

ORDINANCE NO. 2031

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE 2010 WASTEWATER MASTER PLAN AS AN ANCILLARY DOCUMENT TO THE MILWAUKIE COMPREHENSIVE PLAN, AND AMENDING THE MILWAUKIE COMPREHENSIVE PLAN, CHAPTERS 3, 4 AND 5. (LAND USE FILE #CPA-10-02).

WHEREAS, THE City of Milwaukie desires to use best practices and information to maintain its wastewater conveyance systems; and

WHEREAS, the Milwaukie Comprehensive Plan, Chapter 5, Public Facilities and Services Elements, Objective #3, Policy 1 calls for the City to maintain a plan to identify needed facilities to support the land uses as shown on the Comprehensive Plan land use map and within the Urban Growth Management Boundary, and for such plan to be part of the Comprehensive Plan; and

WHEREAS, the Milwaukie Engineering Department has prepared the 2010 Wastewater Master Plan with input from the City Council, Citizens Utility Advisory Board, and Planning Commission; and

WHEREAS, the 2010 Wastewater Master Plan establishes projects and fees for the wastewater system that are necessary for the on-going provision of adequate wastewater service to the City; and

WHEREAS, the City has filed a legislative land use application, File #CPA-10-02, for Comprehensive Plan Amendments, and processed that file according to the procedures for legislative amendments in the Milwaukie Municipal Code; and

WHEREAS, the Planning Commission held a public hearing on May 24, 2011 and recommended that the City Council approve the amendments proposed in File #CPA-10-02; and

WHEREAS, the City Council held a public hearing on June 21, 2011 and finds the 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 proposed amendments are adopted by the City Council and attached as Exhibit A.

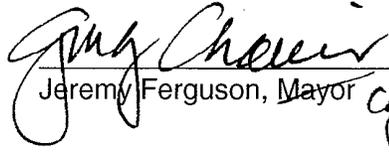
Section 2. 2010 Wastewater Master Plan, ancillary document to the Comprehensive Plan. The 2010 Wastewater Master Plan in Exhibit B is adopted as an ancillary document to the Comprehensive Plan.

Section 3. Comprehensive Plan Text Amendment. The Comprehensive Plan text is amended as described in Exhibit C (underlines/strikeout edits) and Exhibit D (clean version).

Read the first time on 6/21/11, and moved to second reading by 4-0 vote of the City Council.

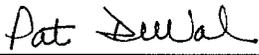
Read the second time and adopted by the City Council on 6/21/11.

Signed by the Mayor on 6/21/11
Council President


Jeremy Ferguson, Mayor *Council President*

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC


Pat DuVal, City Recorder


City Attorney

Document2 (Last revised 09/18/07)

EXHIBIT A

Findings in Support of Approval Land Use File CPA-10-02

1. The City of Milwaukie ("applicant") has submitted an application for approval of a Comprehensive Plan amendment to adopt the 2010 Wastewater Master Plan (WWMP) as an ancillary document to the Milwaukie Comprehensive Plan. The applicant has also requested approval of amendments to existing text in the following sections of the Comprehensive Plan: Chapter 3, Environmental and Natural Resources— Air, Water, and Land Resources Element; Chapter 4, Land Use – Recreational Needs Element; Chapter 5, Transportation, Public Facilities, and Energy Conservation – Public Facilities and Services Element.
2. A Comprehensive Plan amendment is subject to Milwaukie Municipal Code (MMC) Subsection 19.1011.5 Legislative Review; Chapter 19.900 Amendments and Comprehensive Plan, Chapter 2, Plan Review and Amendment Process.
3. Public notice has been provided in accordance with MMC Subsection 19.1011.5 Legislative Review. The Planning Commission held a duly advertised public hearing on May 24, 2011, and passed a motion recommending that the City Council approve the Comprehensive Plan amendment. The City Council held a duly advertised public hearing on June 21, 2011, and approved the Comprehensive Plan amendments.
4. MMC Chapter 19.900 Amendments sets out the procedures and requirements for Comprehensive Plan amendments. The proposed Comprehensive Plan amendment is consistent with this chapter as follows:
 - A. MMC 19.902 governs the procedures for processing amendments. The application is a Comprehensive Plan amendment and has been processed in accordance with MMC 19.1011.5 Legislative Review. Notice was provided to the Oregon Department of Land Conservation and Development on July 29, 2010 and again on April 6, 2011. Notice was provided to Metro on April 27, 2011, and a Functional Plan analysis will be provided to Metro at least 15 days prior to the final hearing on the proposed change.
 - B. MMC 19.905 states the approval criteria for all amendments. The City Council finds that the proposed amendment complies with these criteria as follows:
 - i) MMC 19.905.1.A requires the proposed amendment to conform to applicable Comprehensive Plan goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan, and applicable regional policies.

The City Council finds that the proposed amendments conform to the provisions of these documents as demonstrated under the findings for Milwaukie Comprehensive Plan Chapter 2, Plan Review and Amendment Process, Objective #1, Policy 7.

Conformance with the Comprehensive Plan, its goals, policies, and spirit

**Chapter 5 – Transportation / Public Facilities / Energy Conservation:
Public Facilities and Services Element**

Objective #1—Priority

To ensure that adequate levels of public facilities and services are provided to existing City residents and businesses as a first priority as urban development or growth occurs.

Public need for the change

Finding: The policies within Chapter 5, Public Facilities and Services Element clearly support the creation of public facility master plans to manage the provision of urban services as the city grows and redevelops. It also calls for these plans to be adopted as part of the Comprehensive Plan. The WWMP is in conformance with these policies in that it is a plan that identifies projects to be completed so that the City can continue to provide adequate wastewater service. It is a needed change in that the current master plan for wastewater service was adopted in 1994 and is out of date.

Public need is best satisfied by this particular change

Finding: The WWMP establishes projects that need to be completed to continue to provide adequate wastewater service. The scope of the WWMP deals with the portions of the wastewater system that is operated and maintained by the City. The WWMP does not specifically address larger issues related to the Kellogg Wastewater Treatment Plant because this is not owned or operated by the City. The public need is best satisfied by this particular change because the City needs to adopt a plan for operating and maintaining portions of the wastewater system for which it is responsible.

The proposed amendments to the text of the Comprehensive Plan would not change existing policy regarding wastewater service or agreements with other agencies. Overall, the amendments help to simplify the existing Comprehensive Plan text related to wastewater and incorporate more specific information into the WWMP as an ancillary document.

The change will not adversely affect the health, safety, and welfare of the community

Finding: The change will benefit the health and safety of the community by helping the City maintain a functioning wastewater system. The WWMP does not commit the City to any future agreements or actions related to treatment of wastewater that would be detrimental to the community welfare.

The change is in conformance with applicable Statewide Planning Goals

Finding: The WWMP is in conformance with Goal 11, Public Facilities and Services, in that it identifies how the city will continue to maintain a wastewater system that is appropriate for the city's current and planned land uses, and addresses the coordination of wastewater service among the various service providers. It also supports Goal 6, Air, Water and Land Resources Quality by maintaining a functioning wastewater system that avoids pollution of streams and groundwater.

Plan for adoption. It was presented to City Council in March 2009, May 2009, April 2011. It was presented to the Planning Commission in August 2010 and March 2011. The Wastewater Master Plan has review and concurrence from the Milwaukie Engineering Department, Community Development Department, Finance Department, and Planning Department.

EXHIBIT B

Link to Wastewater Master Plan:

http://www.ci.milwaukie.or.us/sites/default/files/fileattachments/milwaukie_wwmp_051111.pdf

New text is shown in double underline. Deleted text is shown in ~~strikeout~~. Only the portions of the Comprehensive Plan included below are amended.

CHAPTER 3 — ENVIRONMENTAL AND NATURAL RESOURCES

OPEN SPACES, SCENIC AREAS, AND NATURAL RESOURCES ELEMENT

OBJECTIVE #1 — OPEN SPACE

Policies

11. With the exception of the Kellogg-Creek Sewage Wastewater Treatment Plant and the land surrounding the plant, the City will designate as Public Lands those areas which are existing parks or publicly utilized areas, or City owned properties containing natural resource areas, and will assure that these areas are managed according to open space policies, natural resource policies, and parks and recreation policies, as appropriate. Areas designated Public Lands shall be identified on the Land Use Plan Map, Map 7.

AIR, WATER AND LAND RESOURCES QUALITY ELEMENT

GOAL STATEMENT: To meet federal and State air, noise and water quality standards.

Background and Planning Concepts

Water Quality

One significant ~~The only~~ potential point source for water pollution is the Kellogg-Creek Wastewater Treatment Plant, operated by Clackamas County Service District #1 (CCSD#1).

DEQ has designated Milwaukie as a "sensitive ground water area." This means the area has been identified as having sensitive aquifers, high groundwater, or soil types which do not allow good percolation, or a combination of these qualities. Water quality problems are most likely to occur in areas with high groundwater and inadequate septic tank systems. Potential water quality impacts from underground storage tanks, storm drainage and chemical spills are also possible.

Milwaukie's water supply is already experiencing problems. In the summer of 1988, trichloroethylene (TCE) was discovered contaminating three of the City's seven municipal wells. The City has since contracted for water with the City of Portland and is exploring methods, such as aeration systems, to eventually return to the use of City wells for water supply. DEQ is also investigating to determine if the TCE contamination is of regional concern.

Sanitary sewers are provided in Milwaukie and are required for all new uses. ~~An area along Johnson Creek and portions of the Wichita/Stanley area to the east of the City do not have sanitary sewer service and probably contribute to the water quality problems in Johnson Creek.~~ There is an area along Johnson Creek and portions of the Wichita/Stanley area that began to connect to sanitary sewer in 2010. The lack of sanitary sewer service in the area prior to this time, and the properties in the area that continue to use private septic systems, probably contribute to the water quality problems in Johnson Creek. Agricultural uses along Kellogg Creek and commercial uses and waterfowl usage along Minthorn Spring Creek contribute to low water quality in these waterbodies.

Milwaukie's sewage treatment needs are provided by ~~Clackamas Service District #1 (CCSD #1)~~. This agency operates the Kellogg-Creek Sewage Wastewater Treatment Plant, which is the only one significant potential local point source for water pollution. ~~Milwaukie contracts with the District for 40% of the plants capacity, which is designed to eventually handle the sewage~~

CHAPTER 4 — LAND USE

RECREATIONAL NEEDS ELEMENT

OBJECTIVE #7 — RIVERFRONT RECREATION

To maximize the recreational use of the Willamette River shoreland and waterways.

Planning Concepts

The Willamette River shoreland and waterways offer the most significant potential to improve recreational opportunities in Milwaukie. A 1979 Port of Portland report and a 1986 Marketing Study analyzed the feasibility for developing the City boat launch area as a marina. A marina near downtown, linked with public lands such as the grounds of the Kellogg Wastewater Treatment Plant, Elk Rock Island, and Spring Park would form a riverfront corridor providing a variety of river-oriented experiences. Even more significant is the notion of the riverfront area linked to the proposed 40-mile loop trail system (see Map 8) with potential for a southern arm extending to North Clackamas Park.

Policies

1. The City will develop a Greenway Design Plan to guide the implementation of its Willamette Greenway Program.
2. Existing waterfront park lands will be developed to maximize use and enjoyment of the river, while maintaining the environmental integrity of sensitive areas (See corresponding policies in Open Space, Natural Resources and Greenway Elements).
3. Public and private uses shall be combined in any mixed used development in the commercial area along the Willamette River. Any mixed use development shall include public access and open space considerations along the length of the riverfront connecting to existing paths. Other public uses may include a public gathering place, such as an amphitheater, or a marina or other special use facilities.
4. The City will cooperate with the City of Portland to encourage suitable recreational use of Elk Rock Island.
5. The Downtown and Riverfront Land Use Framework Plan anticipates redevelopment of the Kellogg Wastewater Treatment Plant site. The City will make reasonable efforts to reduce the area of land devoted to the Kellogg Wastewater Treatment Plant or bring about the decommissioning of the Kellogg Wastewater Treatment Plant. The City will make these efforts in an expeditious but orderly fashion that assures proper sewage treatment for Milwaukie citizens while effectuating a transition to treatment at another location. Reasonable efforts may include revising the Zoning Ordinance to make the existing facility a nonconforming use and restricting any modification of the sewage treatment use at that site. Riverfront access will be maintained with any redevelopment of the treatment plant site.
6. The Parks and Recreation Master Plan should address the idea of connecting the riverfront area to the proposed 40-mile loop trail system with a southern arm extending to North Clackamas Park.

CHAPTER 5 — TRANSPORTATION, PUBLIC FACILITIES AND ENERGY CONSERVATION

PUBLIC FACILITIES AND SERVICES ELEMENT

GOAL STATEMENT: To plan, develop and maintain a timely, orderly and efficient arrangement of public facilities and services to serve urban development.

Background and Planning Concepts

Milwaukie provides a full range of services needed to support urban development. Statewide Goal #11 states that development should be provided with services at levels “appropriate for, but not limited to, the needs and requirements of . . . the area to be served.” To satisfy Goal #11, each jurisdiction is required to develop a Public Facilities Plan (PFP) which will outline water, sanitary sewer, storm sewer, and transportation projects needed over the next two decades, their timing, costs, and possible funding sources.

The City has commissioned two urban services studies: the Cogan Report (1983) and the Don Barney Study (1987), to define how the City should respond to service needs in unincorporated but developed areas surrounding the City. As a result, the City adopted an Urban Services Policy and Urban Growth Policies that serve to guide the City’s response to urban service needs outside of its present city boundaries.

To adequately respond to and to plan for public facilities and service needs, the City found it had to establish an ultimate boundary for the area within which City services may be offered. The City Growth and Governmental Relationships chapter of the Plan establishes long and short term strategies to work with Clackamas County, cities, and numerous service districts in identifying and evaluating alternatives for the ultimate provision of urban services. The State PFP rule requires intergovernmental agreements between the County, cities, and service districts that outline the responsibility for provision of urban services. The City is negotiating these agreements with the jurisdictions surrounding Milwaukie.

The overriding concepts for public facilities and services are to improve conditions for existing residents and businesses, to plan for and make available facilities and services for development within the City and within the City’s growth area, and to cooperate with other public and semi-public agencies in providing the best services at the lowest cost.

Following are brief descriptions of the conditions and problems of facilities and services.

Sewer Services

Milwaukie’s sewage collection system is installed and maintained by the City but is integrated into the Clackamas County Service District #1 (CCSD #1) system. The District owns and operates the Kellogg-Creek treatment plant Wastewater Treatment Plant, which serves the cities of Milwaukie and Johnson City as well as the unincorporated areas in the district District. ~~The plant is designed to provide treatment for 10 million gallons of sewage per day (MGD) but currently provides treatment for 6.4 MGD. Milwaukie purchased 4 MGD of treatment capacity, which represents 20% of the plant’s capacity at full development but 40% of today’s capacity. The City utilizes only 3 MGD of capacity which leaves sufficient capacity to accommodate projected full development in the City. The City also has agreements with the City of Portland and Oak Lodge Sanitary District for wastewater service to a limited number of properties within the city.~~

To alleviate capacity concerns at the Kellogg Wastewater Treatment Plant created by growth outside the city, Clackamas County Water Environment Services (WES) is expanding the

4. The City recognizes and assumes its responsibility for operating, planning, and regulating wastewater systems as designated in Metro's Waste Treatment Management Component.
5. The City will use best efforts to decommission or downsize the Kellogg-Creek Wastewater Treatment Plant and will cooperate with the County, county service districts, Metro, other affected cities, and other parties in examining feasible alternatives for sewage disposal in the transition from the Kellogg-plant Wastewater Treatment Plant to some other sewage treatment facility. The existing plant is aging and will continue to need constant expensive upgrades. A new plant with modern technology and design and economies of scale will provide better sewage treatment and environmental protection. The City's preferred alternative is a regionalized system with a single plant serving all of the area currently served by CCSD No. #1, the Tri-City Service District, and the City of Milwaukie. Such a system would provide for better, more environmentally-friendly sewage treatment, and result in economies of scale. While the City believes this is the best solution, the City is committed to cooperate with other governmental entities and work towards a long-range sewage treatment system ~~that is the best for the region~~. Future sewage and wastewater facility plans, and related planning efforts, shall take into account and plan for a regional sewage system and facility other than the current Kellogg-Creek plant Wastewater Treatment Plant.

Only the portions of the Comprehensive Plan included below are amended.

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Milwaukie's sewage treatment needs are provided by CCSD #1. This agency operates the Kellogg Wastewater Treatment Plant, which is the one significant potential local point source for water pollution.

OBJECTIVE #4 — WATER QUALITY

To assist federal and State environmental regulation agencies in their efforts to maintain and improve the quality of the water resources of the State and City.

CHAPTER 4 — LAND USE

RECREATIONAL NEEDS ELEMENT

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To alleviate capacity concerns at the Kellogg Wastewater Treatment Plant created by growth outside the city, Clackamas County Water Environment Services (WES) is expanding the treatment capacity at the Tri-Cities Wastewater Treatment Plant in Oregon City. CCSD #1 is purchasing capacity at the Tri-Cities Wastewater Treatment Plant.

In 2010 the City adopted a Wastewater Master Plan (WWMP) as an ancillary document to the Comprehensive Plan. The WWMP deals with the portions of the wastewater system controlled by the City of Milwaukie, such as sewer pipes and pump stations. The WWMP does not address