	\$26.97	\$3.90

Account Type	Fiscal Year 2024 Fees		
	Treatment (per EDU)	Billing and Administration (per account)	Volume ¹ (per CCF of water consumption)
Residential	\$34.36	\$4.97	\$3.99
Low Income	\$17.18	\$2.48	\$1.99
Multi-family/Commercial – 3/4" ²	\$34.36/\$74.68	\$10.23	\$3.99
Multi-family/Commercial – 1"	\$34.36/\$74.68	\$12.38	\$3.99
Multi-family/Commercial – 1 1/2"	\$34.36/\$74.68	\$13.92	\$3.99
Multi-family/Commercial – 2"	\$34.36/\$74.68	\$15.48	\$3.99
Multi-family/Commercial – 3"	\$34.36/\$74.68	\$18.56	\$3.99
Multi-family/Commercial – 4"	\$34.36/\$74.68	\$21.66	\$3.99
Multi-family/Commercial – 6"	\$34.36/\$74.68	\$27.86	\$3.99

Stormwater

Fiscal Year 2023 Fee			
Account Type	Single Family Residential	Low Income	Commercial (per 2,706 sq. ft. of impervious area)
Stormwater	\$29.47	\$14.73	\$29.47
Fiscal Year 2024 Fee			
Account Type	Single Family Residential ³	Low Income	Commercial (per 2,706 sq. ft. of impervious area)
Stormwater	\$29.47	\$14.73	\$29.47

¹ Residential wastewater volume charges are determined by the average monthly water usage from November to February (winter average). The winter average is adjusted annually on March 31st.

² Based upon water meter size. Multi-family EDU is billed per unit. A Commercial EDU is equivalent to 10 CCF of usage.

³ Where up to two (2) ADU's are on the property, fee is only charged to the primary residence.

*Utilities Continued***Transportation - Street Maintenance & SAFE Rates for All Categories**

Account Type	Fiscal Year 2023 Fees SSMP	Fiscal Year 2024 Fees SSMP
Single Family Residential	\$5.49	\$5.74
Low Income	Exempt	
Commercial per daily trip generated ^{1,2}	\$0.56	\$0.59
Multi-Family Residential (per unit)	\$4.53	\$4.74
Elderly Housing/Mobile Homes (per unit)	\$2.26	\$2.36
Congregate Care (per unit)	\$1.13	\$1.18

Account Type	Fiscal Year 2023 Fees SAFE	Fiscal Year 2024 Fees SAFE
Single Family Residential	\$6.11	\$6.39
Low Income	Exempt	
Commercial per daily trip generated ^{1,2}	\$0.61	\$0.63
Multi-Family Residential (per unit)	\$4.90	\$5.12
Elderly Housing/Mobile Homes (per unit)	\$2.45	\$2.56
Congregate Care (per unit)	\$1.18	\$1.24

¹ Cost per commercial account are determined by type of use. Visit www.milwaukieoregon.gov/commercialfee for a detailed breakdown.

² Commercial daily trip generated is calculated based on type of use and building square feet. Some uses have monthly caps that are adjusted annually for CPI published by the Bureau of Labor Statistics. Current maximums are \$319.13 for the SSMP and \$419.42 for the SAFE programs as applicable. Visit www.milwaukieoregon.gov/commercialfee for more information.

*Utilities continued***Other Charges**

Water	Fiscal Year 2023 Fee	Fiscal year 2024 Fee
Connect Service 5/8" or 3/4" Residential Service	\$897.00 short side / \$972.00 long side	\$897.00 short side / \$972.00 long side
Connect Service 1"	\$1,237.00 short side / \$1,312.00 long side	\$1,237.00 short side / \$1,312.00 long side
Connect Service 1 1/2"	\$2,102.00 short side / \$2,200.00 long side	\$2,102.00 short side / \$2,200.00 long side
Connect Service 2"	\$3,630.00 short side / \$,3630.00 long side	\$3,630.00 short side / \$,3630.00 long side
3/4" Meter Equipment	\$250.00	\$250.00
1" Meter Equipment	\$370.00	\$370.00
1 1/2" Meter Equipment	\$610.00	\$610.00
2" Meter Equipment	\$740.00	\$740.00
Hydrant Meter Deposit (refundable less water usage)	\$2,250.00	\$2,250.00
Hydrant Meter usage Fee per CFF	\$8.25	\$8.65
Sewer Connection	Fiscal Year 2023 Fee (per EDU) ¹	Fiscal Year 2024 Fee (per EDU) ¹
A fee charged to the City by Clackamas County and collected to recover invoiced costs for each new connection to the public sanitary sewer system. Subject to change after County updates the rates.	\$8,600.00	\$8,600.00
A fee charged to the City by City of Portland and collected to recover invoiced costs for each new connection to the public sanitary sewer system. Subject to change after the City of Portland updates the rates.	\$8,299.00	\$8,299.00

Miscellaneous	Fiscal Year 2023 Fee	Fiscal year 2024 Fee
Delinquent Account – Past Due Notice	\$8.00	\$8.00
Delinquent Account – Notice of Termination	\$15.00	\$15.00
Shut-off/Turn-on	\$35.00	\$35.00
Tamper Fee		\$150.00
After-hours Restoration of Service ²	\$110.00	\$110.00
Reimbursement District Fee	To be determined by the scope of project	

¹ An EDU or "equivalent dwelling unit" is a unit of measurement of sewer usage that is assumed to be equivalent to the usage of an average dwelling unit.

² After hours service is Monday-Friday 3:00-8:00 p.m.; Saturday and Sunday 8:00 a.m.-8:00 p.m.

Utilities continued

17. SOLID WASTE RATES

Weekly collection includes recycling and yard debris service. Recycling carts and bins and yard debris carts must be placed at the curb.

Uniform Monthly Residential Rates:	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
20 gallon can (mini-can): 1 can/cart (1 time/week) <i>Weekly collection includes recycling and yard debris service</i>	\$31.85	\$32.95
32 gallon can/cart: 1 can/cart (1 time/week) 2 cans/cart (1 time/week) Each additional can/cart Extra can of garbage (occasional)* Extra can of yard debris (occasional) Court apartments – recycling only (1 time/week) <i>*This rate is for the first extra can collected, each additional at the stop is \$3.00. Maximum weight for a 20 or 32 gal. can/cart is 60lbs. Additional stops per week are charged at 100% of the first stop per week rate.</i>	\$36.70 \$73.40 \$35.30 \$6.65 \$4.45 \$30.00	\$38.20 \$76.40 \$38.20 \$6.90 \$4.65 \$31.50
Roller carts: 60 gallon cart (1 time/week) 90 gallon cart (1 time/week) Extra can of yard debris (occasional) Cart deposit (Refunds will be made after return of cart or after five years – whichever comes first.) Redelivery charge (redelivery within one year, regardless of reason) <i>Additional stops per week are charged at 125% of the first stop per week rate. Maximum weight for 60 gal cart is 100lbs and for 90 gal cart is 120lbs.</i>	\$47.70 \$56.25 \$4.45 \$30.00 \$10.00	\$49.80 \$59.00 \$4.65 \$31.20 \$10.00
Monthly and On Call service: Monthly On call <i>Monthly service includes recycling but not yard debris service. Monthly and on call customers must subscribe for one year in advance for yard debris service. On call customers must provide hauler with 24 hours notice.</i>	\$19.00 \$18.75	\$19.00 \$19.80

Solid Waste Rates continued

Weekly collection includes recycling and yard debris service. Recycling carts and bins and yard debris carts must be placed at the curb.

Uniform Monthly Commercial Rates:	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
32 gallon can/cart:		
1 can/cart (1 time/week)	\$31.15	\$32.65
2 cans/cart (1 time/week)	\$62.30	\$65.30
Each additional can/cart	\$26.40	\$27.50
Extra can of garbage (occasional)* <i>Additional stops per week are charged at 100% of the first stop per week rate.</i>	\$5.50	\$5.75
Roller carts:		
60 gallon cart (1 time/week)	\$44.10	\$46.20
90 gallon cart (1 time/week)	\$48.75	\$51.50
Cart deposit (Refunds will be made after return of cart or after five years – whichever comes first.)	\$30.00	\$31.20
Redelivery charge (redelivery within one year, regardless of reason) <i>Additional stops per week are charged at 125% of the first stop per week rate.</i>	\$10.00	\$10.00
Compacted Containers:		
2.2 times the loose container rate <i>Containers weighing in excess of 500 lbs per cubic yard will be charged this rate plus disposal for the excess weight.</i> <i>Compactors furnished by the customers shall be compatible with the equipment of the collector.</i> <i>If the collector agrees to furnish the compactor, the collector may charge a reasonable rental rate based on the value of the compactor and the cost of repair and maintenance.</i>		

Uniform Monthly Drop Box Rates:	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Loose material:		
10/20 yards	\$159.00*	\$170.00
30 yards	\$169.00*	\$180.00
40 yards	\$179.00*	\$190.00
Lidded/Specialized box that cannot be exchanged:		
10/20 yards	\$159.00	\$170.00
<i>*Plus disposal costs</i> <i>An additional \$40.00 per drop box may be charged for one-stop service (plus disposal costs).</i> <i>Deposits of no more than \$500.00 may be charged for each drop box.</i>		
Compacted material:		
Under 25 cubic yards		\$170.00
25-34 cubic yards		\$209.00
34+ cubic yards		\$238.00
<i>*Plus disposal costs</i> <i>Rental rate for permanent boxes hauled at least weekly is \$50.00 per month. Rental rate for occasional boxes after 48 hours on location is \$6.30 per day or \$63.00 a month, whichever is less, if less than one load per week is hauled. Monthly Equipment Fee of \$20.00 for Lidded/Specialty Drop Boxes. Mileage charge of \$4.70 per mile (over 18 miles round-trip from shop or Metro South). Deadhead round trip for boxes that cannot be exchanged: \$25.00.</i>		
Special Wastes delivered to an appropriately permitted landfill		
10/20 yards	\$170.00*	\$181.00
30 yards	\$187.00*	\$198.00
<i>*Plus disposal, monthly rental, mileage and monthly specialty drop box fees.</i>		

Solid Waste Rates continued

Uniform Rates for Misc. Services – Commercial and Residential:	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Hourly fee:		
Truck + 1 person	\$80.00	\$90.00
Truck + 2 people	\$120.00	\$130.00
Other Miscellaneous:		
Furniture and recyclable appliance pick-up	\$5.45 to \$29.15*	\$5.70 to \$30.35
Tire pick-up (off rim)	\$2.00**	\$3.00**
Tire pick-up (on rim)	\$5.50**	\$6.00**
Over 18 inches	Special handling rate	
<i>*Plus \$30.00 freon removal charge.</i>		
<i>**Plus disposal.</i>		
Clean-up Containers:		
1 st collection	33% of regular container rate	33% of Regular Container Rate +\$17.25
	+ \$16.60 handling charge.	Handling Charge
Each additional collection	33% of regular container rate.	33% of Regular Container Rate
Rent of container after 5 working days (M-F) with no collection:		
1-2 yards	\$2.10/day	\$3.00/day
3 yards	\$3.10/day	\$4.00/day
4 yards	\$4.10/day	\$5.00/day
<i>Rent not to exceed \$20.00 per container in a 30-day period.</i>		

Non-Customer Services:	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Recycling only:		
Weekly curbside collection of recyclables	\$4.70	\$7.70
Yard debris subscription service annual rate must be paid in full in advance of service		
60 gallon cart	\$5.70	\$6.50
Extra can of yard debris	\$2.60	\$4.90
	\$3.85	
<i>Monthly rates are for weekly service.</i>		
<i>This service is provided only within the Urban Growth Boundary.</i>		
<i>The subscriber is required to pay for one year of service in advance.</i>		

ANY OTHER TYPE OF SERVICE:

If due to changes in technology or needs of residents and business people of Milwaukie, additional or other types of services are needed, the charge for the service shall not be discriminatory, shall be reasonable by being commensurate with the fees above, and shall not exceed the fees most generally applicable in the Portland Metropolitan area.

Solid Waste Rates continued

Commercial container fees as of July 1, 2022, and effective through June 30, 2023. Fees include garbage and recycling services. Collector shall furnish the container. Overweight charge for containers over 300 lbs. per cubic yard determined through mutual agreement between hauler and customer. Container cleaning, if required more than twice in 12 months, will be charged the actual cost of cleaning.

Stops/ Week	Size in Cubic Yards					
	1	Add'l	1 1/3	Add'l	1.5	Add'l
1	\$112.28	\$97.84	\$140.31	\$122.15	\$150.43	\$132.28
2	\$216.80	\$189.57	\$272.91	\$239.18	\$293.11	\$257.12
3	\$321.34	\$279.88	\$405.48	\$355.19	\$435.81	\$382.50
4	\$425.86	\$373.05	\$538.07	\$471.82	\$578.46	\$507.08
5	\$530.41	\$463.36	\$670.65	\$587.83	\$721.15	\$635.32
6	\$634.93	\$555.71	\$803.24	\$703.16	\$863.82	\$759.31

Stops/ Week	Size in Cubic Yards					
	2	Add'l	3	Add'l	4	Add'l
1	\$191.92	\$168.82	\$264.87	\$233.93	\$339.97	\$302.43
2	\$376.09	\$331.82	\$517.28	\$457.95	\$667.53	\$593.75
3	\$560.28	\$494.03	\$769.70	\$682.61	\$995.07	\$884.21
4	\$744.47	\$653.90	\$1,022.13	\$909.34	\$1,322.61	\$1,172.07
5	\$928.66	\$821.14	\$1,274.57	\$1,132.42	\$1,650.14	\$1,466.49
6	\$1,112.84	\$981.58	\$1,526.97	\$1,352.19	\$1,977.70	\$1,757.24

Stops/ Week	Size in Cubic Yards					
	5	Add'l	6	Add'l	8	Add'l
1	\$412.76	\$388.01	\$478.46	\$449.99	\$598.12	\$565.11
2	\$811.89	\$763.10	\$943.31	\$888.50	\$1,182.61	\$1,117.26
3	\$1,211.04	\$1,136.05	\$1,408.14	\$1,320.71	\$1,767.11	\$1,669.63
4	\$1,610.14	\$1,510.65	\$1,872.99	\$1,759.45	\$2,351.60	\$2,219.99
5	\$2,009.31	\$1,888.24	\$2,337.84	\$2,197.80	\$2,936.11	\$2,763.39
6	\$2,408.43	\$2,268.38	\$2,802.69	\$2,629.97	\$3,520.60	\$3,319.72

Commercial container fees as of August 1, 2023, and effective through June 30, 202. Fees include garbage and recycling services. Collector shall furnish the container. Overweight charge for containers over 300 lbs. per cubic yard determined through mutual agreement between hauler and customer. Container cleaning, if required more than twice in 12 months, will be charged the actual cost of cleaning.

Container Size	Stops per Week					
	1	2	3	4	5	6
1 yard	\$ 117.74	\$ 227.71	\$ 337.71	\$ 447.68	\$ 557.69	\$ 667.66
Add'l Cont.	103.30	200.48	296.25	394.87	490.64	588.44
1-1/3 yard	147.57	287.42	427.25	567.09	706.93	846.78
Add'l Cont.	129.41	253.69	376.96	500.84	624.11	746.70
1-1/2 yard	158.61	309.48	460.36	611.19	762.07	912.92
Add'l Cont.	140.46	273.49	407.05	539.81	676.24	808.41
2 yard	202.83	397.91	593.01	788.12	983.22	1,178.31
Add'l Cont.	179.73	353.64	526.76	697.55	875.70	1,047.05
3 yard	281.24	550.01	818.80	1,087.60	1,356.41	1,625.17
Add'l Cont.	250.30	490.68	731.71	974.81	1,214.26	1,450.39
4 yard	361.79	711.18	1,060.54	1,409.90	1,759.26	2,108.64
Add'l Cont.	324.25	637.40	949.68	1,259.36	1,575.61	1,888.18
5 yard	440.04	866.45	1,292.88	1,719.26	2,145.71	2,572.10
Add'l Cont.	415.29	817.66	1,217.89	1,619.77	2,024.64	2,432.05
6 yard	511.19	1,008.78	1,506.34	2,003.93	2,501.51	2,999.10
Add'l Cont.	482.72	953.97	1,418.91	1,890.39	2,361.47	2,826.38
8 yard	641.77	1,269.90	1,898.05	2,526.19	3,154.34	3,782.48
Add'l Cont.	608.76	1,204.55	1,800.57	2,394.58	2,981.62	3,581.60

Commercial Recycling for Drop Box and Roll Off Compactor Customers

Stops/Week	1	2	3	4	5
1 to 4 yards	\$ 67.00	\$ 133.00	\$ 200.00	\$ 267.00	\$ 333.00
5 to 8 yards	92.00	185.00	277.00	369.00	461.00

Multi-Family Recycling for Roll Off Compactor Customers

Rate per Unit \$ 3.00

Solid Waste Rates continued

Bio-Medical Services Fees	Fiscal Year 2023 & 2024 Fee	
	Tub Rates per gallon	
Number of units:	20/21	35/48
1	\$81.45	\$83.25
2	\$61.85	\$63.50
3	\$54.30	\$56.00
4	\$49.35	\$51.00
5	\$46.35	\$48.00
6	\$44.35	\$46.00
7	\$41.85	\$43.50
8	\$40.40	\$42.00
9	\$37.35	\$39.00
10	\$35.85	\$37.50
11	\$34.75	\$36.50
12	\$33.25	\$35.00
13	\$32.75	\$34.50
14	\$32.00	\$33.75
15	\$31.25	\$33.00
16	\$26.30	\$28.00
17	\$26.30	\$28.00
18	\$26.30	\$28.00
19	\$26.30	\$28.00
20	\$26.30	\$28.00
60	\$17.90	\$18.75
75	\$17.45	\$18.05
90	\$12.80	\$13.10



**City of Milwaukie
10722 SE Main St
Milwaukie, OR 97222**

503-786-7555

<http://www.milwaukieoregon.gov/finance>

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Sasha Freeman (as to form), Administrative Specialist

From: Peter Passarelli, Public Works Director

Subject: **Stormwater System Plan (SSP)**

Date Written: July 20, 2023

ACTION REQUESTED

Authorize the city manager to sign an engineering services agreement with Water Systems Consulting, Inc (WSC) in the amount of \$349,512 to provide services to develop a Stormwater Systems Master Plan.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[June 7, 2022:](#) Council adopted the 2023-2028 Capital Improvement Plan (CIP) and the 2023-2024 biennium budget, which identified the SSP update as a CIP project.

ANALYSIS

In 2014, the Milwaukie City Council adopted the 2014 Stormwater Master Plan, which identified the current and future needs of the surface water system within city limits. In October 2018, the city adopted a Climate Action Plan. One of the strategies identified in the Climate Action Plan was to update the Stormwater Master Plan.

The Pacific Northwest climate is changing, and research overwhelmingly indicates that it will continue to do so over the next century. Rising temperatures, shifting precipitation patterns, increasing frequency of extreme events, and rising sea levels are all likely to affect the region, and could potentially cause significant impacts to the Milwaukie community. These impacts include, but may not be limited to, increased urban flooding and continued stream and water quality degradation.

The city is expected to experience considerable residential growth through densification over the next 20 years. The stormwater system is currently underdeveloped in some areas and will require upgrades to make it effective during larger storm events. The city's infrastructure and natural systems can best serve customers by being flexible and resilient to a variety of conditions.

The new SSP will use all available data to identify vulnerabilities across the community, to evaluate approaches to reducing vulnerabilities, and identify how to incorporate resiliency and climate planning measures into capital improvements and operational practices for the city's stormwater system. The plan will investigate methods to adaptively manage surface water systems and evaluate processes to cost effectively meet levels of service for drainage, water quality, and flood management in the face of an uncertain future.

A new SSP is necessary due to changes that have occurred since the prior plan was completed, including:

A. The typical update period for a SSP has passed, therefore necessitating the timely need for this project;

B. In September 2021, the city received an updated National Pollutant Discharge Elimination System (NPDES) permit issued by Oregon Department of Environmental Quality (DEQ). The new permit outlines requirements for a pollutant monitoring plan, stormwater retrofit strategy, and hydromodification assessment; and

C. The new system plan will identify and prioritize necessary or desirable improvements for the city. The system plan will identify modifications or additions necessary to address the predicted future needs for surface water collection, treatment, and storage. The planning period for this system plan is 20 years.

The public works staff developed, advertised, and solicited requests for qualifications (RFQ) in March 2023. The RFQ requested professional services from qualified engineering firms, teams, or consultants with demonstrated experience in preparing SSPs.

Submittals were received on April 19 from four firms: Brown and Caldwell, Otak, Tetra Tech, and WSC. The submittals were reviewed by a selection committee consisting of the public works director, the assistant city engineer, stormwater public works supervisor, climate and natural resources manager and environmental service coordinator. The selection team evaluated the submittals based on qualifications, experience, and project approach. The team's selection was WSC.

After selection, public works staff and WSC refined the final scope of work and negotiated a fee for the system planning services, which totaled \$349,512. During the fee and scope refinement, staff determined that to meet budget constraints that the System Development Charges (SDC) methodology update would be handled separately after completion of the plan and as a separate project. The project includes a tailored virtual open house with the community to solicit feedback and comment on stormwater issues and draft plan documentation.

WSC is expected to begin the SSP in early September, starting with an initial kick-off meeting and data gathering to analyze the city's stormwater system. The final SSP should be completed within 15-18 months from the start of the work, with Council adoption scheduled for early winter 2025.

BUDGET IMPACTS

Funding for this project will come from the stormwater SDC fund.

CLIMATE IMPACTS

In 2018, the city adopted their first Climate Action Plan (CAP) to minimize the impacts of climate change and increase the climate resilience of the city. The SSP will incorporate aspects of the CAP that further the city's climate goals as they pertain to stormwater and water quality.

WORKLOAD IMPACTS

The SSP project can be accommodated within existing public works, engineering, and planning department workloads. Public works staff will provide management of the project, assist with data gathering, and flow testing for calibration of the hydraulic model. Engineering staff will provide review of master planning assumptions and future CIP project development. Planning staff will assist with demand scenario assumptions and future development forecast.

COORDINATION, CONCURRENCE, OR DISSENT

Public works staff sought and received input from planning and the assistant city engineer during the drafting of the RFQ document.

STAFF RECOMMENDATION

Authorize the city manager to sign an engineering services agreement with WSC in the amount of \$349,512 to provide services to develop a Stormwater Systems Master Plan.

ALTERNATIVES

- 1 Do not award project (defer indefinitely). The project would be removed from the CIP list.
- 2) Direct staff to remove the seismic and climate resiliency tasks from the project and renegotiate the fee.
- 3) Reject all proposals and direct staff to amend the request for proposals and re-advertise for submission of new proposals.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO APPROVE A PROFESSIONAL SERVICES CONTRACT WITH WATER SYSTEMS CONSULTING, INC. (WSC) IN THE AMOUNT OF \$349,512 TO PROVIDE PROFESSIONAL SERVICES RELATED TO THE DEVELOPMENT OF A STORMWATER SYSTEM PLAN.

WHEREAS the city is working under the outdated 2014 Stormwater System Plan (SSP); and

WHEREAS the public works staff solicited requests for qualifications (RFQ) in April 2023, evaluated submittals, and selected WSC to provide professional services for the development of an SSP; and

WHEREAS public works staff have negotiated the final scope and fee for the engineering services.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to approve an engineering services contract with WSC in the amount of \$349,512 to provide professional services related to the development of a Stormwater System Plan

Introduced and adopted by the City Council on **August 1, 2023**.

This resolution is effective immediately.

Lisa Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: July 14, 2023

Reviewed: Jennifer Garbely, PE, Assistant City Engineer

From: Hector Gomez-Barrios, Project Manager

Subject: **Street Surface Maintenance Plan 2023 Improvements (CIP-2023-S28)**

ACTION REQUESTED

Council is asked to approve the attached resolution to execute a contract with Knife River Corporation - Northwest, to construct the Street Surface Maintenance Plan (SSMP) 2023 Improvements project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The scope of the SSMP 2023 Improvements is determined by including local/residential streets that are not impacted by future Capital Improvement Projects (CIP).

ANALYSIS

The SSMP 2023 Improvements project contains the following elements:

- Paint striping for pedestrian multi use path along Linwood Avenue and 43rd Avenue.

Repaving for the following streets:

- 40th Avenue, from Johnson Creek Blvd to Roswell Street,
- 41st Avenue, from Johnson Creek Blvd to Roswell Street,
- 43rd Avenue, from Johnson Creek Blvd to Roswell Street,
- 44th Avenue, from Harrison Street to Monroe Street,
- 58th Avenue, from Johnson Creek Blvd to Dead End,
- Jackson Street, from 44th Avenue to Home Avenue,
- Harrison Street, from 44th Avenue to Home Avenue,
- Llewellyn Street, from 44th Avenue to Home Avenue.

Staff completed a competitive bidding process under Chapter 40 of the city's Public Contracting Rules. Three bids were received by the solicitation deadline and are summarized below:

	CONTRACTOR	TOTAL BID AMOUNT
1	Knife River Corporation Northwest	\$388,541.35
2	S-2 Contractors	\$518,943.00
3	Lakeside Industries	\$688,236.00
	Engineer's Estimate	\$448,091.00

Knife River Corporation – Northwest submitted the lowest bid of \$388,541.35. A total project authorization of \$464,000.00 is requested, which includes a \$75,458.65 contingency based on project risks, potential deviations in quantities, anticipated work, and to cover unforeseen circumstances.

BUDGET IMPACT

This project is funded by the city's SSMP fund.

WORKLOAD IMPACT

None. The city's engineering team will oversee the construction process. Additional on-call construction management services are available if needed.

CLIMATE IMPACT

Construction activity has a significant impact on the environment due to emissions from transport of materials, heavy equipment uses, and the manufacturing of material such as asphalt concrete pavement. This project intends to limit impacts by recycling asphalt grindings. This eliminates the import and production of aggregate material for street base and shoulders. In addition, recycling asphalt grindings minimizes the need to haul away material. New asphalt will be warm mix asphalt with a minimum 30% recycled content.

COORDINATION, CONCURRENCE, OR DISSENT

Managers from engineering, public works, and finance reviewed and approved the project scope and budget.

STAFF RECOMMENDATION

Staff recommend that Council award the SSMP 2023 Improvements project contract to Knife River Corporation - Northwest with a project budget authorization of \$464,000.00.

ALTERNATIVES

Council could choose to:

1. Award the project as presented,
2. Reject all bids in the public interest and direct staff to revise and rebid the project during a more favorable period, or
3. Reject all bids in the public interest.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING THE AWARD OF A CONTRACT FOR CONSTRUCTION OF 2023 SURFACE STREETS MAINTENANCE PROGRAM (SSMP) IMPROVEMENTS (CIP-2023-S28) TO KNIFE RIVER CORPORATION - NORTHWEST.

WHEREAS resources to construct these improvements were identified within the city's 2023-2024 SSMP budget; and

WHEREAS a formal competitive bid process following Public Contracting Rule 40 was completed; and

WHEREAS Knife River Corporation – Northwest was the lowest responsive and responsible bidder.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to execute a contract with Knife River Corporation – Northwest for construction of the Wastewater System Improvements project, to waive any irregularities, and the city engineer or assistant city engineer is authorized to administer the project in accordance with the project specifications with a project authorization of \$464,000.00.

Introduced and adopted by the City Council on **August 1, 2023**.

This resolution is effective on immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: July 14, 2023

Reviewed: Kelli Tucker, Accounting and Contracts Specialist

From: Scott Stauffer, City Recorder, and
Nicole Madigan, Deputy City Recorder

Subject: **Codification Contract Reinstatement**

ACTION REQUESTED

Council is asked to reinstate the city's codification contract with General Code, LLC (formerly Quality Code Publishing) to ensure the continued maintenance of the Milwaukee Municipal Code (MMC) in print and online versions.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

December 1986: the city contracted with Book Publishing Company to produce the first complete codification of the MMC.

August 2005: the city and Quality Code Publishing entered a personal services contract (2005-067) for print and online web hosting services of the MMC.

Spring 2019: the city conducted an intermediate procurement process for codification services and elected to retain Quality Code Publishing as the city's codifier.

May 2023: city staff initiated communication with General Code, LLC (which acquired Quality Code Publishing in 2022) to propose extending the contract term by an additional two-year period.

July 1, 2023: city staff were unable to execute an amendment to extend the contract for an additional two-year contract before the contract expired.

ANALYSIS

Codifying a municipal code is the process and ongoing service of maintaining all city ordinances and regulations in a centralized, searchable, and accessible location. Codifying the municipal code is a local government best practice that ensures the public and staff can easily reference the rules, laws, and regulations that govern the community. Maintaining an up-to-date and centralized code also helps the city ensure that code changes are done in a systematic and accurate manner.

Today, the online version (https://library.qcode.us/lib/milwaukee_or/pub/municipal_code) of the MMC is the most commonly used version of the code and over the last decade the number of updated print copies has dropped from 40 to approximately 20 copies.

The MMC was first codified in 1986 and the city has maintained the code through ongoing contracts with several codification services providers ever since. In spring 2023, staff began the process of amending the most recent contract, signed in 2019, to exercise that contract's additional two-year extension option. However, by the July 1 contract expiration date, the city and General

Code, LLC, who acquired Quality Code Publishing, had failed to execute an amendment to extend the contract and it therefore expired. As of this report, the city does not have a codifier under contract and any adopted ordinances or code changes will not be codified and the MMC will not be updated.

To remedy this lapsed contract, the city has two options as outlined in [the city's Public Contracting Rules \(PCRs\)](#). The city could engage in a new competitive procurement process and solicit bids from codification service providers or reinstate the expired contract as outlined in PCR 90.025.

Request to Reinstate

Staff believes it is essential that the city maintain online and print versions of the code to best support ongoing city services and functions. Due to current workload demands on staff, it is staff's opinion that asking Council to reinstate the contract would be a more efficient use of staff time compared to conducting a new procurement process. Reinstating the contract would also result in a shorter amount of time that the city would be without a codifier. In addition, staff believes that the city is close to finalizing a contract amendment with General Code and that an amendment document could be executed quickly to extend the previous contract for an additional two years.

A lapse of this new contract term will not occur as staff will be required to conduct a new solicitation for codification services beyond the two-year extension.

BUDGET IMPACT

No significant budget increase is expected for the next two years.

WORKLOAD IMPACT

With a reinstated codification contract in place there would be no workload impact for staff. Should Council direct staff to undertake a new solicitation process, staff would need to solicit and review at least three bids and negotiate a new contract with the selected bidder, which would result in additional time without code updates.

CLIMATE IMPACT

None. As noted above, in the last ten years the city has worked to reduce the number of printed copies of the MMC. By cutting the number of printed codes in half the city has taken steps to be more climate friendly and efficient in its use of natural resources.

COORDINATION, CONCURRENCE, OR DISSENT

The city recorder's office worked with the finance department to identify solutions and next steps in this contracting matter.

STAFF RECOMMENDATION

Staff recommends that Council reinstate the personal services agreement with General Code, LLC.

ALTERNATIVES

Council could decline to reinstate the contract and direct staff to undertake a new procurement process.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, REINSTATING A PERSONAL SERVICES AGREEMENT WITH GENERAL CODE, LLC FOR CODIFICATION SERVICES.

WHEREAS it is critical to city operations that the Milwaukie Municipal Code (MMC) is codified in a centralized and accessible manner; and

WHEREAS the city executed a personal services agreement with Quality Code Publishing (now General Code LLC) in 2019, and attempted to extend that contract term before it expired on July 1, 2023; and

WHEREAS the city would like to reinstate this agreement for an additional two-year period as was originally intended; and

WHEREAS Council has the authority to reinstate contracts under public contracting rule 90.025.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, that the personal services agreement with General Code, LLC is reinstated effective upon execution of a contract amendment between the City and General Code. Upon execution of the amendment, the contract will be in full force and effect, as if it had not expired.

Introduced and adopted by the City Council on **August 1, 2023**.

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Jennifer Garbely, Assistant City Engineer

From: Jeffrey Tolentino, Civil Engineer

Subject: **Waverly Heights Sewer Reconfiguration Project (CIP-2023-X41)**

Date Written: July 20, 2023

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign a contract for the design of the Waverly Heights Sewer Reconfiguration project with Stantec Consulting Services Inc., and establish design authorization for the project.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The project is included in the 2010 Wastewater System Plan, the Fiscal Year (FY) 2023-2028 Capital Improvement Plan (CIP), and the adopted FY 2023-2024 Biennium Budget for the wastewater fund.

ANALYSIS

The purpose of this project is to develop a rehabilitation design for the wastewater collection system in the Waverly Heights neighborhood of Milwaukee. A map of the existing system is provided in Exhibit A. Rehabilitation of the collection system will improve collection system performance, extend the useful life of the system, and reduce inflow and infiltration (I&I) to the Water Environment Services (WES) treatment facilities.

The city advertised a Request for Qualifications (RFQ) for the project design in May and June of 2023 per the city's Public Contracting Rules (PCRs). In response, the city received proposals from four engineering firms:

- AKS Engineering and Forestry
- Leeway Engineering Solutions LLC
- Stantec Consulting Services Inc.
- Water Systems Consulting Inc.

There were no apparent discrepancies within the proposals. After review by a panel of city staff, the panel rated each proposer, and Stantec Consulting Services Inc. (consultant) was selected as the highest rated proposer. The other proposers were allowed 7 days to protest the selection. No protests were received. The consultant and the city negotiated a cost of \$840,090 for the rehabilitation design after the selection process was complete. Included in the cost is \$164,699 in extra work as authorized (contingency). A total project authorization of \$840,090 is requested to pay for the Consultant's fees.

In June of 2023, the city submitted a proposal for project grant funding under the WES Regional I&I Reduction Program. Under this program, WES has pledged to reimburse 33 percent of actual costs for project design. The city's proposal was approved in mid-June.

BUDGET IMPACT

This project is included in the FY 2023-2024 budget with engineering and design funded under the wastewater fund. In addition, WES also approved grant funding providing reimbursement of 33 percent of actual project costs.

WORKLOAD IMPACT

This project is scheduled for FY 2023 and no additional impacts are anticipated.

CLIMATE IMPACT

The project supports the repair of equipment and materials, and mitigates sewer collection facilities vulnerable to flooding, as recommended in the mitigation strategies for Land Use and Transportation Planning in Milwaukie's Climate Action Plan (CAP).

COORDINATION, CONCURRENCE, OR DISSENT

Staff from engineering, public works, planning, and finance reviewed and approved the project scope and budget.

Given that this project will disturb developed residential land, it is expected to have a high level of impact on adjacent property owners or the community at large. Project information, including the construction schedule and potential property impacts, will be shared with the community through the city website, mailings, social media posts, and the impacted neighborhood district association. Staff will engage directly with the property owners and the Waverly Country Club as needed.

STAFF RECOMMENDATION

Staff recommends the award of the design of the Waverly Heights Sewer Reconfiguration project to Stantec Consulting Services, Inc., with a project authorization of \$840,090.

ALTERNATIVES

Council could choose to:

1. Award the project as presented;
2. Reject all bids in the public interest and direct staff to revise and rebid the project during a more favorable period; or
3. Reject all bids in the public interest.

ATTACHMENTS

1. Resolution
2. Project Map



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING A PUBLIC IMPROVEMENTS CONTRACT WITH STANTEC CONSULTING SERVICES INC. FOR A NOT TO EXCEED AMOUNT OF \$840,090 FOR THE WAVERLY HEIGHTS SEWER RECONFIGURATION PROJECT (CIP-2023-X41)

WHEREAS the city has identified the Waverly Heights Sewer Reconfiguration project in the 2023–2028 Capital Improvement Plan (CAP), and

WHEREAS the city has identified the project in the 2023–2024 biennium budget, and

WHEREAS Clackamas Water Environment Services has approved the city for 33 percent reimbursement for an inflow and infiltration (I&I) study and collection system rehabilitation design as part of the Regional I&I Reduction Program,

WHEREAS a formal competitive selection process per the city’s Public Contracting Rule 70 was completed, and

WHEREAS city engineering staff has negotiated the final scope and fee for services with the selected contractor, Stantec Consulting Services, Inc.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee is authorized to execute a contract with Stantec Consulting Services Inc. for collection system rehabilitation design, waive any irregularities, and authorize the city engineer or assistant city engineer to administer the project in accordance with the public improvements contract in the amount not to exceed eight hundred forty thousand, ninety dollars (\$840,090).

Introduced and adopted by the City Council on **August 1, 2023**.

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan, Deputy City Recorder

Justin D. Gericke, City Attorney

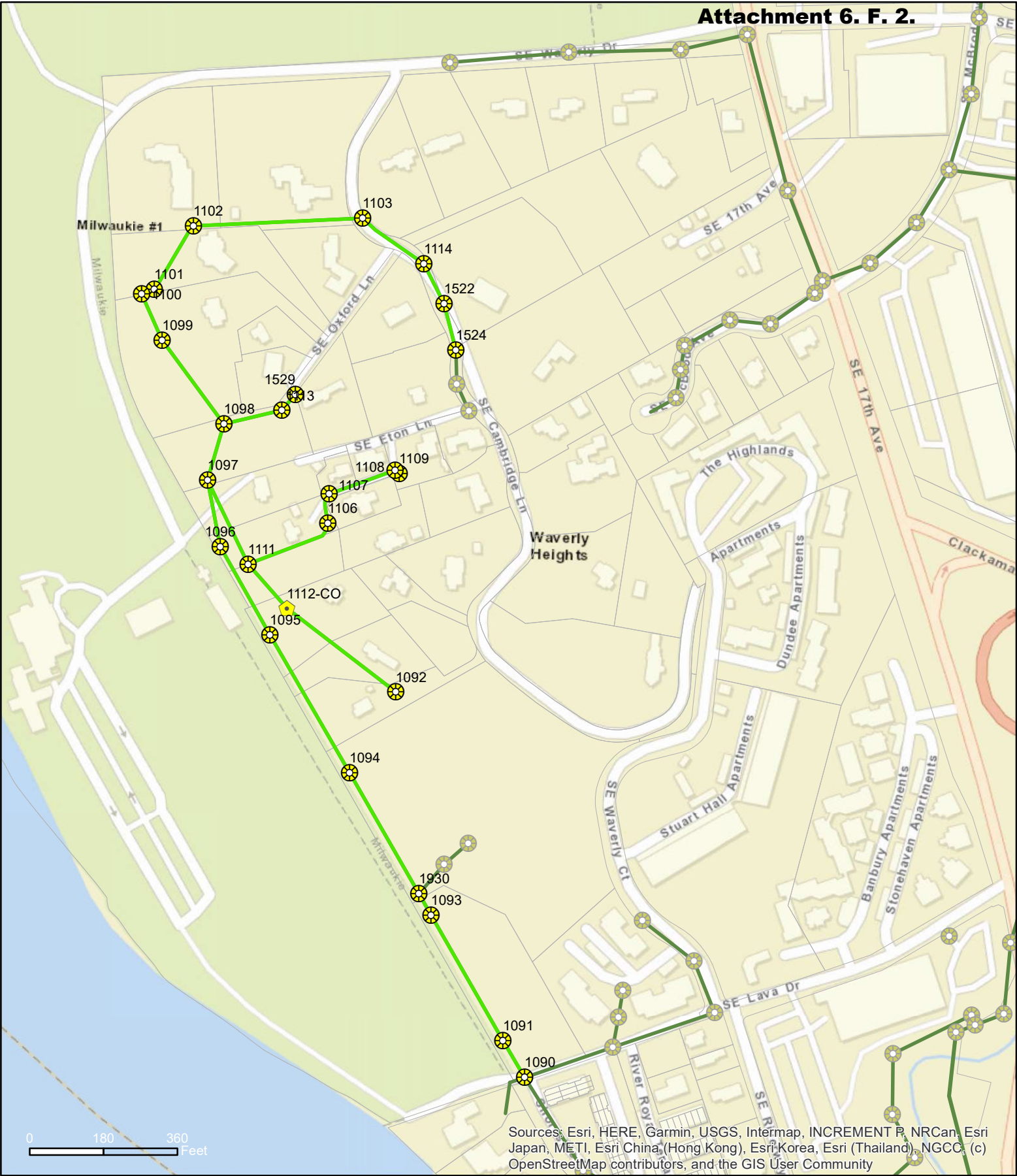
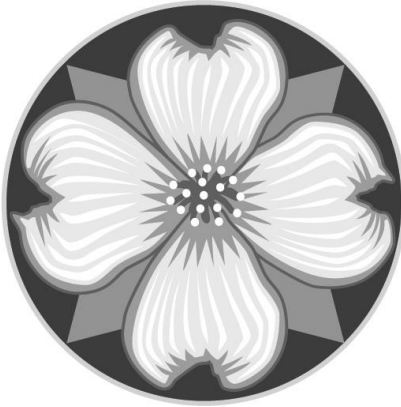


Exhibit A: Existing System

- Project Sewer Mains
- Out of Scope Mains
- Project Manholes
- Out of Scope Manholes
- Project Cleanouts





RS Agenda Item

7

Business Items

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Joseph Briglio, Community Development Director, and
Laura Weigel, Planning Manager

From: Ryan Dyar, Assistant Planner

Subject: **Annexation of Property at 9931 SE Hollywood Ave**

Date Written: July 19, 2023

ACTION REQUESTED

Council is asked to approve application A-2023-004, an annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation into the city of 9931 SE Hollywood Ave (Tax Lot 1S2E30DD04900), the “annexation property.”
- Application of a moderate density residential (MD) Comprehensive Plan land use designation and a moderate density residential (R-MD) zoning designation to the annexation property.
- Amendments to the city’s Comprehensive Plan land use map and zoning map to reflect the city’s new boundary and the annexation property’s new land use and zoning designations.
- Withdrawal of the annexation property from the following urban service districts:
 - Clackamas County Service District for Enhanced Law Enforcement

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

July 1990: Clackamas County Order No 90-726 established an urban growth management agreement (UGMA) in which the city and county agreed to coordinate the future delivery of services to the unincorporated areas of north Clackamas County. With respect to Dual Interest Area “A,” the agreement states: “The city shall assume a lead role in providing urbanizing services.”

January 2010: Council annexed the rights-of-way (ROW) in the Northeast Sewer Extension (NESE) project area making all properties in this area contiguous to the city limits and eligible for annexation (Ordinance #2010).

June 2010: Council approved the first annexation of property in the NESE project area (Ordinance #2016, land use file #A-10-01). Since then, Council has approved the annexation of approximately 171 additional properties in the NESE area. To date, there are approximately 88 properties within the NESE project area that have not yet annexed.

June 2023: The property owners at 9931 SE Hollywood Ave approached the city’s community development department about connecting to city sewer because their existing system was failing. They were informed of the need to annex and given the expedited annexation application packet.

ANALYSIS

Proposal

The applicants, Michael and Erika Buck, have applied to annex the 23,472-sq-ft (0.54-acre) site to the city. The annexation property is undeveloped. It has residential Clackamas County land use and zoning designations and will receive equivalent residential city land use and zoning designations upon annexation.

Site and Vicinity

The annexation property is within the city's UGMA area and is contiguous to the existing city limits along the public right-of-way (ROW) of Hollywood Avenue to the east and where adjacent to neighboring properties to the north and south (see Figure 1). The annexation property is developed with a single-detached dwelling. The surrounding area consists primarily of other single-detached dwellings. The property directly to the west is vacant and under separate ownership.

Annexation Petition

The petition is being processed as an expedited annexation. Under the expedited process, a city land use and zoning designation is automatically applied to the annexation property upon annexation. Any property that is within the UGMA area and contiguous to the city boundary may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation. Clackamas County has certified that these thresholds are met for the annexation property.

As set forth in Milwaukie Municipal Code (MMC) Table 19.1104.1.E, the expedited annexation process automatically assigns city land use and zoning designations to the annexation property based on the existing Clackamas County land use and zoning designations. The existing county Comprehensive Plan land use designation for the annexation property is low density residential (LDR), which corresponds to the city's moderate density (MD) Comprehensive Plan designation upon annexation. The current county zoning designation for the annexation property is urban low-density residential R-10, which corresponds to a city zoning designation of moderate density residential (R-MD) upon annexation.

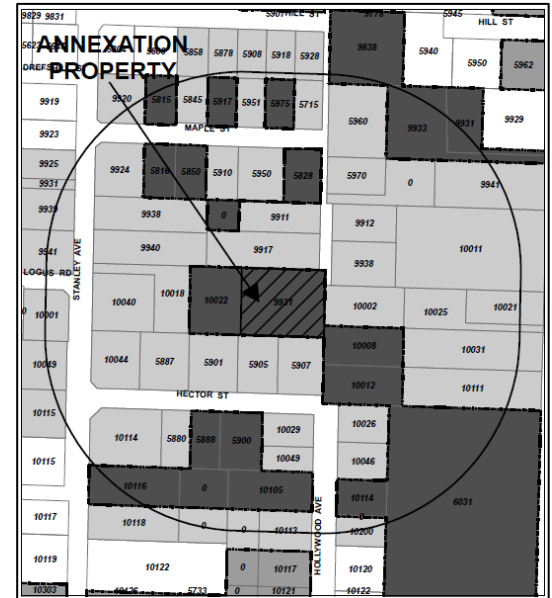
Pursuant to city, regional, and state regulations on expedited annexations, all necessary parties, interested persons, residents, and property owners within 400 feet of the site were notified of these proceedings under MMC 19.1104.1.C. A public hearing is not required for an expedited annexation; however, Council must adopt an ordinance to implement the annexation.

Annexation Approval Criteria

The annexation application is subject to Milwaukie Comprehensive Plan Section 12 Urban Growth Management, Oregon Revised Statutes (ORS) Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1100 Annexations and Boundary Changes.

Expedited annexations must meet the approval criteria of MMC 19.1102.3. Compliance with the applicable criteria is detailed in Attachment 1 (Exhibit A, Findings).

Figure 1. Site Map



Utilities, Service Providers, and Service Districts

The city is authorized by ORS 222.120(5) to withdraw the annexation property from non-city service providers and districts upon annexation to the city. This allows for a more unified and efficient delivery of urban services to the newly annexed property and is in keeping with the city's Comprehensive Plan policies relating to annexation.

- Wastewater: The annexation property is within the city's sewer service area and can be served by the city's 8-inch sewer line currently accessible in Hollywood Avenue.
- Water: Clackamas River Water (CRW) has an existing water line under Hollywood Avenue that is serving the annexation property. Pursuant to the city's intergovernmental agreement (IGA) with CRW, water service will be provided by CRW and the annexation property will not be withdrawn from this district at this time.
- Storm: The annexation property is not connected to a public stormwater system. Treatment and management of on-site stormwater will be required if new development occurs.
- Fire: The annexation property is currently served by Clackamas Fire District (CFD) #1 and will continue to be served by this fire district upon annexation since the entire city is within this district.
- Police: The annexation property is currently served by the Clackamas County Sheriff's Office (CCSO) and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The city has its own police department, and this department can adequately serve the site. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.
- Street Lights: As of July 1, 2011, an IGA between the city and Clackamas County Service District No. 5 for Street Lights (the "district") transferred operational responsibility to the city for the street lights and street light payments in the city's NESE project area. The annexation property is within the district boundary; however, Clackamas County confirmed that the property is not joined into the district. Consequently, removal from the district is not required.
- Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District (NCSD), Vector Control District, and North Clackamas Parks and Recreation District (NCPRD).

BUDGET IMPACTS

This annexation will have minimal fiscal impact on the city. As with most annexations of residential properties, the costs of providing governmental services will likely be offset by the collection of property taxes. According to Clackamas County Assessor data, the total current assessed value of the annexation property is \$169,610. Based on the latest information available (from the Clackamas County Rate Book for 2022), a total property tax collection of approximately \$3,619 is anticipated for the annexation property; the city will be provided with approximately \$742 of this total.

WORKLOAD IMPACTS

For most city services, workload impacts from the annexation itself will be minimal and will likely include, but are not limited to, utility billing, provision of general governmental services, and the setting up and maintenance of property records.

CLIMATE IMPACTS

The annexation is not expected to have any impact on the climate. The property is currently occupied by a single-detached dwelling and redevelopment is not anticipated in the near term.

COORDINATION, CONCURRENCE, OR DISSENT

All city departments, necessary parties, interested persons, residents, and property owners within 400 feet of the annexation property were notified of these proceedings as required by city, regional, and state regulations. The Lewelling Neighborhood District Association (NDA) also received notice of the annexation petition and the Council meeting.

The city did not receive comments from any necessary parties with objections to the proposed annexation.

STAFF RECOMMENDATION

Approve the application and adopt the ordinance and findings in support of approval.

ALTERNATIVES

Council has two decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

ATTACHMENTS

1. Annexation Ordinance
 - Exhibit A. Findings in Support of Approval
 - Exhibit B. Legal Description and Annexation Map
2. Annexation Site Map
3. Applicant's Annexation Application



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DD04900 AND LOCATED AT 9931 SE Hollywood AVE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2023-004).

WHEREAS the territory proposed for annexation is contiguous to the city's boundary and is within the city's urban growth management area (UGMA); and

WHEREAS the requirements of the Oregon Revised Statutes (ORS) for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land within the territory proposed for annexation; and

WHEREAS the territory proposed for annexation lies within the territory of the Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS the annexation and withdrawals are not contested by any necessary party; and

WHEREAS the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS Table 19.1104.1.E of the Milwaukie Municipal Code (MMC) provides for the automatic application of city zoning and comprehensive plan land use designations; and

WHEREAS the city conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS the city prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached as Exhibit A.

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

Section 1. The Findings in Support of Approval attached as Exhibit A are adopted.

Section 2. The tract of land described and depicted in Exhibit B is annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is assigned a Comprehensive Plan land use designation of moderate density (MD) and a municipal code zoning designation of moderate density residential R-MD.

Section 5. The city will immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030, ORS 222.005, and ORS 222.177. The annexation and withdrawal will become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

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 _____.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan,
Deputy City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of 9931 SE Hollywood Ave, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.54 acres (tax lot 1S2E30DD04900). The annexation property is contiguous to the existing city limits along the public right-of-way (ROW) of Hollywood Avenue to the east and where adjacent to neighboring properties to the north and south. The annexation property is within the regional urban growth boundary and within the city’s urban growth management area (UGMA).

The annexation property is developed with a single-detached dwelling. The surrounding area consists primarily of other single-detached dwellings, with a large undeveloped property directly to the west; this property is under separate ownership.
2. The current owners of the annexation property seek annexation to the city to access city services, namely sewer service.
3. The annexation petition was initiated by consent of all owners of the land on June 1, 2023, with an application for annexation submitted to the city on June 13, 2023. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsections 19.1104.1.A.3 and 19.1102.2.C.
4. The annexation petition was processed, and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC 19.1104. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.
5. The expedited annexation process provides for automatic application of city comprehensive plan land use and zoning designations to the annexation property based on their existing comprehensive plan land use and zoning designations in the county, which are urban low density residential (LDR) and residential R-10, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic city comprehensive plan land use and zoning designations for the annexation property are moderate density (MD) and moderate density residential (R-MD), respectively.
6. The applicable city approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.

A. The subject site must be located within the city’s urban growth boundary (UGB);

The annexation property is within the regional UGB and within the city’s UGMA.

- B. The subject site must be contiguous to the existing city limits;

The annexation property is contiguous to the existing city limits along the public ROW of Hollywood Avenue to the east and where adjacent to neighboring properties to the north and south.

- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

Michael and Erika Buck, the current property owners, consented to the annexation by signing the petition. There are currently three registered voters for the annexation property, the two owners, Michael and Erika Buck, and Daniel Eutsler. All three have signed the petition. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing in the annexation territory.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan policies;

Section 12 of the comprehensive plan contains the city's annexation policies. Applicable annexation policies include: (1) prioritizing annexation of properties that are surrounded by land within the incorporated city limits and (2) requiring annexation to receive a city service. With annexation, the city will take over urban service provision for the property. City services to be provided include wastewater collection, stormwater management, police protection, and general governmental services. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro Code Sections 3.09.045(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro code sections for expedited annexations as detailed in Finding 7.

- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning and comprehensive plan land use maps.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.4.B, respectively.

Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan land use map designations for expedited annexations. If a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.

In the case of the proposed annexation, the annexation property will assume the zoning and comprehensive plan designations provided in MMC Table 19.1104.1.E, which are R-MD and moderate density, respectively. The approval criteria for both proposed amendments are effectively met.

7. Prior to approving an expedited annexation, the city must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.065;

There is one applicable urban service agreement adopted pursuant to ORS 195 in the area of the proposed annexation (see Finding 8, Street lights). The City has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. The proposed annexation is in keeping with the city's policy of encouraging properties within the UGMA to annex to the city.

The City has an intergovernmental agreement with Clackamas Water Environment Services (WES) regarding wholesale rates for wastewater treatment, but that agreement does not address issues related to annexations.

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The city subsequently adopted this plan as an ancillary comprehensive plan document. The plan contains four elements:

- Sanitary Sewerage Services*
- Storm Drainage*
- Transportation Element*
- Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Wastewater: The City is the identified sewer service provider in the area of the proposed annexation and maintains a public sewer system that can adequately serve the annexation property via an 8-inch sewer line accessible in Hollywood Avenue.

Storm: The annexation property is not connected to a public storm water system. Treatment and management of on-site storm water will be required if new development occurs.

Transportation: Access is provided to the annexation property via the public ROW of Hollywood Avenue, a local street maintained by the city. The City may require public street improvements along the annexation property's frontage if new development occurs.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. As per the City's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service to the annexation property.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, however, contain the city-county UGMA agreement, which identifies the area of the proposed annexation as being within the city's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and maintains jurisdiction of the public ROW, Hollywood Avenue, adjacent to the annexation property.

(6) Any applicable concept plan.

There are no applicable concept plans in the area of the proposed annexation.

B. Consider whether the boundary change would:

(1) Promote the timely, orderly, and economic provision of public facilities and services;

With annexation, the City will be the primary urban service provider in the area of the proposed annexation, and the annexation will facilitate the timely, orderly, and economic provision of urban services to the annexation properties.

The City has public sewer service in this area under Hollywood Avenue.

(2) Affect the quality and quantity of urban services; and

The annexation property consists of one developed tax lot. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

(3) Eliminate or avoid unnecessary duplication of facilities and services.

Upon annexation, the annexation property will be served by the Milwaukie Police Department. To avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement upon annexation.

8. The City is authorized by ORS Section 222.120(5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the city. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's comprehensive plan policies relating to annexation.

Wastewater: *The annexation property is within the City's sewer service area and can be served by the City's 8-inch sewer line accessible in Hollywood Avenue.*

Water: *Clackamas River Water (CRW) has an existing water line under Hollywood Avenue that currently serves this property. Pursuant to the City's IGA with CRW, water service will continue to be provided by CRW and the annexation property will not be withdrawn from this district at this time.*

Storm: *The annexation property is not connected to a public stormwater system. Treatment and management of on-site storm water will be required if new development occurs.*

Fire: *The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation, since the entire city is within this district.*

Police: *The annexation property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.*

Street Lights: *As of July 1, 2011, an intergovernmental agreement between the City and Clackamas County Service District No. 5 for Street Lights (the "District") transferred operational responsibility to the City for the street lights and street light payments in the City's northeast sewer extension project area. Clackamas County confirmed that the annexation property is within the district boundary but is not joined into the district.*

Other Services: *Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.*

Attachment 1, Exhibit B

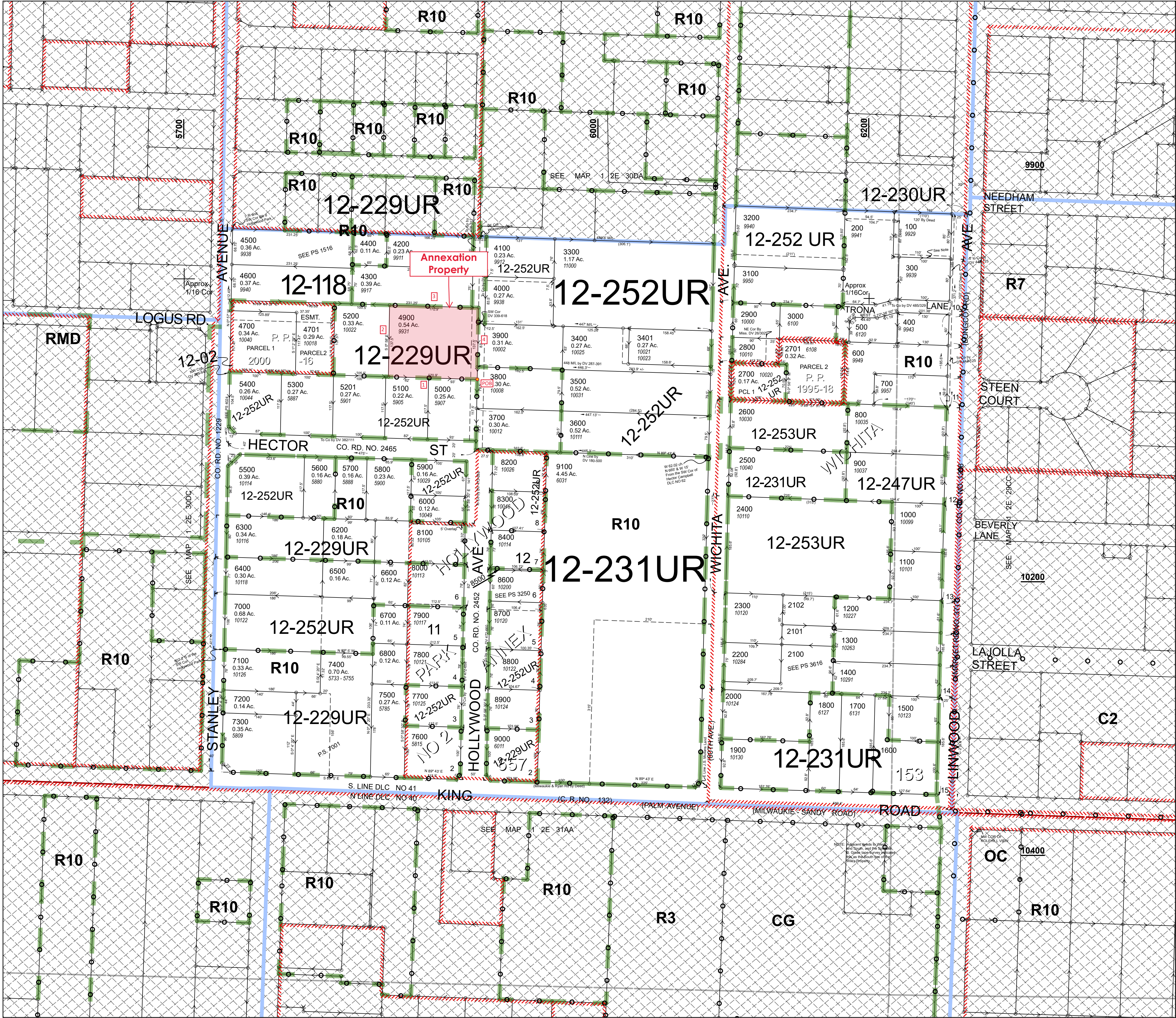
Annexation to the City Of Milwaukie LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2023-004

Property Address: 9931 SE Hollywood Ave, Milwaukie OR 97222

Tax Lot Description: 1S2E30DD04900

Legal Description: BEGINNING at a point that is South 0°58' East 275.00 feet from a 2½-inch iron pipe set at the Southeast corner of HOLLYWOOD PARK, in the County of Clackamas and State of Oregon; and running thence South 89°4' West and parallel with the South boundary of HOLLYWOOD PARK, 170.90 feet to an iron pipe; thence North 0°58' West and parallel with Stanley Avenue and the West boundary of HOLLYWOOD PARK, 137.50 feet to an iron pipe; thence North 89°43' East and parallel with the South boundary of HOLLYWOOD PARK, 170.90 feet to a point; thence South 0°58' East and parallel with to the West boundary of HOLLYWOOD PARK, 137.50 feet to the place of beginning.



1 2E 30DD

S.E. 1/4 S.E. 1/4 SEC. 30 T. 1S. R. 2E. W. M.

CLACKAMAS COUNTY

1" = 100'

D. L. C.

HECTOR CAMPBELL NO. 41

Cancelled

6100

4800

6900

7301

5501

5401

2101

Key

POB = Pt lies S0°58'E 275.00' frm SE cor Hollywood Park

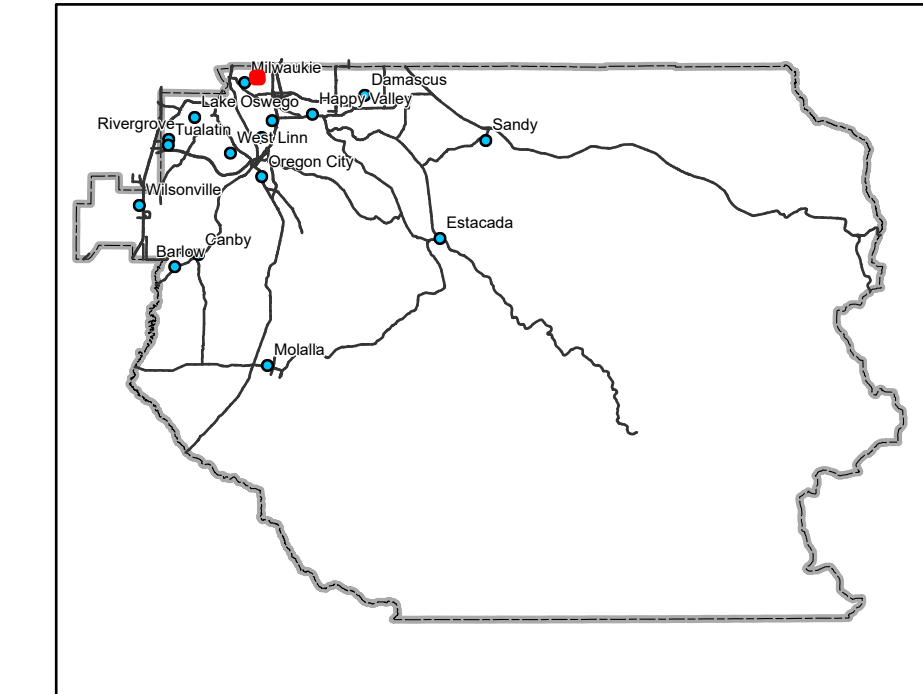
1 = South 89°4' West 170.90 ft

2 = North 0°58' West, 137.50 ft

3 = North 89°43' East 170.90 ft

4 = South 0°58'East, 137.50 ft

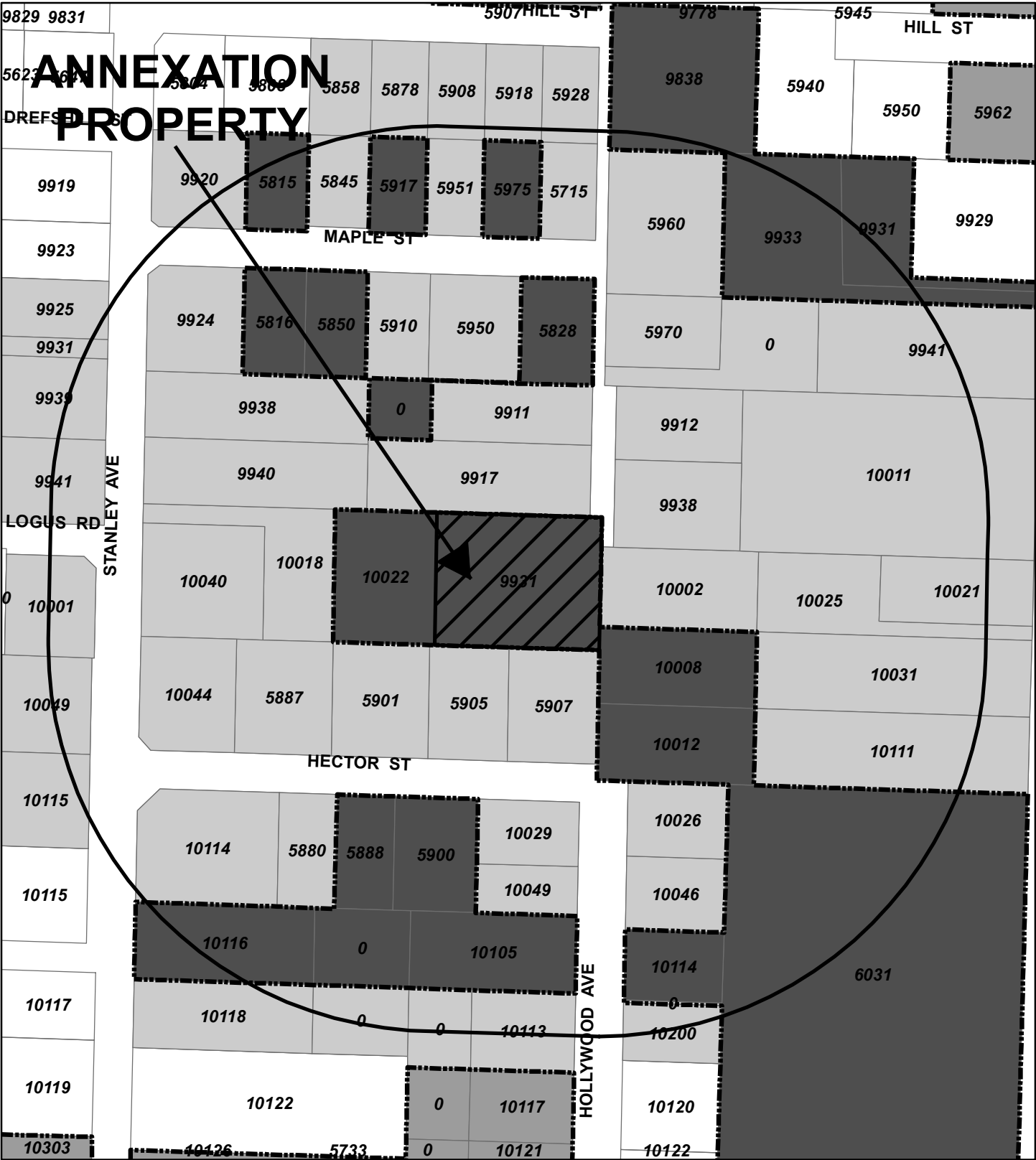
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



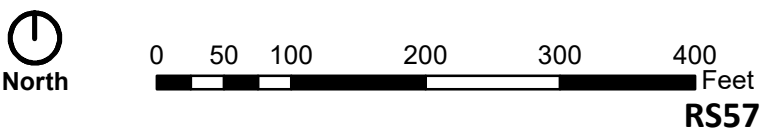
THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

Date Revised: July 12, 2023.

1 2E 30DD



Site Map
9931 SE Hollywood Ave
(Tax ID = 1S2E30DD, lot 4900)
File #A-2023-004



- Legend**
- A-2023-004 Site
 - 400-ft public notice boundary
 - City Limits
 - Properties receiving notice (unincorporated)
 - Properties receiving notice (Milwaukee)
 - Other tax lots (unincorporated)
 - Other tax lots (Milwaukee)



MILWAUKIE PLANNING
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206
 503.786.7630
 planning@milwaukieoregon.gov

Expedited Annexation Application

File # A-2023-004

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): Michael & Erika Buck

Mailing address: 9931 SE Hollywood Ave. Zip: 97222

Phone(s): 503.522.5321 (Michael) Email: mjbuck@gmail.com / ery1976@gmail.com
503.522.4954 (Erika)

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: Zip:

Phone(s): Email:

SITE INFORMATION:

Address(es): 9931 SE Hollywood Map & Tax Lot(s): Tax Lot: 30 DD

Existing County zoning: ... R-10 Proposed City zoning: R-MD Property size: 0.54 Acres

Existing County land use designation: ... Low Density Residential Proposed City land use designation: Moderate Density

PROPOSAL (describe briefly):

We are proposing to annex our property into City of Milwaukie to connect to the City's sewer system.

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, internet, and/or phone: ☐ Comcast ☒ CenturyLink
Energy: ☒ PGE ☒ NW Natural Gas
Garbage hauler: ☐ Waste Management ☒ Hoodview Disposal and Recycling
☐ Wichita Sanitary ☐ Oak Grove Disposal ☐ Clackamas Garbage
☐ Other (please list):

SIGNATURE:

ATTEST: I am the property owner, or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Erika Buck

Date: 6/13/2023

CONTINUED ON REVERSE

RESET

THIS SECTION FOR OFFICE USE ONLY:

File #: A-2023-004 Fee: \$ 150.00 Receipt #: 25891 Recd. by: R.Dyar	Date stamp:
Associated application file #'s:	Payment received 6/13/23
Neighborhood District Association(s): Lewelling NDA	
Notes (include discount if any):	

EXPEDITED ANNEXATION CODE EXCERPTS

MILWAUKIE MUNICIPAL CODE SECTIONS

19.1104.1 Expedited Process

- A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.
5. Approval criteria for annexations are found in subsection 19.1102.3.

19.1102.3 Annexation Approval Criteria. The city council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria.

- A. The subject site must be located within the city urban growth boundary;
- B. The subject site must be contiguous to the existing city limits;
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation-process must be met;
- D. The proposal must be consistent with Milwaukie comprehensive plan policies;
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).
- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

METRO CODE SECTIONS

3.09.050 Hearing & Decision Requirements for Decisions Other Than Expedited Decisions.

- (d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.

MILWAUKIE COMPREHENSIVE PLAN

Section 12: Urban Growth Management Goals and Policies

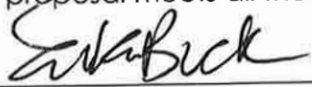
Overarching Section Goal: Coordinate future urban growth, development, and provision of City services in an equitable, cost-effective, and sustainable manner in cooperation with regional partners.

Goal 12.4: Annexation

Annex lands within the Milwaukie Planning Area.

Applicant Response

The proposal meets all the applicable requirements listed above.

X 
(Signature)

**EXPEDITED ANNEXATION
PETITION OF OWNERS OF 100% OF LAND AREA
AND PETITION OF AT LEAST 50% OF REGISTERED VOTERS**

TO: The Council of the City of Milwaukie, Oregon

RE: Petition for Annexation to the City of Milwaukie, Oregon

We, the petitioners (listed on reverse), are property owners of and/or registered voters in the territory described below. We hereby petition for, and give our consent to, annexation of this territory to the City of Milwaukie.

This petition includes a request for the City to assign a zoning and land use designation to the territory that is based on the territory's current zoning designation in the County, pursuant to the City's expedited annexation process.

The territory to be annexed is described as follows:

(Insert legal description below OR attach it as Exhibit "A")

See Exhibit A.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Exhibit A

BEGINNING at a point that is South 0°58' East 275.00 feet from a 2½-inch iron pipe set at the Southeast corner of HOLLYWOOD PARK, in the County of Clackamas and State of Oregon; and running thence South 89°43' West and parallel with the South boundary of HOLLYWOOD PARK, 170.90 feet to an iron pipe; thence North 0°58' West and parallel with Stanley Avenue and the West boundary of HOLLYWOOD PARK, 137.50 feet to an iron pipe; thence North 89°43' East and parallel with the South boundary of HOLLYWOOD PARK, 170.90 feet to a point; thence South 0°58' East and parallel with to the West boundary of HOLLYWOOD PARK, 173.50 feet to the place of beginning.

137.5'
JB



2

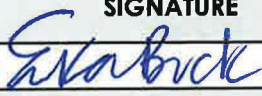
2007-081745

RS62

PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

*PO = Property Owner RV = Registered Voter OV = Owner and Registered Voter

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	ERIKA BUCK	☒		☒	6.5.23
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	
9931 SE Hollywood Ave.	1S	2E	30 DD	4900	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Michael Buck			☒	6/5/23
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	
9931 SE Hollywood Ave.	1S	2E	30 DD	4900	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
Daniel L. Eutsler	Daniel L. Eutsler		☒		6-5-2023
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	
9931 SE Hollywood Ave, Milw. / 97222	1S	2E	30 DD	4900	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	1/4 SEC.	LOT #(S)	

CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least 50% of the electors registered in the territory proposed for annexation as described in the attached petition.

Name Tiffany Clark *Tiffany Clark*
Title deputy clerk
Department Elections
County of Clackamas
Date 5-16-2023



NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

	Name of Owner/Voter	Mailing Street Address	Property Address
		Mailing City/State/Zip	Property Description (township, range, 1/4 section, and tax lot)
1	ERIKA BUCK	9931 SE Hollywood	Township: 1S Range: 2E
		Milwaukie, OR. 97222	Section: 30 DD Tax Lot: 4900
2	Michael Buck	9931 SE Hollywood	Township: 1S Range: 2E
		Milwaukie, OR. 97222	Section: 30 DD Tax Lot: 4900
3			
4			
5			
6			
7			
8			
9			
10			

0729826-C
28
Oct

Pacific NW Title

Title Order No. 07299826	This space reserved for recorder's use
Escrow No. 07299826	
After Recording Return To: Erika A. Buck & Michael J. Buck	Clackamas County Official Records Sherry Hall, County Clerk 2007-081745  01146847200700817450020029 \$36.00 09/24/2007 09:57:18 AM D-D Cnt=1 Stn=6 KARLYNWUN \$10.00 \$16.00 \$10.00
9931 Se Hollywood Avenue	
Milwaukie, OR 97222	
Name, Address, Zip	
Until a change is requested all tax statements shall be sent to the following address: SAME as above	
Name, Address, Zip	

**STATUTORY
BARGAIN AND SALE DEED**

Erika A. Buck, Grantor, conveys to Erika A. Buck and Michael J. Buck, Grantee, the following described real property:

See Exhibit A attached hereto and made a part hereof.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

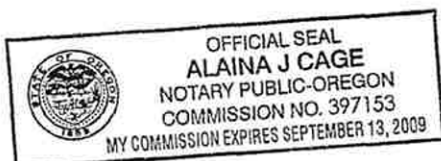
The true consideration for this conveyance is \$0.00. (Here comply with the requirements of ORS 93.030)

Dated this September 20, 2007.

Erika Buck
Erika A. Buck

STATE OF OREGON }
County of Multnomah ss

On this September 20, 2007, before me, the undersigned, personally appeared the within named Erika A. Buck known to me to be the identical individual who executed the within instrument and acknowledged to me that she executed the same freely and voluntarily.



Alaina J. Cage
Notary Public for the State of Oregon
My commission expires: 9/13/09

ORSTBSD

**CERTIFICATION OF PROPERTY OWNERSHIP OF
100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners¹ (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

Name JOSHUA BOLL
Title GIS CARTOGRAPHER II
Department ASSESSMENT & TAX
County of CLACKAMAS
Date 5/16/23



¹ Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E30DD) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name JOSHUA BOLL

Title GIS CARTOGRAPHER II

Department ASSESSMENT & TAX

County of CLACKAMAS

Date 5/16/23



12-229UR

12-252UR

12-118

12-252UR

12-229UR

HECTOR

CO. RD. NO. 2465

ST

12-252UR

12-229UR

12-252UR

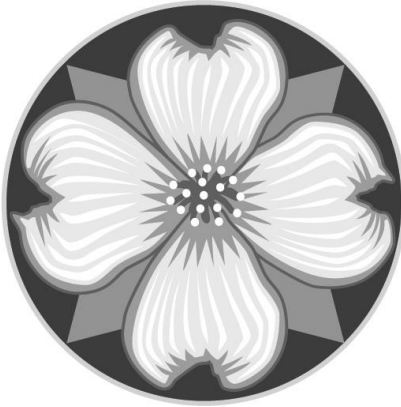
12-252UR

12-23



12E30DD

RS69



RS Agenda Item

8

Public Hearings

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Joseph Briglio, Community Development Director, and
Laura Weigel, Planning Manager

From: Vera Kolias, Senior Planner

Subject: **Psilocybin Code Amendments**

Date Written: Jul 20, 2023

ACTION REQUESTED

Council is asked to open the public hearing for land use file #ZA-2023-003, discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning), take public testimony, provide direction to staff regarding any desired revisions to the proposed amendments, and vote to approve file #ZA-2023-003 and adopt the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

BACKGROUND

- [May 23, 2023](#): Planning Commission held a public hearing and voted unanimously (6-0) to recommend approval of the code amendments as presented (See Attachment 1).
- [April 4, 2023](#): Council held a second work session to discuss additional language regarding options for regulating psilocybin facilities and any potential issues.
- [February 21, 2023](#): Council held a work session to discuss the Oregon Psilocybin Service Act, options for regulating psilocybin facilities, and any potential issues.

ANALYSIS

Ballot Measure 109, known as the Oregon Psilocybin Service Act (codified at [Oregon Revised Statute \(ORS\) Chapter 475A](#)), allows for the manufacture, delivery, and administration of psilocybin at licensed facilities. The ballot measure did not allow for the recreational or personal use of psilocybin as we have seen with marijuana. All types of psilocybin facilities are licensed and regulated by the state.

There are four types of licenses that can be issued under the new program:

- **Service Center:** A location where clients will be administered psilocybin under supervision of a licensed facilitator.
- **Service Facilitator:** A person that administers psilocybin services.
- **Product Manufacturer:** A location where one or more psilocybin products will be manufactured that could include fungi cultivation, psilocybin extraction, and edible psilocybin production.
- **Testing Facility:** A facility to undertake testing of psilocybin products.

Restrictions under state law include:

- Psilocybin will not be available to buy in stores or to take home.

- Psilocybin can only be administered in licensed settings under supervision of licensed service facilitators.
- Service centers are prohibited within residential zones of an incorporated city or within 1,000 feet of a school.
- Manufacturing of psilocybin products is prohibited outdoors (no locational restrictions).

To date, city planning staff has responded to three inquiries about locating psilocybin facilities in the city:

- One was for a service center in the high density residential (HDR) zone. As noted above, service centers are prohibited within residential zones under state law.
- The second inquiry was regarding a small grow facility, for which there are no locational restrictions, in a residential zone as a home occupation requiring a land use compatibility statement (LUCS) form.
 - In the current zoning code, MMC 19.507 permits a variety of home occupations. Therefore, the LUCS form was signed subject to compliance with MMC 19.507 and all aspects of applicable state law.
- The third inquiry was regarding a grow operation in the North Milwaukie Innovation Area (NMIA) zone. A LUCS form was signed and provided to the applicant.

To address the issues of psilocybin business in residential zones and provide consistency in regulating these businesses in the NMIA and manufacturing zones like marijuana businesses, staff proposes the following code amendments:

1. Definitions (MMC 19.200)
 - **Add** a definition for psilocybin-related business.
2. Manufacturing Zone M (MMC 19.309)
 - **Revise** the list of permitted uses to add that marijuana and psilocybin production and cultivation facilities (grow operations) are subject to certain regulations.
3. North Milwaukie Industrial Area NMIA (MMC 19.312)
 - **Revise** the list of permitted uses to include psilocybin cultivation facilities as conditional uses, consistent with marijuana grow operations.
4. Home Occupation Standards (MMC 19.507.2)
 - **Revise** the list of prohibitions and restrictions to add psilocybin-related businesses to the list of prohibited home-based businesses.
5. Marijuana Business Standards (MMC 19.509)
 - **Revise** this section by renaming it to include psilocybin businesses.
 - **Add** a section related to psilocybin cultivation to be consistent with the limitations for marijuana production (grow) operations.

BUDGET IMPACT

None.

WORKLOAD IMPACT

None. Planning staff will regulate psilocybin facilities in the same manner as other uses in the city.

CLIMATE IMPACT

There are no identified climate impacts affiliated with Ballot Measure 109.

COORDINATION, CONCURRENCE, OR DISSENT

The community development, police, and planning departments have worked on this issue to date.

STAFF RECOMMENDATION

Staff recommends that Council adopt the ordinance, findings, and proposed code amendments found in Attachment 1.

ALTERNATIVES

None.

ATTACHMENTS

1. Ordinance
 - a. Findings in Support of Approval
 - b. Code Amendments (underline/strikeout)
 - c. Code Amendments (clean)



CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE TITLE 19 ZONING TO MAKE CHANGES TO SELECT SECTIONS FOR THE PURPOSE OF REGULATING PSILOCYBIN FACILITIES (FILE #ZA-2023-003).

WHEREAS the proposed amendments to Milwaukie Municipal Code (MMC) Title 19 make changes that will regulate psilocybin facilities in the city; and

WHEREAS legal and public notices have been provided as required by law, and opportunities for public review and input has been provided; and

WHEREAS on May 23, 2023, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

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

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

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

Section 3. Effective Date. The amendments shall become effective 30 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 _____.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Nicole M. Madigan,
Deputy City Recorder

Justin D. Gericke, City Attorney

Recommended Findings in Support of Approval File #ZA-2023-003, Psilocybin Code Amendments

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

1. The applicant, the City of Milwaukie, proposes to amend various regulations that are contained in Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2023-002.
2. The purpose of the proposed code amendments is to regulate psilocybin-related businesses in the city. The amendments are located in several titles of the municipal code:
 - Zoning Ordinance –
 - MMC 19.201 – Add a definition for psilocybin-related business
 - MMC 19.309 – Manufacturing zone – Revise the list of permitted uses
 - MMC 19.312 – NMIA zone – Revise the list of permitted uses
 - MMC 19.507 – Home Occupations – Revise the list of prohibitions
 - MMC 19.509 – Marijuana Business Standards – Revise the section
3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC 19.902 Amendments to Maps and Ordinances
 - MMC 19.1000 Review Procedures
4. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on May 23, 2023 and August 1, 2023 as required by law.
5. MMC 19.902 Amendments to Maps and Ordinances
 - a. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
 - (1) MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held a duly advertised public hearing on May 23, 2023. A public hearing before City Council was held on August 1, 2023. Public notice was provided in accordance with MMC Subsection 19.1008.3.
 - (2) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.
 - (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code. The amendments are specific to regulating psilocybin-related businesses.

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

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

- (i) Goal 11.1 for Economic Development reads as follows:

Provide a diverse range of uses, services, and amenities that contribute to a sustainable, equitable, and resilient economy and are adaptable to changing land uses and technology.

Policy 11.1.2 states:

Adapt to industry trends and emerging technologies that have the potential to affect employment, land use, and infrastructure needs, such as automation, the sharing economy, autonomous vehicles, and other future technological advances.

The proposed amendments revise the list of permitted uses in the Manufacturing zone and North Milwaukie Innovation Area Zone to include psilocybin-related businesses. The proposed amendments also prohibit psilocybin-related businesses as home occupations.

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

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

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

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

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that the amendments are specific to regulating psilocybin-related businesses in the city.

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

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

6. MMC 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 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Director, or any individual.

The amendments were initiated by the Planning Manager on April 5, 2023.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V review have been met as follows:

- (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided. The City Council held two work sessions on the proposed amendments on February 21 and April 4, 2023.

The current version of the draft amendments has been posted on the City's website since April 17, 2023. On April 25, 2023 staff emailed NDA leaders with information about the Planning Commission hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's May 23, 2023, hearing was posted as required on April 17, 2023. A notice of the City Council's August 1, 2023 public hearing was posted as required on July XX, 2023.

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

The Planning Manager has determined that the proposal affects a large geographic area. Notice to individual property owners and individual properties was not required.

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

Notice of the proposed amendments was sent to DLCD on April 18, 2023.

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

Notice of the proposed amendments was sent to Metro on April 18, 2023.

- (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 clarify state law related to psilocybin-related businesses on residential properties.

- (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 May 23, 2023 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on August 1, 2023 and approved the amendments.

Underline/Strikeout Amendments

Title 19 Zoning Ordinance

CHAPTER 19.200 DEFINITIONS

“Psilocybin-related business” means a state-licensed psilocybin facility as defined in ORS 475A, including, but not limited to, psilocybin product manufacturing facilities, psilocybin service centers, and psilocybin testing facilities.

CHAPTER 19.300 BASE ZONES

19.309 MANUFACTURING ZONE M

19.309.2 Permitted Uses

I. Marijuana and psilocybin production and cultivation facilities are subject to the regulations in Subsection 19.509.

19.312 NORTH MILWAUKIE INNOVATION AREA

Table 19.312.2				
Uses Allowed in the North Milwaukie Innovation Area				
	Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
Marijuana and Psilocybin Businesses				
3.	Marijuana production subject to the conditional use process and the standards of Subsections 19.509.2 and 19.509.3.	CU	CU	Subsection 19.509.2 Security and Odor Control for Certain Marijuana Businesses Subsection 19.509.3 Marijuana Production Limitations Section 19.905 Conditional Uses
4.	<u>Psilocybin cultivation only, as defined in ORS 475A, including planting, growing, harvesting, and propagation.</u>	<u>CU</u>	<u>CU</u>	Subsection 19.509.4 <u>Psilocybin</u>

				<u>Cultivation Limitations</u>
				<u>Section 19.905 Conditional Uses</u>

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.507 HOME OCCUPATION STANDARDS

19.507.2 Prohibitions and Use Restrictions

F. Except as set forth in Section 19.509, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

G. All psilocybin-related businesses as defined in ORS 475A are prohibited as home occupations.

19.509 MARIJUANA AND PSILOCYBIN BUSINESS STANDARDS

The intent of these regulations is to ensure that potential impacts from marijuana and psilocybin businesses are managed and mitigated.

19.509.3 Marijuana Production Limitations

The following limitations apply to marijuana production in the M-Manufacturing, NME-North Milwaukie Employment, and MUTSA-Tacoma Station Area Mixed Use zones:

A. Within a building utilized for production, multiple producers may operate but no single producer shall operate in a manner where the mature marijuana plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.

B. A marijuana producer shall not be located in a building that is within 1,500 ft of another building that is utilized for marijuana production. (Ord. 2168 § 2, 2019; Ord. 2163 § 2, 2018; Ord. 2134 § 2, 2016)

19.509.4 Psilocybin Cultivation Limitations

The following limitations apply to psilocybin cultivation in the M-Manufacturing, NME-North Milwaukie Employment, and MUTSA-Tacoma Station Area Mixed Use zones:

A. Within a building utilized for cultivation, growing, planting, harvesting, and/or propagation, multiple growers may operate but no single grower shall operate in a manner where the mature psilocybin plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.

B. A psilocybin grower shall not be located in a building that is within 1,500 ft of another building that is utilized for psilocybin cultivation.

Underline/Strikeout Amendments

Title 19 Zoning Ordinance

CHAPTER 19.200 DEFINITIONS

“Psilocybin-related business” means a state-licensed psilocybin facility as defined in ORS 475A, including, but not limited to, psilocybin product manufacturing facilities, psilocybin service centers, and psilocybin testing facilities.

CHAPTER 19.300 BASE ZONES

19.309 MANUFACTURING ZONE M

19.309.2 Permitted Uses

I. Marijuana and psilocybin production and cultivation facilities are subject to the regulations in Subsection 19.509.

19.312 NORTH MILWAUKIE INNOVATION AREA

Table 19.312.2				
Uses Allowed in the North Milwaukie Innovation Area				
	Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
Marijuana and Psilocybin Businesses				
3.	Marijuana production subject to the conditional use process and the standards of Subsections 19.509.2 and 19.509.3.	CU	CU	Subsection 19.509.2 Security and Odor Control for Certain Marijuana Businesses Subsection 19.509.3 Marijuana Production Limitations Section 19.905 Conditional Uses
4.	Psilocybin cultivation only, as defined in ORS 475A, including planting, growing, harvesting, and propagation.	CU	CU	Subsection 19.509.4 Psilocybin

				Cultivation Limitations
				Section 19.905 Conditional Uses

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.507 HOME OCCUPATION STANDARDS

19.507.2 Prohibitions and Use Restrictions

F. Except as set forth in Section 19.509, all marijuana-related businesses (production, processing, testing, warehousing, and sales) are prohibited as home occupations. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards of Subsection 19.509.2.

G. All psilocybin-related businesses as defined in ORS 475A are prohibited as home occupations.

19.509 MARIJUANA AND PSILOCYBIN BUSINESS STANDARDS

The intent of these regulations is to ensure that potential impacts from marijuana and psilocybin businesses are managed and mitigated.

19.509.3 Marijuana Production Limitations

The following limitations apply to marijuana production in the M-Manufacturing, NME-North Milwaukie Employment, and MUTSA-Tacoma Station Area Mixed Use zones:

A. Within a building utilized for production, multiple producers may operate but no single producer shall operate in a manner where the mature marijuana plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.

B. A marijuana producer shall not be located in a building that is within 1,500 ft of another building that is utilized for marijuana production. (Ord. 2168 § 2, 2019; Ord. 2163 § 2, 2018; Ord. 2134 § 2, 2016)

19.509.4 Psilocybin Cultivation Limitations

The following limitations apply to psilocybin cultivation in the M-Manufacturing, NME-North Milwaukie Employment, and MUTSA-Tacoma Station Area Mixed Use zones:

- A. Within a building utilized for cultivation, growing, planting, harvesting, and/or propagation, multiple growers may operate but no single grower shall operate in a manner where the mature psilocybin plant grow canopy associated with that producer's operation exceeds 10,000 sq ft.
- B. A psilocybin grower shall not be located in a building that is within 1,500 ft of another building that is utilized for psilocybin cultivation.

RS 8. A. 8/1/23
Presentation

Psilocybin

Code Amendments

ZA-2023-003

Milwaukie City Council
Vera Kolias, Senior Planner
August 1, 2023



Background

Oregon Psilocybin Service Act (Ballot Measure 109)
allows the following:

- Manufacture

- Delivery

- Administration

(Of psilocybin (mushrooms) at licensed facilities)

Oregon Health Authority began accepting
applications in January.



Background

OHA issues 4 Types of licenses:

- Service Center
- Service Facilitator
- Product Manufacturer
- Testing Facility



Psilocybin grow facility. *The Oregonian*



Background

Psilocybin restrictions under State law:

- NOT available in stores or to take home
- Only administered in licensed settings
- Service center locational restrictions
- Manufacturing prohibited outdoors



Proposed Amendments

- Add definition of “psilocybin-related business”
- Prohibit psilocybin-related businesses as home occupations
- NMIA zone: CU for production and cultivation
- M Zone: Marijuana and psilocybin production and cultivation facilities are subject to the regulations in Subsection 19.509.



Proposed Amendments

- MMC 19.509: Marijuana and Psilocybin Business Standards:
 - Add cultivation standards and limitations
 - Max. 10,000 sq ft per single grower
 - Grower cannot be located in a building within 1,500 ft of another building used for cultivation



Recommendation

- Planning Commission voted 6-0 to recommend approval.
- Staff recommends approval of the amendments and findings.



Questions?



Contact Us

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