ORDINANCE NO. 2059

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

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

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

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

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

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

WHEREAS, the Planning Commission voted unanimously at the January 8, 2013 Planning Commission meeting to recommend that City Council approve the proposed zoning amendments;

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

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

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

Read the first time on 2/5/13, and moved to second reading by 4:1 vote of the City Council.

Read the second time and adopted by the City Council on 2/19/13

Signed by the Mayor on 2/19/13

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Ramis PC

City Attorney

Exhibit A

Findings in Support of Approval

1. The City of Milwaukie ("applicant") proposes to amend portions of Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application for these amendments is ZA-12-02.

2. The purpose of the proposed code amendments is to relieve changes of use and minor additions in downtown Milwaukie from requirements for street frontage improvements, allow a wider array of uses for ground-floor storefronts along portions of Main Street, allow greater flexibility for retail and restaurant uses in the Downtown Office zone, ensure that new development along Main Street constructs ground-floor spaces that facilitate future conversion to restaurant and retail uses, and to improve the clarity of the downtown zoning regulations . The amendments are proposed to the following portions of Title 19:

   - Subsection 19.304, Downtown Zones
   - Chapter 19.700, Public Facility Improvements

3. The proposed amendments are subject to the following provisions of the MMC:

   - MMC Section 19.902 Amendments to Maps and Ordinances
   - MMC Chapter 19.1000 Review Procedures

4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.

5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.

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

      The amendments were initiated by the Planning Director on October 19, 2012, pursuant to City Council Resolution #53-2012.

   B. MMC Section 19.1008 establishes requirements for Type V review.

      i) Subsection 19.1008.3.A.1 requires opportunity for public comment. Opportunity for public comment and review has been provided. Staff distributed drafts of the proposed amendments electronically starting in September 2012 and notified the Historic Milwaukie NDA and other downtown interested parties. The Planning Commission and Design and Landmarks Committee held a worksession to review the proposed amendments on October 23, 2012. An additional opportunity for comment was provided to all city Neighborhood District Associations and downtown interested parties for a second version of the amendments in December 2012. In addition, all worksessions and hearings on this matter were broadcast multiple times on local access cable television by Willamette Falls Media Center and also available on the city's internet page.

      ii) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing. A notice of the Planning Commission's November 13, 2012, hearing was posted as required on October 12, 2012, at City Hall, Ledding Library, Public Safety Building, and Johnson Creek Facility. A notice of the City Council's February 5, 2013 hearing was posted as required on January 4, 2013, at the same locations.

iii) Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. All downtown property owners were notified of the hearing date via a Measure 56 notice.

iv) Subsection 19.1008.3.B and C require notice of a Type V application be sent to Metro and the Department of Land Conservation and Development (DLCD) 45 days prior to the first evidentiary hearing. Notice of the proposed amendments was sent to Metro on September 28, 2012. DLCD requires notice 35 days prior to the first evidentiary hearing, and notice was provided to DLCD on October 5, 2012. The first evidentiary hearing was held on November 13, 2012.

v) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners. Because the proposed amendments would affect uses and development on some downtown properties, the City sent a Measure 56 Notice summarizing the proposal and announcing the date of the first public hearing to all downtown property owners in the city on October 24, 2012.

vi) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held duly advertised public hearings on November 13, 2012, November 27, 2012, and January 8, 2013 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on February 5, 2013 and had a first reading of the ordinance, and held a second reading of the ordinance on February 19, 2013 to adopt the amendments.

D. MMC Subsection 19.902.5.B contains approval criteria for text amendments to the Milwaukie Municipal Code.

i) MMC Subsection 19.902.5.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The amendments are consistent with other provisions of the Milwaukie Municipal Code. The amendments to Subsection 19.304.5 help clarify the connection between Public Area Requirements and the provisions of Chapter 19.700. The other text proposed for amendment involves modifications to existing sections of Subsection 19.304 and Chapter 19.700, and will maintain the consistency between these portions of code and the other provisions of the Milwaukie Municipal Code.

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

There are multiple Comprehensive Plan sections and ancillary documents concerning downtown Milwaukie. The amendments are found to not be applicable or have no appreciable effect on policies or objectives not identified below.

a. *Relevant sections of the Comprehensive Plan are in Chapter 4 –Land Use:*

i. *Residential Land Use and Housing Element – the proposed amendments do not affect any regulations related to dwelling unit capacity or housing design, so the goals and policies of this element are not applicable.*

ii. *Economic Base and Industrial/Commercial Land Use Element, Objective #12, Town Center -*

1. *Policy #2: "Through adoption of the Downtown and Riverfront Land Use Framework Plan, implementing zones and other measures, opportunity for mixed use development will be ensured to establish downtown Milwaukie as a Town Center." The amendments are consistent with the basic policy of encouraging mixed use development and further the policy by facilitating the placement of a variety of uses within downtown.*
2. *Policy #4: "Downtown public improvements will be coordinated with private improvement efforts by local property owners, consistent with the Downtown and Riverfront Public Area Requirements. The aim of all public improvements will be to stimulate and support private investments in the area." The amendments are consistent with this policy in that exempting small project from frontage improvements encourages private investment for utilization of existing storefronts and buildings while maintaining the policy of obtaining public improvements with larger downtown development projects.*

b. *The Milwaukie Downtown Riverfront and Land Use Framework Plan is a Comprehensive Plan ancillary document.*

   i. *Item 1.7, Fundamental Concepts – Main Street "Retail Armature" – the proposed amendments are consistent with the concept of Main Street presented in this plan. The Framework Plan calls for establishing an environment in which people can shop, work, live, and socialize on Main Street. The proposed amendments ensure that retail and restaurant uses will be the predominant uses along the majority of Main St, and that new development would be required to construct space conducive to restaurant and retail uses and include doors and fenestration consistent with this concept. The amendments maintain consistency with the fundamental concept of creating a lively pedestrian street by requiring uses that invite pedestrian activity and maintaining requirements for ground floor windows and doors, having buildings with no street setback, and requiring window views into active areas such as storefront, lobbies, or working areas.*

   ii. *Item 1.9, Key Land Use Features – the amendments are consistent with the statement about revitalizing Main Street by having uses that are predominantly retail and restaurant use.*

   iii. *Item 1.13, Storefront Main Street Area – the proposed amendments are consistent with the vision for this area in that structures are required to be built so as to accommodate retail and restaurant uses, and that the plan includes retail and restaurant uses along Main Street.*

c. *The Downtown Public Area Requirements plan is a Comprehensive Plan ancillary document. The amendments are consistent with this document in that they do not affect or alter the streetscape improvements envisioned for downtown.*

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

The proposed amendments were sent to Metro for comment. Metro did not object to the proposed amendments.

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

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

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

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

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

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

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

19.304.2 Characteristics of the Downtown Zones

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

A. Downtown Storefront (DS)

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

B. Downtown Commercial (DC)

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

C. Downtown Office (DO)

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

D. Downtown Residential (DR)

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

E. Downtown Open Space (DOS)

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

19.304.3 Uses

A. Permitted Uses

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

Table 19.304.3
Downtown Zones—Uses

Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
~~Single-family detached~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office[+]					
~~Automobile service station~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~

Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N
Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Manufacturing and production	L[11]	L[11]	L[11]	L[11]	N
~~Industrial~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~
Other					
~~Adult entertainment~~	~~N~~	~~N~~	~~N~~	~~N~~	~~N~~
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Day care/childcare	L[9]	L[9]	L[9]	L[9]	N
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P
~~Transit centers~~	~~L[9]~~	~~L[9]~~	~~N~~	~~N~~	~~N~~

~~[1] Certain uses are permitted in the Downtown Storefront Zone, but are not allowed in the required retail ground floor use area along Main Street (see Figure 19.304.2 and Subsection 19.304.4.B.7 for details).~~

B. Limited Uses

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

C. Nonconforming Uses

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

D. Prohibited Uses

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

E. Accessory Uses

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

F. Similar Uses

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

G. ~~Limited~~ Uses Limitations

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

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see "Downtown Residential Transition Area ~~Transitional Residential Area~~" on Figure 19.304-1). This limited use provision is intended to provide an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see "Village Concept Area" on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the "Village Concept Area."

2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.

3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with, and accessory to, eating or drinking establishments or retail trade uses. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production. ~~These limited uses may only be developed as part of a mixed use building that supports a primary permitted use (e.g., office, hotel and financial institution).~~

4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.

5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail use~~s~~ may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.

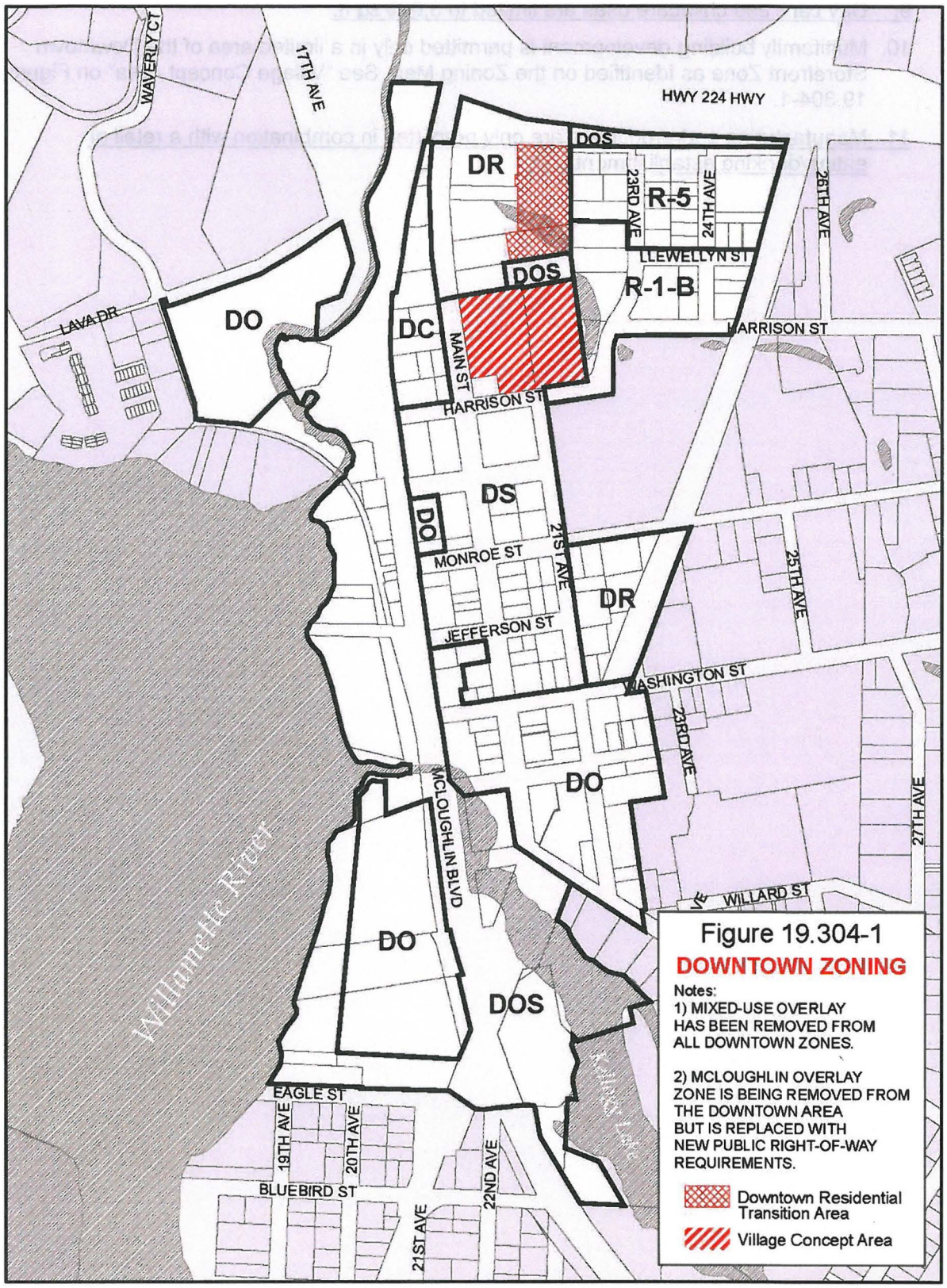
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.

7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.

8. ~~New~~ A new community service use~~s~~, or expansion/alteration of an existing community service use, ~~in the downtown zones~~ may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.

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

9. Day care and childcare uses are limited to 3,000 sq ft.
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.


WAVERLY CT
17TH AVE
HWY 224 HWY
DOS
DR
23RD AVE
R-5
24TH AVE
26TH AVE
LLEWELLYN ST
DOS
R-1-B
LAVA DR
DO
DC
MAIN ST
HARRISON ST
HARRISON ST
DS
DO
MONROE ST
21ST AVE
DR
25TH AVE
JEFFERSON ST
WASHINGTON ST
23RD AVE
DO
MCLOUGHLIN BLVD
27TH AVE
WILLARD ST
Willamette River
DO
DOS
EAGLE ST
19TH AVE
20TH AVE
BLUEBIRD ST
22ND AVE
21ST AVE
Kellogg Lake
Figure 19.304-1
DOWNTOWN ZONING
Notes:
1) MIXED-USE OVERLAY HAS BEEN REMOVED FROM ALL DOWNTOWN ZONES.
2) MCLOUGHLIN OVERLAY ZONE IS BEING REMOVED FROM THE DOWNTOWN AREA BUT IS REPLACED WITH NEW PUBLIC RIGHT-OF-WAY REQUIREMENTS.
Downtown Residential Transition Area
Village Concept Area

19.304.4 Development Standards

A. Purpose

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

Table 19.304.4
Downtown Zones—Development Standards

Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft [1]	None
2. Minimum street frontage	15'	30'	30'	15'/30'[1]	None
3~~2~~. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
4~~3~~. Building height (see Figure 19.304-3)					
Minimum	35′	25′	25′	None	None
Maximum	45′-55′	55′	65′	45′-65′	None
5~~4~~. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
6~~5~~. Street setback (see Figure 19.304-4)					
Minimum	0′	0′	0′	0′	0′
Maximum	10′	50′	10′	None	None
7~~6~~. Other setbacks (side and rear)	None	None	None	15′[2]	None
8~~7~~. Ground-floor retail with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9~~8~~. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10~~9~~. Drive-through facilities	No	No	No	No	No
11~~10~~. Off-street parking required	No	Yes	No/Yes[3]	Yes	Yes
12~~11~~. Landscaping	None	10%	None	15%	20%

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

[2] Setbacks are required only where the DR zone abuts a lower-density residential zone.

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

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

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

Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground-Floor Windows and Openings

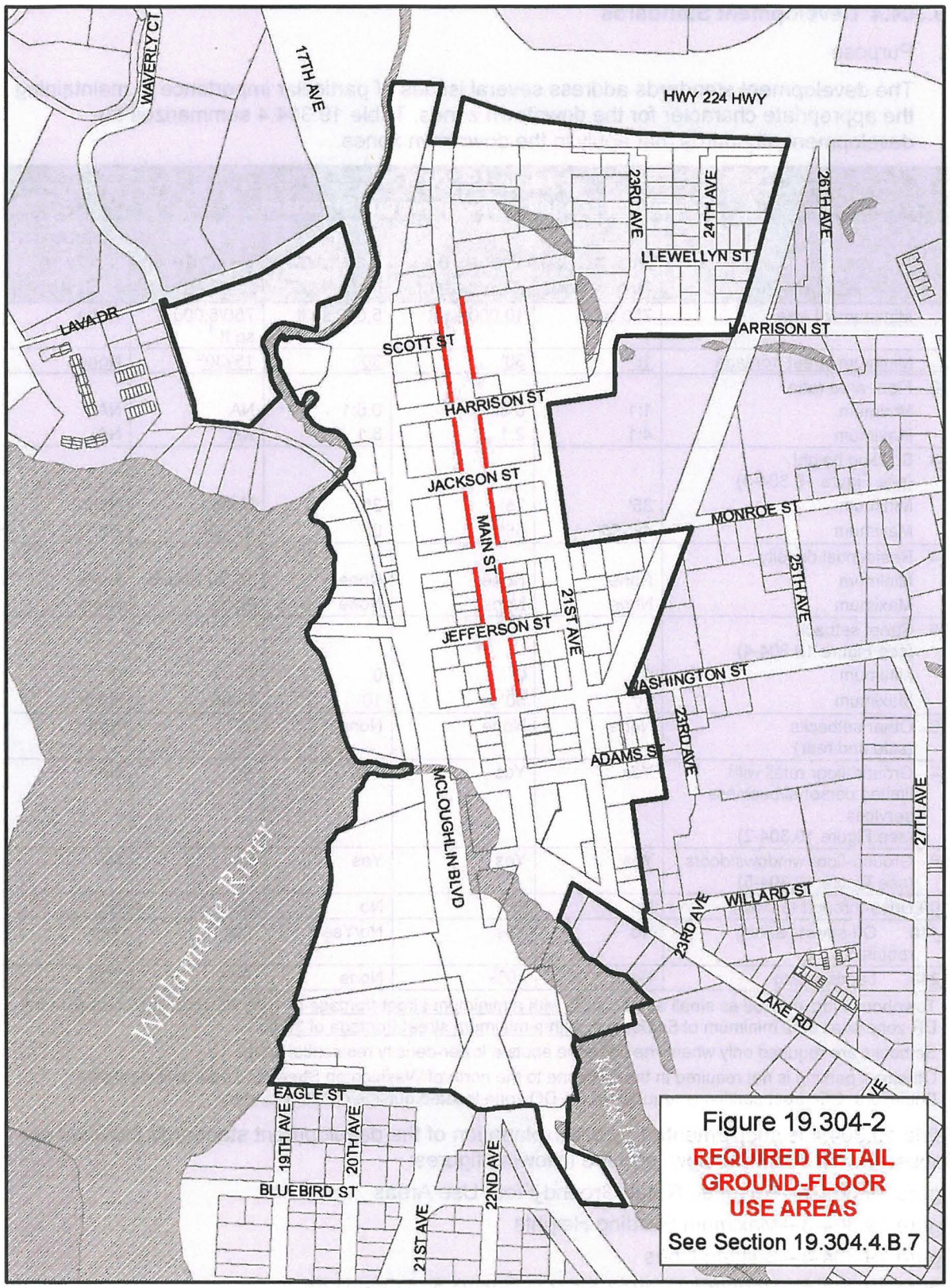
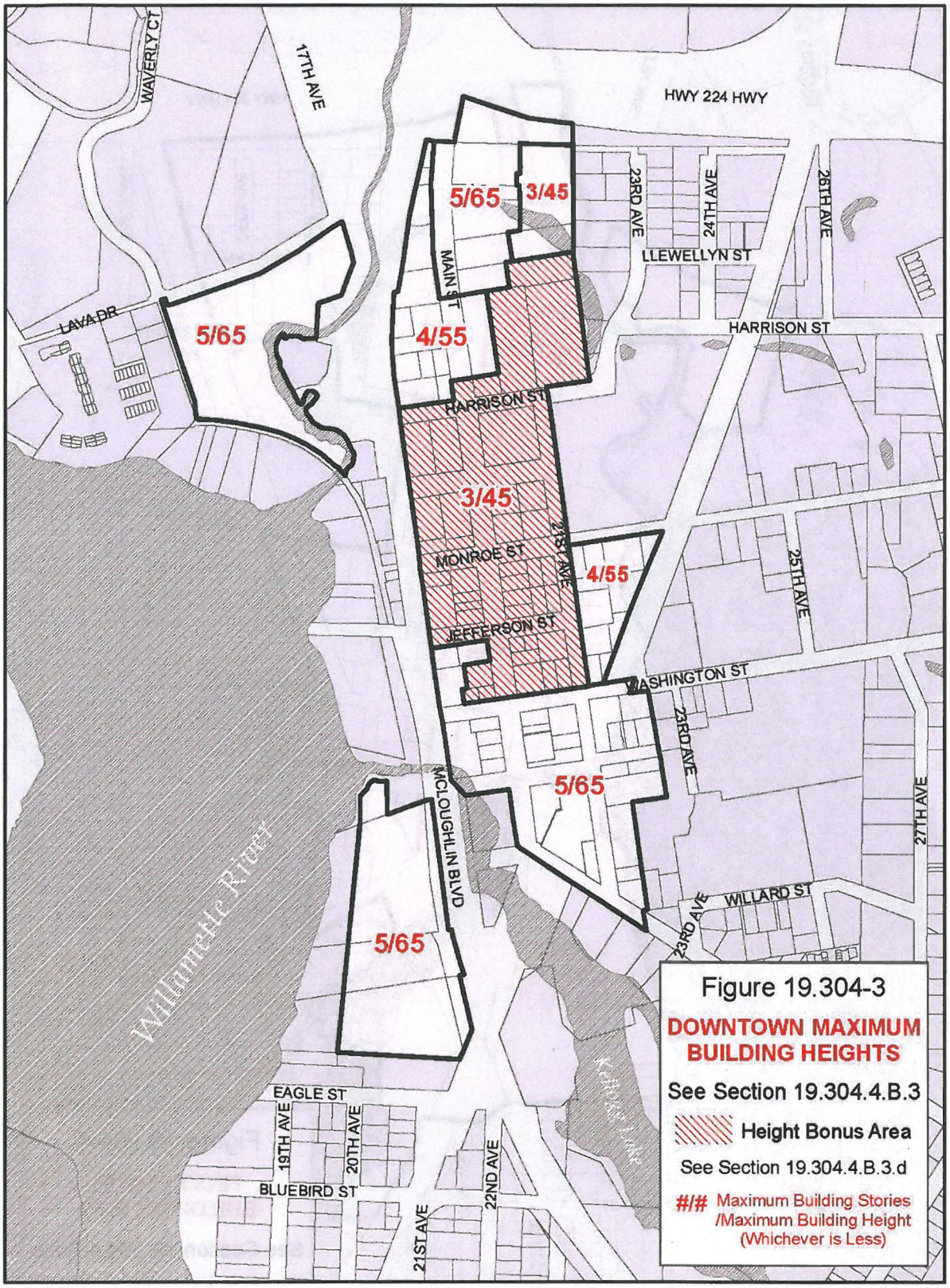


Figure 19.304-2
REQUIRED RETAIL GROUND-FLOOR USE AREAS
See Section 19.304.4.B.7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17TH AVE
HWY 224 HWY
5/65
3/45
23RD AVE
24TH AVE
26TH AVE
LLEWELLYN ST
MAIN ST
LAVA DR
5/65
4/55
HARRISON ST
HARRISON ST
3/45
21ST AVE
MONROE ST
4/55
25TH AVE
JEFFERSON ST
WASHINGTON ST
23RD AVE
5/65
MCLOUGHLIN BLVD
27TH AVE
WILLARD ST
23RD AVE
Willamette River
5/65
EAGLE ST
19TH AVE
20TH AVE
BLUEBIRD ST
22ND AVE
21ST AVE
Kellogg Lake
Figure 19.304-3
DOWNTOWN MAXIMUM BUILDING HEIGHTS
See Section 19.304.4.B.3
Height Bonus Area
See Section 19.304.4.B.3.d
#/# Maximum Building Stories /Maximum Building Height (Whichever is Less)

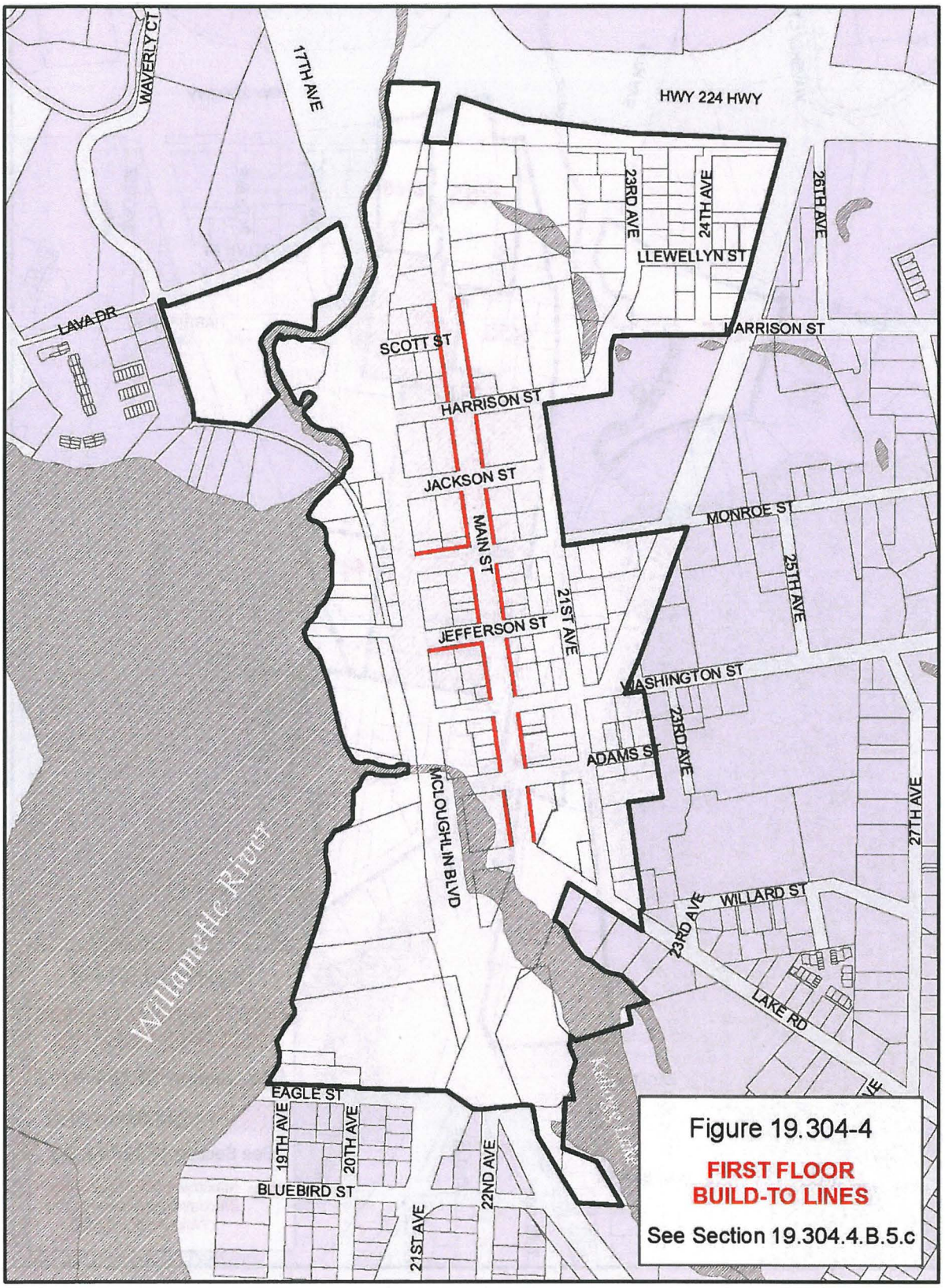


Figure 19.304-4

FIRST FLOOR BUILD-TO LINES

See Section 19.304.4.B.5.c

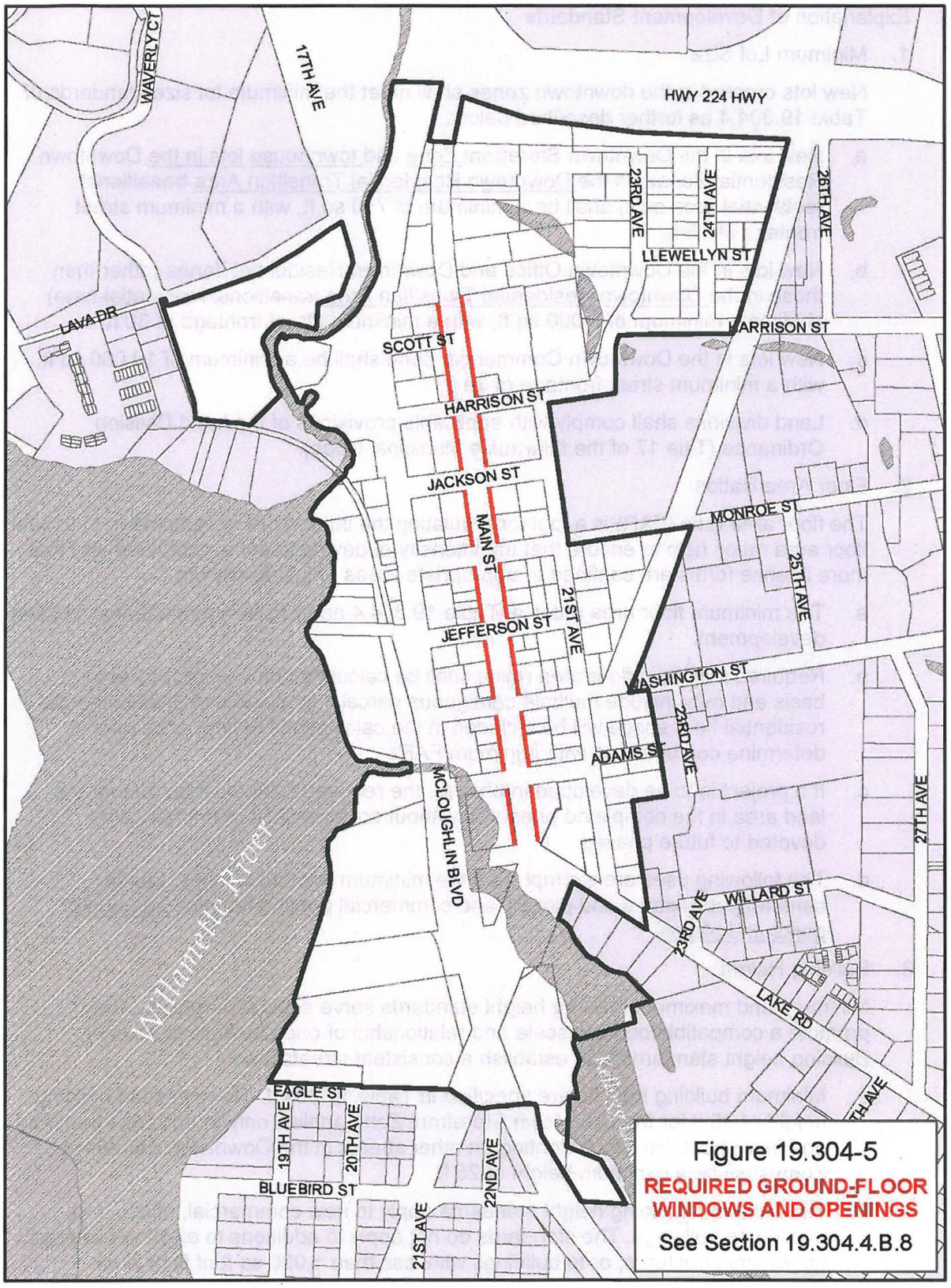


Figure 19.304-5
REQUIRED GROUND-FLOOR WINDOWS AND OPENINGS
See Section 19.304.4.B.8

B. Explanation of Development Standards

1. Minimum Lot Size

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

   a. New lots in the Downtown Storefront Zone and townhouse lots in the Downtown Residential Zone~~s~~ (in the Downtown Residential Transition Area ~~transitional residential area~~ only) shall be a minimum of 750 sq ft, with a minimum street frontage of 15 ft.

   b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area ~~transitional residential area~~) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

   c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.

   d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

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

   a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.

   b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.

   c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.

   d. The following uses are exempt from the minimum floor area ratios: ~~transit centers, public parks and plazas, and~~ commercial parking facilities and public parks and plazas.

3. Building Height

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

   a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.

   b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.

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

4. Residential Density

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

a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.

b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.

c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

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

a. No minimum street setbacks are required in any of the downtown zones.

b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.

c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:

(1) Projections or recesses of up to 18 in are allowed.

(2) Doorways may be set back a maximum of 8 ft from the build-to line.

d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown

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

6. Other Setbacks

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

7. Ground-Floor Retail/Restaurants

Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are limited uses that are allowed to occupy a maximum of 25% of the ground-floor area within these buildings.

New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.

b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

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

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

a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.

b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.

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

9. Drive-Through Facilities

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

10. Off-Street Parking

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

a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.

b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.

c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:

(1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;

(2) The off-street parking area or curb cut is visually screened from view from Main Street; and

(3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

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

a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.

b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the ~~public area requirements~~ Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

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

12. Right-of-Way Projections

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

19.304.5 Public Area Requirements

A. Purpose

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

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

B. Applicability, Review Process, and Standards

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

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

~~C. Review Process~~

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

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

~~D. Street Design Standards~~

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

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

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

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure ~~(including single-family residential expansions as described in Subsection 19.702.2)~~ or a change or intensification in use that results in any one of the following~~:~~. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.

1. A new dwelling unit.
2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.702.3 Downtown Zones

A. Purpose

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

B. Exemptions

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, frontage improvements are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 5 years. The 5-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

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

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 1,500 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.4~~3~~ Exemptions

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

B. Transportation Facility Improvements

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

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

19.703.4 Determinations

B. Street Design

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

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

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

B. Clear Vision

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

C. Development in Downtown Zones

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

D. Development in Non-Downtown Zones

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

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

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

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

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

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

D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2013, the effective date of Ord. # _____.

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

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

19.710.2 Reimbursement Amount

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

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

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

19.710.3 Reimbursement Process

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

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

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

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

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

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2013, the effective date of Ord. # _____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.

Clean Amendments

Zoning Ordinance

CHAPTER 19.300 BASE ZONES

19.304 DOWNTOWN ZONES

19.304.1 Purpose

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

19.304.2 Characteristics of the Downtown Zones

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

A. Downtown Storefront (DS)

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

B. Downtown Commercial (DC)

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

C. Downtown Office (DO)

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

D. Downtown Residential (DR)

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

E. Downtown Open Space (DOS)

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

19.304.3 Uses

A. Permitted Uses

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

Table 19.304.3
Downtown Zones—Uses

Use Categories	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
Residential					
Rowhouse	L[1]	N	N	L[1]	N
Multifamily	L[10]	P	N	P	N
Senior and retirement housing	N	P	N	P	N
Second-floor housing	P	P	P	P	N
Commercial/Office					
Automobile repair	N	L[2]	N	N	N
Commercial recreation	P	P	P	N	N
Eating/drinking establishment	P	P	L[3]	N	N
Financial institution	P	P	P	N	N

Theater	P	P	P	N	N
Hotel/motel	N	P	P	N	N
Office, professional and administrative	L[4]	P	P	L[5]	N
Parking facility	P	P	P	N	L[6]
Personal/business services	L[7]	P	P	L[5]	N
Retail trade	P	P	L[3]	L[5]	N
Manufacturing and production	L[11]	L[11]	L[11]	L[11]	N
Other					
Community service uses	L[8]	L[8]	L[8]	L[8]	L[8]
Day care/childcare	L[9]	L[9]	L[9]	L[9]	N
Marinas, boat ramp	N	N	N	N	P
Parks, plazas, open space	P	P	P	P	P

B. Limited Uses

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

C. Nonconforming Uses

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

D. Prohibited Uses

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

E. Accessory Uses

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

F. Similar Uses

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

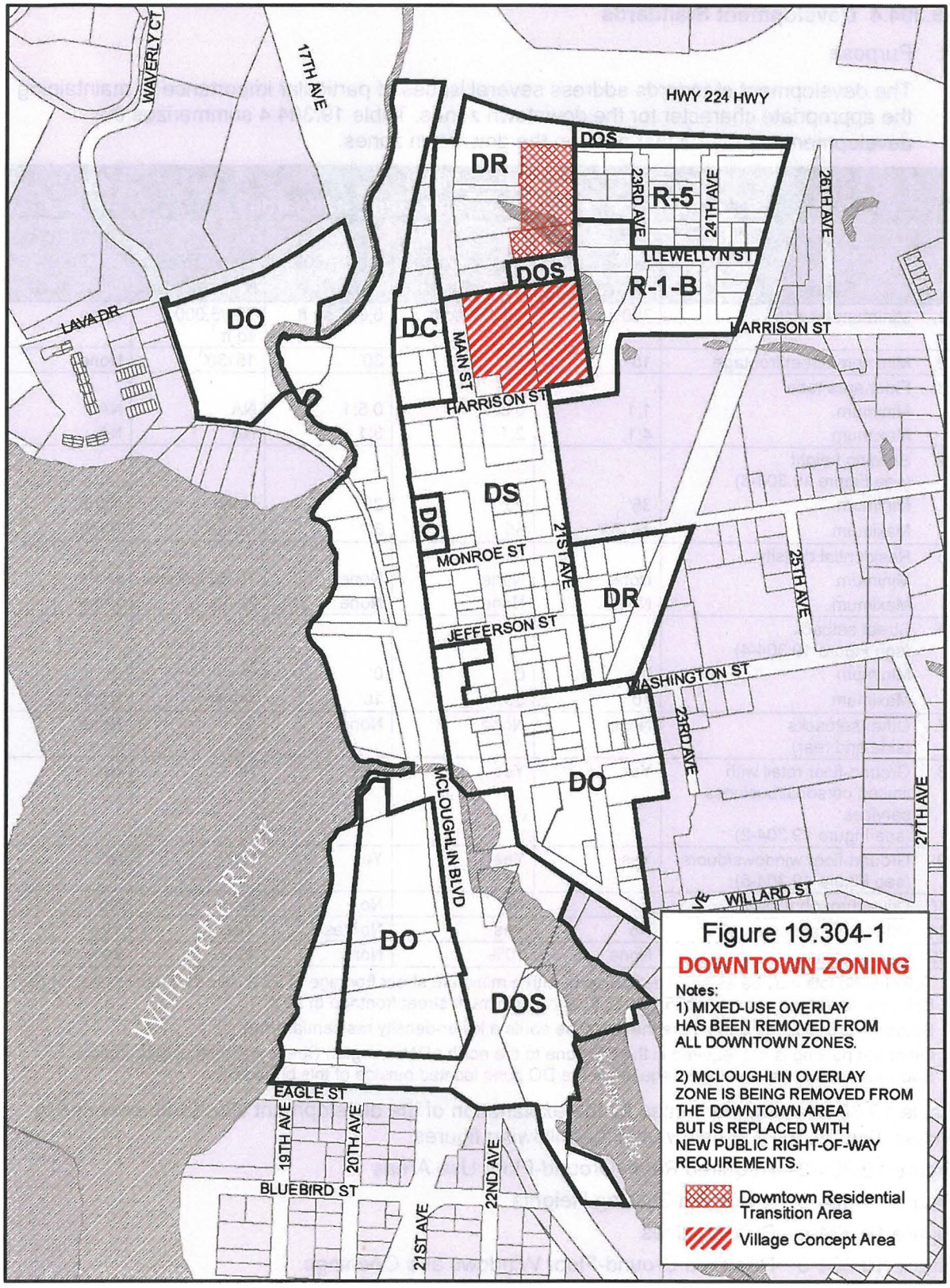
G. Use Limitations

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

1. Townhouse development is permitted only in a limited area of the Downtown Residential Zone as identified on the Zoning Map (see "Downtown Residential Transition Area" on Figure 19.304-1). This limited use provision is intended to provide

an opportunity for owned, attached housing at a minimum density of 10 units per acre. Townhouse development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map (see "Village Concept Area" on Figure 19.304-1). Townhouses shall not be located within 50 ft of the Main Street frontage within the "Village Concept Area."

2. Automobile/motor vehicle repair (excluding body and fender repair and painting) is permitted in the Downtown Commercial Zone when conducted within a completely enclosed building.
3. In the Downtown Office Zone, eating and drinking establishments and retail trade uses are limited to 5,000 sq ft in floor area per use on the ground floor. An additional 5,000 sq ft in floor area per use on the ground floor is allowed for manufacturing or production areas associated with, and accessory to, eating or drinking establishments or retail trade uses. For purposes of this subsection, manufacturing and production involve goods that are sold or distributed beyond or outside of the associated on-site eating or drinking establishment or retail trade use. For example, a brewing facility that distributes or sells its products elsewhere would be considered a manufacturing and production use, while a restaurant kitchen that prepares food that is purchased on-site would not be considered manufacturing or production.
4. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), office uses are only allowed on or above the second floor.
5. Office, personal service, and retail trade uses in the Downtown Residential Zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses in the Downtown Residential Zone are limited to the ground floor; and an individual office, personal service, or retail use may not exceed 5,000 sq ft in floor area. Home occupations are permitted in accordance with Section 19.507 of this title.
6. Parking facilities in the Downtown Open Space Zone are limited to surface lots.
7. In the portions of the Downtown Storefront Zone where ground-floor retail/restaurant uses are required (see Figure 19.304-2), personal/business service uses are limited to a maximum of 25% of the ground floor area of an individual building.
8. A new community service use, or expansion/alteration of an existing community service use, may be permitted if approved under Section 19.904 and shall comply with the development and design standards of this section.
9. Day care and childcare uses are limited to 3,000 sq ft.
10. Multifamily building development is permitted only in a limited area of the Downtown Storefront Zone as identified on the Zoning Map. See "Village Concept Area" on Figure 19.304-1.
11. Manufacturing and production are only permitted in combination with a retail or eating/drinking establishment use.


WAVERLY CT
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25TH AVE
JEFFERSON ST
WASHINGTON ST
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DO
MCLOUGHLIN BLVD
27TH AVE
WILLARD ST
Willamette River
DO
DOS
EAGLE ST
19TH AVE
20TH AVE
BLUEBIRD ST
22ND AVE
21ST AVE
Figure 19.304-1
DOWNTOWN ZONING
Notes:
1) MIXED-USE OVERLAY HAS BEEN REMOVED FROM ALL DOWNTOWN ZONES.
2) MCLOUGHLIN OVERLAY ZONE IS BEING REMOVED FROM THE DOWNTOWN AREA BUT IS REPLACED WITH NEW PUBLIC RIGHT-OF-WAY REQUIREMENTS.
Downtown Residential Transition Area
Village Concept Area

19.304.4 Development Standards

A. Purpose

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

Table 19.304.4
Downtown Zones—Development Standards

Standard	Downtown Storefront	Downtown Commercial	Downtown Office	Downtown Residential	Downtown Open Space
1. Minimum lot size	750 sq ft	10,000 sq ft	5,000 sq ft	750/5,000 sq ft [1]	None
2. Minimum street frontage	15'	30'	30'	15'/30'[1]	None
3. Floor area ratio					
Minimum	1:1	0.3:1	0.5:1	NA	NA
Maximum	4:1	2:1	3:1	NA	NA
4. Building height (see Figure 19.304-3)					
Minimum	35′	25′	25′	None	None
Maximum	45′-55′	55′	65′	45′-65′	None
5. Residential density					
Minimum	None	None	None	10-30 U/Acre	None
Maximum	None	None	None	None	None
6. Street setback (see Figure 19.304-4)					
Minimum	0′	0′	0′	0′	0′
Maximum	10′	50′	10′	None	None
7. Other setbacks (side and rear)	None	None	None	15′[2]	None
8. Ground-floor retail with limited personal/business services (see Figure 19.304-2)	Yes	Yes	Yes	No	No
9. Ground-floor windows/doors (see Figure 19.304-5)	Yes	Yes	Yes	No	No
10. Drive-through facilities	No	No	No	No	No
11. Off-street parking required	No	Yes	No/Yes[3]	Yes	Yes
12. Landscaping	None	10%	None	15%	20%

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

[2] Setbacks are required only where the DR zone abuts a lower-density residential zone.

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

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

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

Figure 19.304-3—Maximum Building Heights

Figure 19.304-4—Build-to Lines

Figure 19.304-5—Required Ground-Floor Windows and Openings

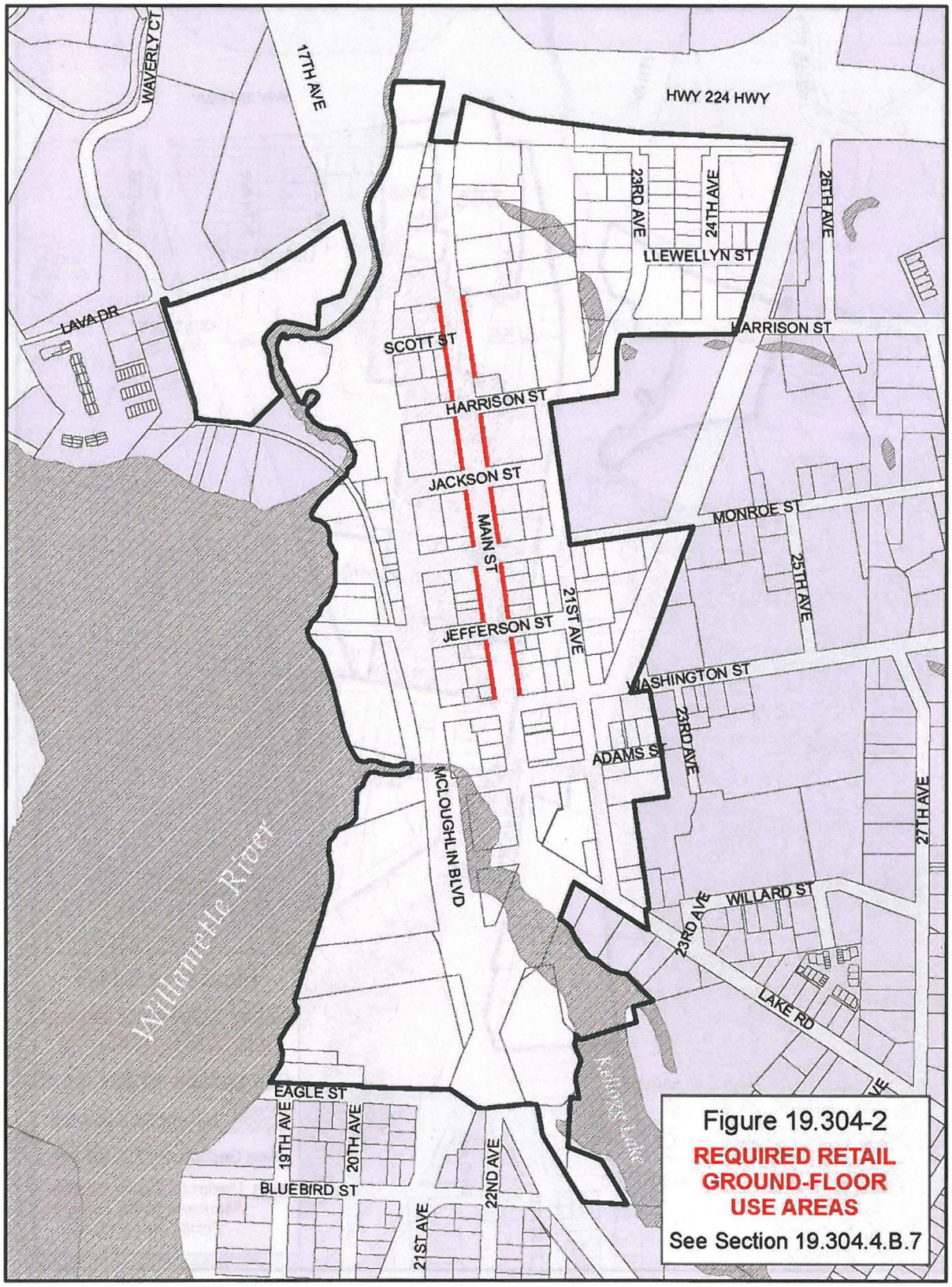
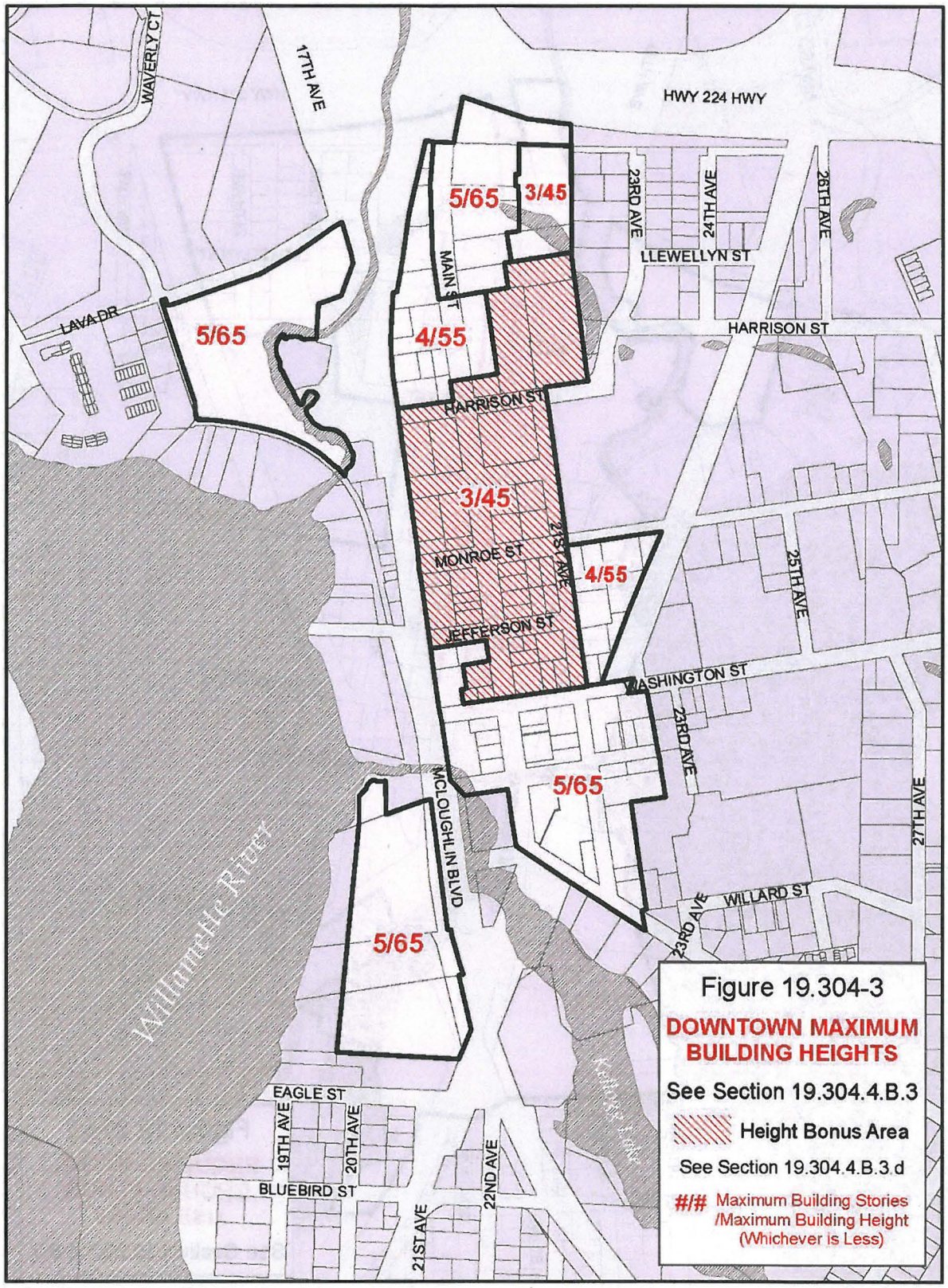


Figure 19.304-2
REQUIRED RETAIL GROUND-FLOOR USE AREAS
See Section 19.304.4.B.7


WAVERLY CT
17TH AVE
HWY 224 HWY
5/65
3/45
23RD AVE
24TH AVE
26TH AVE
LLEWELLYN ST
MAIN ST
LAVA DR
5/65
4/55
HARRISON ST
HARRISON ST
3/45
MONROE ST
21ST AVE
4/55
25TH AVE
JEFFERSON ST
WASHINGTON ST
23RD AVE
5/65
MCLOUGHLIN BLVD
27TH AVE
WILLARD ST
23RD AVE
5/65
Willamette River
EAGLE ST
19TH AVE
20TH AVE
BLUEBIRD ST
22ND AVE
21ST AVE
Figure 19.304-3
DOWNTOWN MAXIMUM BUILDING HEIGHTS
See Section 19.304.4.B.3
Height Bonus Area
See Section 19.304.4.B.3.d
#/# Maximum Building Stories /Maximum Building Height (Whichever is Less)

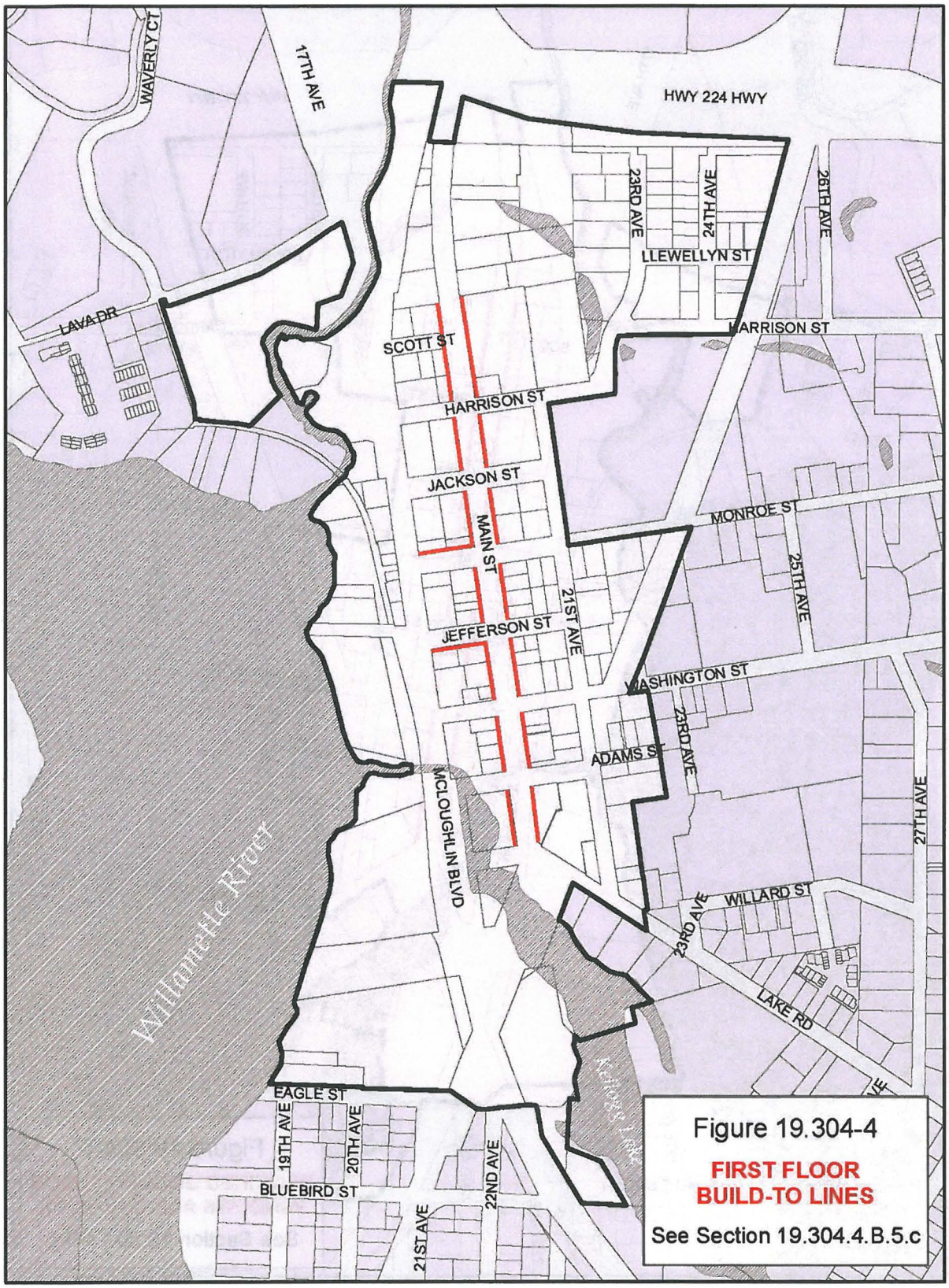


Figure 19.304-4

FIRST FLOOR BUILD-TO LINES

See Section 19.304.4.B.5.c

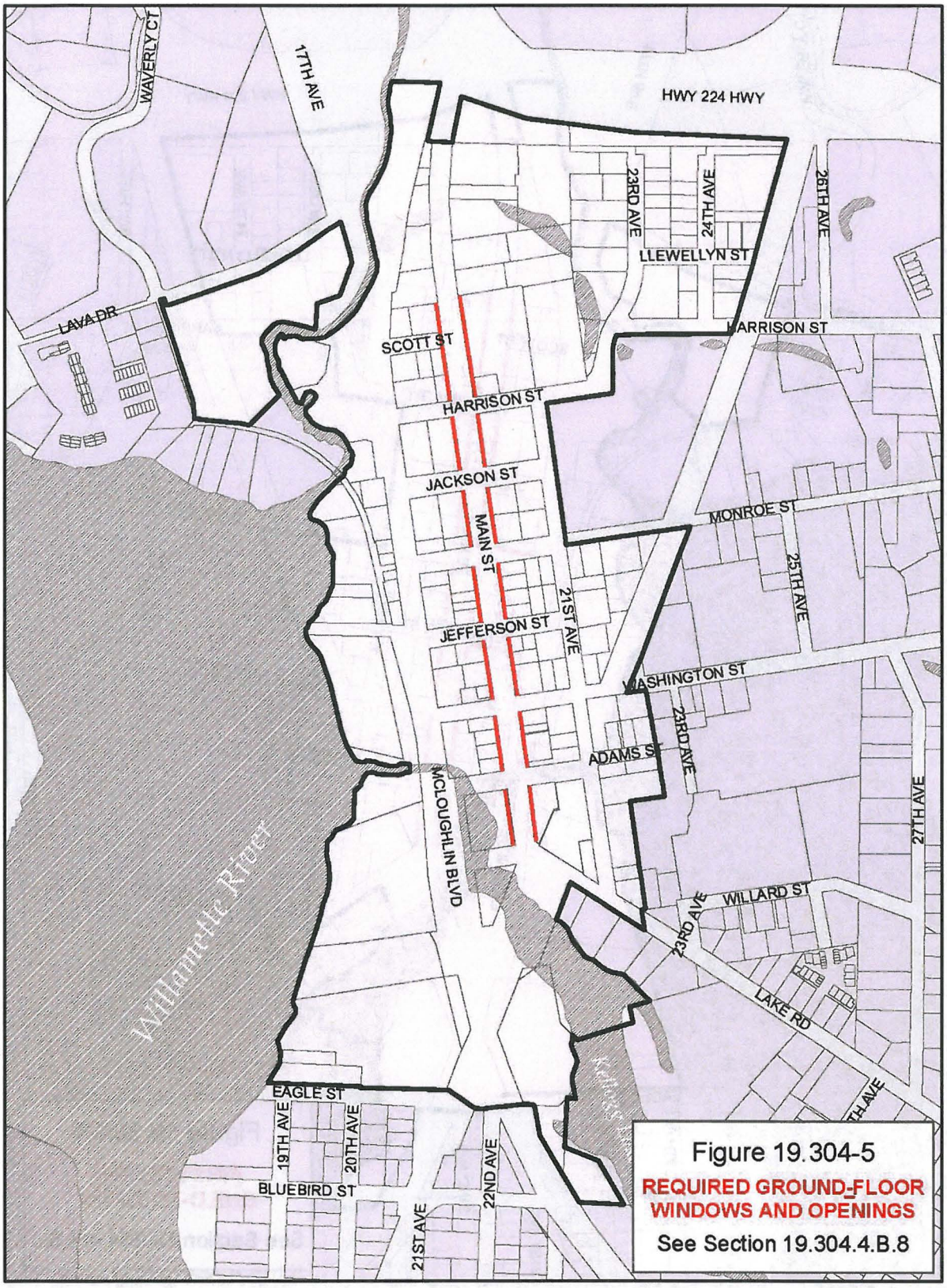


Figure 19.304-5
REQUIRED GROUND-FLOOR WINDOWS AND OPENINGS
See Section 19.304.4.B.8

B. Explanation of Development Standards

1. Minimum Lot Size

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

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

   b. New lots in the Downtown Office and Downtown Residential Zones (other than those in the Downtown Residential Transition Area) shall be a minimum of 5,000 sq ft, with a minimum street frontage of 30 ft.

   c. New lots in the Downtown Commercial Zone shall be a minimum of 10,000 sq ft, with a minimum street frontage of 30 ft.

   d. Land divisions shall comply with applicable provisions of the Land Division Ordinance (Title 17 of the Milwaukie Municipal Code).

2. Floor Area Ratios

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

   a. The minimum floor area ratios in Table 19.304.4 apply to all nonresidential building development.

   b. Required minimum floor area ratios shall be calculated on a project-by-project basis and may include multiple contiguous parcels. In mixed use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.

   c. If a project is to be developed in phases, the required FAR must be met for the land area in the completed phase(s), without consideration of the land area devoted to future phases.

   d. The following uses are exempt from the minimum floor area ratios: commercial parking facilities and public parks and plazas.

3. Building Height

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

   a. Minimum building heights are specified in Table 19.304.4. The minimum building height of 35 ft for the Downtown Storefront Zone applies only to buildings that front on Main Street. Buildings fronting on other streets in the Downtown Storefront Zone shall be a minimum height of 25 ft.

   b. The minimum building height standards apply to new commercial, office, and mixed use buildings. The standards do not apply to additions to existing buildings, accessory structures, or to buildings with less than 1,000 sq ft of floor area.

   c. Maximum building heights are specified in Table 19.304.4 and illustrated on Figure 19.304-3. If there is a conflict between Table 19.304.4 and Figure 19.304-3, the maximum building height provisions of Figure 19.304-3 shall control.

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

4. Residential Density

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

a. Minimum densities for the downtown residential transition area shall be 10 units per acre (see Figure 19.304-1). The maximum density for the residential transition area shall be 30 units per acre.

b. Minimum densities for stand-alone multifamily dwellings and senior/retirement housing in the Downtown Residential and Downtown Commercial Zones shall be 30 units per acre. Maximum residential densities are controlled by height limits.

c. There are no minimum density requirements when residential units are developed as part of a mixed use building in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. The minimum density standards apply only to stand-alone residential buildings. Second-floor housing is allowed in the Downtown Storefront, Downtown Commercial, and Downtown Office Zones. Maximum residential densities for mixed use buildings are controlled by height limits.

5. Street Setbacks

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

a. No minimum street setbacks are required in any of the downtown zones.

b. The downtown zones are exempt from the clear vision area requirements of Chapter 12.24 of the Milwaukie Municipal Code, with the exception of driveway and street intersections with McLoughlin Boulevard.

c. First-floor build-to lines (required zero setbacks) are established for block faces identified on Figure 19.304-4. The build-to line includes a necessary degree of flexibility:

(1) Projections or recesses of up to 18 in are allowed.

(2) Doorways may be set back a maximum of 8 ft from the build-to line.

d. Maximum street setbacks of 10 ft are established for the Downtown Storefront and Downtown Office Zones. The 50-ft maximum setback for the Downtown Commercial Zone applies only to the McLoughlin Boulevard frontage. A build-to line (zero setback) is established for the Downtown Commercial Zone along the Main Street frontage.

6. Other Setbacks

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

7. Ground-Floor Retail/Restaurants

   Retail uses and eating/drinking establishments are required at the ground floors of buildings fronting on Main Street and identified on Figure 19.304-2. This requirement will ensure that continuous retail storefronts and eating/drinking establishments are established and maintained along Main Street, to attract pedestrians and strengthen the shopping environment. When required, the retail uses and/or eating/drinking establishments must comprise at least 75% of the ground floor area of a building. Personal/business services are limited uses that are allowed to occupy a maximum of 25% of the ground-floor area within these buildings.

   New buildings in the required ground-floor active use areas shall be designed and constructed to accommodate active uses such as retail and eating/drinking establishments. This standard is met where no less than 75% of the ground-floor space in a new building fronting Main Street meets the following requirements.

   a. The ground-floor height must be at least 12 feet, as measured from the finished floor to the ceiling, or from the finished floor to the bottom of the structure above (as in a multistory building). The bottom of the structure above is the lowest portion of the structure and includes supporting beams, and any heating, ventilation and/or fire suppression sprinkler systems.

   b. The interior floor area adjacent to Main St. must be at least 25 feet deep, as measured from the inside building wall or windows facing Main Street.

8. Ground-Floor Windows/Doors

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

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

   a. 50% of the ground-floor street wall area must consist of openings; i.e., windows or glazed doors. The ground-floor street wall area is defined as the area up to the finished ceiling height of the space fronting the street or 15 ft above finished grade, whichever is less.

   b. Doors and/or primary entrances must be located on the block faces identified on Figure 19.304-5, and must be unlocked when the business located on the premises is open. Doors/entrances to second-floor residential units may be locked.

   c. Clear glazing is required for ground-floor windows. Nontransparent, reflective, or opaque glazings are not permitted.

   d. Ground-floor windows for buildings on the block faces identified on Figure 19.304-5 shall allow views into storefronts, working areas, or lobbies. No more than 50%

of the window area may be covered by interior furnishings including but not limited to curtains, shades, signs, or shelves. Signs are limited to a maximum coverage of 20% of the window area.

9. Drive-Through Facilities

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

10. Off-Street Parking

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

    a. Development in the Downtown Storefront Zone, and the portion of the Downtown Office Zone located to the north of Washington Street and east of McLoughlin Boulevard, is exempt from the maximum and minimum quantity requirements for vehicle parking in Section 19.605.

    b. With the exception of the two areas identified in Subsection 19.304.4.B.10.a above, standards and provisions of Chapter 19.600 shall apply to development in the downtown zones.

    c. Off-street surface parking lots (including curb cuts) shall not be located within 50 ft of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 ft of the Main Street right-of-way only on the finding in a public hearing that:

       (1) The overall project meets the intent of providing a continuous façade of buildings close to Main Street;

       (2) The off-street parking area or curb cut is visually screened from view from Main Street; and

       (3) The community need for the off-street parking area or curb cut within 50 ft of Main Street outweighs the need to provide a continuous façade of buildings in that area.

11. Minimum Landscaping/Open Space

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

    a. Required landscaping/open space in the downtown zones may include courtyards, roof top gardens, balconies, terraces, and porches.

    b. Where possible, jointly improved landscaped areas are encouraged to facilitate continuity of landscape design. Street trees are required in all downtown zones as outlined in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

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

12. Right-of-Way Projections

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

19.304.5 Public Area Requirements

A. Purpose

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

B. Applicability, Review Process, and Standards

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

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

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

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single-family residential development and development in downtown zones.

1. A new dwelling unit.
2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.702.3 Downtown Zones

A. Purpose

The purpose of the specific exemptions for some types of development in downtown Milwaukie is to encourage new uses in, and revitalization of, existing structures in

downtown and to recognize that the transportation infrastructure in downtown is more complete than in other areas of the city.

B. Exemptions

1. For expansions or conversions that increase the combined gross floor area of all structures by 1,500 sq ft or less, frontage improvements are exempt, as described in the approval criterion of Subsection 19.703.3.B.
2. For changes of use, Chapter 19.700 applies. Frontage improvements for these increases in floor area are exempt, as described in Subsection 19.703.3.B.

C. Limitation to exemptions

No more than 1 exempt increase in gross floor area, as described in Subsection 19.702.3.B.1, is allowed every 5 years. The 5-year period starts from the date the City issues an occupancy permit or final inspection for the expanded or converted development.

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

1. Subsequent development is exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development does not exceed 1,500 sq ft.
2. Subsequent development is not exempt per Subsection 19.702.3.B.1 if the total floor area of the initial development and subsequent development is greater than 1,500 sq ft. Review per Chapter 19.700 is based on all floor areas that are involved with the development.

19.702.4 Exemptions

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

B. Transportation Facility Improvements

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

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

19.703.4 Determinations

B. Street Design

Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708. On-site frontage

improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.1 General Street Requirements and Standards

A. Access Management

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

B. Clear Vision

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

C. Development in Downtown Zones

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

D. Development in Non-Downtown Zones

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

19.710 DOWNTOWN REIMBURSEMENT

19.710.1 Reimbursement Eligibility

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

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

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

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

D. The fee in lieu of construction was paid to the City, or the right-of-way permits for the frontage improvements were issued, between the dates of August 1, 2012, and _____, 2013, the effective date of Ord. #_____.

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

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

19.710.2 Reimbursement Amount

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

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

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

19.710.3 Reimbursement Process

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

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

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

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

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

19.710.4 Time Limit on Reimbursement

Section 19.710 shall be effective for one year from _____, 2013, the effective date of Ord. #_____. On the 365th day after the effective date, this section shall be automatically repealed, no longer part of the Milwaukie Municipal Code, and no longer of any effect within the city.