



Oregon

Kate Brown, Governor

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 24, 2016
Jurisdiction: City of Milwaukie
Local file no.: ZA-2015-003
DLCD file no.: 004-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/23/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 54 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 004-15 {24175}

Received: 5/23/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Milwaukie

Local file no.: **ZA-2015-003**

Date of adoption: May 3, 2016

Date sent: 5/23/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 12/17/15

No

Is the adopted change different from what was described in the Notice of Proposed Change? ☒ Yes ☐ No

If yes, describe how the adoption differs from the proposal:

No parking is required for short term rentals; When the owner/operator is present, short term rentals may be rented to two parties rather than one.

Local contact (name and title): Denny Egner, Planning Director

Phone: 503-786-7654

E-mail: egnerd@milwaukieoregon.gov

Street address: 6101 SE Johnson Creek Blvd

City: Milwaukie

Zip: 97206-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

- Section 19.201 Definitions
- Subsection 19.301.2 Allowed Uses in Low Density Residential Zones
- 19.302.2 Allowed Uses in Medium and High Density Residential Zones
- 19.303.2 Uses (Commercial Mixed-Use Zones)
- 19.304.2 Uses (Downtown Zones)
 - Limited Commercial 19.306 (19.306.1 Uses Permitted Outright; 19.306.2 Conditional Uses Permitted)
 - General Commercial (19.307.1 Uses Permitted; 19.307.2 Conditional Uses Permitted)
- 19.503.1 General Provisions (Accessory Uses)
- 19.507.5 Special Provisions for Specific Uses (Home Occupation Standards)

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts:

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No. 2120

An ordinance of the City Council of the City of Milwaukie, Oregon to amend Title 19 Zoning to allow and regulate short-term rentals, vacation rentals, and bed and breakfasts, and make related changes associated with commercial lodging uses. (File #ZA-2015-003).

WHEREAS, there currently are no authorized commercial lodging facilities in Milwaukie and it is in the public interest to provide more opportunities for lodging;

WHEREAS, community members have expressed a desire for the City to provide greater flexibility and opportunities so that homes can be used for short-term rentals, vacation rentals, and bed and breakfasts;

WHEREAS, on September 23, 2015, the Planning staff held a worksession with owners/operators of local short-term rental businesses and Neighborhood District Association leaders to discuss the topic of short-term rentals;

WHEREAS, the Planning Commission held worksessions on October 13, 2015 and January 12, 2016 to develop and refine a draft proposal for short-term rentals, vacation rentals, bed and breakfasts, and related changes;

WHEREAS, the Planning Commission held a duly-advertised public hearing on the amendments on February 9, 2016, with notice provided per the requirements of the Milwaukie Municipal Code and the Oregon Revised Statutes, and recommended approval; and

WHEREAS, the City Council held a duly-advertised public hearing with notice provided per the requirements of the Milwaukie Municipal Code and the Oregon Revised Statutes.

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

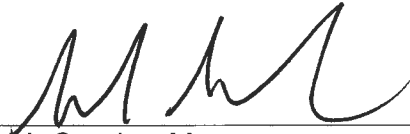
Section 1. Findings. Findings of fact in support of the proposed amendments to Title 19 are attached as Exhibit A.

Section 2. Amendments. Title 19 Zoning is amended as described in Exhibit B (strikeout/underline version) and Exhibit C (clean version).

Read the first time on 4/19/16, and moved to second reading by 4:1 vote of the City Council.

Read the second time and adopted by the City Council on 5/3/16.

Signed by the Mayor on 5/3/16.



Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

Exhibit A

Findings in Support of Approval File ZA-2015-003, Zone Text Amendment for Short Term Rentals, Vacation Rentals, Bed and Breakfasts, and Related Changes

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

1. The applicant, the Milwaukie Planning Director, has applied for a zoning ordinance text amendment (File ZA-2015-003) to generally provide greater flexibility in the code for short term rentals and for various forms of commercial lodging. The amendments add and revise definitions (MMC 19.201), make changes to base zones to specify where short term rentals and commercial lodging uses are permitted, add new home occupation standards for short term rentals (MMC 19.507.5), and allow guest houses to be used as short term rentals (MMC 19.503.1).
2. The proposed amendments make the following changes to base zone requirements:

Uses Allowed by Base Zone				
Base Zone	Short Term Rental	Vacation Rental	Bed and Breakfast	Hotel and Motel
Low Density Residential				
▪ R-10, R-7, R-5	P (adds use)	CU (adds use)	CU (adds use)	N (no change)
Medium Density Residential				
▪ R-3, R-2.5,	P (adds use)	CU (adds use)	CU (no change)	N (no change)
▪ R-2, R-1,	P (adds use)	CU (adds use)	CU (no change)	N (removes use)
▪ R-1-B	P (adds use)	CU (adds use)	CU (no change)	CU (no change)
Mixed Use Zones				
▪ GMU and NMU	P (adds use)	P (adds use)	P (no change)	P (no change)
▪ DMU	P (adds use)	CU (adds use)	P (no change)	P (no change)
Commercial Zones				
▪ C-L	P (adds use)	P (adds use)	P (from CU)	CU (no change)
▪ C-G	P (adds use)	P (adds use)	P (from CU)	P (from CU)
Key: P – Permitted Outright; CU – Conditional Use; N – Not Permitted/Prohibited; Adds Use – New permitted use to be added; Removes Use – Existing permitted use to be prohibited; No change – amendments make no change to existing use status; From CU – Expands permitted uses with a change from conditional use to permitted use				

3. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Section 19.1000 Review Procedures
4. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing before the Planning Commission was held on February 9, 2016 as required by law.
5. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. 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 amendment is proposed by the City of Milwaukie and was initiated by the City Planning Director.
 - b. MMC Section 19.1008 establishes requirements for Type V review.
 - (1) MMC Subsection 19.1008.3.A.1 requires opportunity for public comment and review. Opportunity for public comment and review has been provided. Public notice in the form of email to the Neighborhood District Associations, posted notices, and information on the City website have publicized the Planning Commission's hearing on the proposed amendment to encourage comment by any interested party.
 - (2) MMC 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. A notice of the Planning Commission's February 9, 2016, hearing was posted at City Hall, the Ledding Library, and the City's Johnson Creek Building Offices on January 8, 2016.
 - (3) MMC Subsection 19.1008.3.A.2 requires notice be sent to individual property owners if the proposal affects a discrete geographic area. The Planning Director has determined that the proposal affects a large geographic area. Notice to individual property owners was not provided.
 - (4) MMC Subsection 19.1008.3.B and C require notice of a Type V application to be sent to Metro 45 days prior to the first evidentiary hearing and to the Department of Land Conservation and Development 35 days prior to the first evidentiary hearing. This notice was sent to both Metro and DLCD on December 17, 2015.
 - (5) MMC Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the application would affect the permissible uses of land for those property owners. Given that the proposal will generally expand the range of uses permitted rather than place limits on existing permitted uses, no Measure 56 notices were sent.
 - (6) MMC Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application. The Planning Commission held a duly advertised public hearing on February 9, 2016, and passed a motion recommending that the City Council approve the zoning ordinance text amendment. The City Council held a duly advertised public hearing on April 19, 2016, and approved the text amendment.

6. MMC Section 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.5.A establishes the review process for zoning text amendments.

The code states that changes to Title 19 shall be subject to Type V review per MMC 19.1008.

- b. MMC 19.902.5.B establishes five criteria (listed below) for approval of changes to the zoning ordinance text. The City finds that the approval criteria have been met for the reasons listed below each of the criterion.

- (1) The proposed amendment is consistent with other provisions of the Milwaukie Municipal Code.

The proposed code amendment creates opportunities for lodging in the community. The amendments allow the use of dwelling units for short term rental purposes provided home occupation standards are met. The amendments also allow bed and breakfasts and vacation rentals in low density areas through the conditional use process. Other amendments are intended to eliminate code conflicts and clarify requirements for other commercial lodging uses. The changes have been carefully crafted to not conflict with any provision of the Milwaukie Municipal Code. All other code provisions can operate and be enforced with this change.

- (2) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

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

Relevant goals, objectives, and policies include:

Residential Land Use and Housing Element:

- Objective #4 – Neighborhood Conservation states:

To maximize the opportunities to preserve, enhance and reinforce the identity and pride of existing well-defined neighborhoods in order to encourage the long-term maintenance of the City's housing stock.

- Objective #4 – Policy #5 states:

Within Low Density areas, new projects will maintain a single family building bulk, scale and height when abutting existing single family areas, or when abutting a street where existing single family houses face the project.

Economic Base and Industrial/Commercial Land Use Element:

- Objective #2 – Employment Opportunity states:

To continue to support a wide range of employment opportunities for Milwaukie citizens.

- Objective #2 – Policy #4 states:

The City will support home occupations (income-producing activities in the home) as long as these activities do not detract from the residential character of the area.

- Objective #6 – Commercial Land Use states:

To encourage new commercial uses to locate within designated commercial areas of the City, in order to take maximum advantage of existing access and public facilities serving these areas.

Neighborhood Element:

- The Neighborhood Element Goal Statement reads:
To preserve and reinforce the stability and diversity of the City's neighborhoods in order to attract and retain long-term residents and ensure the City's residential quality and livability.
- Objective #1 Neighborhood Character reads:
To maintain the residential character of designated neighborhood areas.
- Objective #1 - Policy 2 reads:
Improve standards for home occupations to ensure that adequate parking and other compatibility measures are provided.

The relevant goals, objectives, and policies are satisfied for the following reasons:

There are no specific Comprehensive Plan policies or objectives that provide clear guidance regarding whether a newly recognized use such as short-term rentals should be permitted in a given zone. Rather, the policies and objectives speak generally about maintaining the residential character of existing neighborhoods and opportunities for employment and home occupations.

The proposed text amendment provides a community benefit by allowing establishment of short-term rentals as an accessory use through the home occupation process. Allowing short term rentals creates opportunities for residents to operate a home business and provide a needed service for visitors to Milwaukie and the region. Home occupation standards require that the dwelling maintain a residential character and not have a negative impact on surrounding properties. Similarly, the proposal would amend the code to allow bed and breakfasts and vacation rentals to locate in residential zones through the conditional use process. The conditional use process is designed to minimize impacts to the neighborhood and ensure that the use is appropriate for the site.

In addition, the proposal recognizes that it is inappropriate to allow the potential for more intense commercial transient lodging such as hotels and motels to locate in any district that is primarily residential including the R-1 and R-2 high density districts.

For these reasons the proposal is consistent with the following goals, objectives, and policies:

Residential Land Use and Housing Element:

- Objective #4 – Neighborhood Conservation
- Objective #4 – Policy #5

Economic Base and Industrial/Commercial Land Use Element:

- Objective #2 – Employment Opportunity

- Objective #2 – Policy #4

Neighborhood Element:

- The Neighborhood Element Goal Statement
- Objective #1 Neighborhood Character
- Objective #1 - Policy #2

The proposed amendments also make adjustments to the General Commercial (C-G) and Limited Commercial (C-L) zones by clarifying which types of commercial lodging are appropriate as outright permitted uses and which type should be only permitted through the conditional use process. The proposal allows more the intense uses (hotels, motels, and vacation rentals) as outright permitted uses only in the C-G zone – which is one of the City's most permissive commercial zones. The only commercial lodging allowed outright in the C-L zone would be bed and breakfast uses and vacation rentals. These changes are consistent with the following objectives from the Economic Base and Industrial/Commercial Land Use Element of the Comprehensive Plan (Objective #2 – Employment Opportunity and Objective #6 – Commercial Land Use states) for the following reasons:

- *Commercial lodging uses provide opportunities for employment; and*
- *The proposal results in these uses being located in commercial districts where they can take advantage of existing access and public facilities.*

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

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

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

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

Statewide Planning Goal 10 - Housing is addressed in detail in finding #7 below. The proposed amendments do not trigger review under any other state statutes or administrative rules. The changes affect commercial lodging requirements in the City and provide opportunities for individuals to provide short term rentals on residential properties within the community. Vacation rentals and bed and breakfast facilities will be allowed through the conditional use process. Demand for these types of facilities is expected to be limited and will have little or no impact on housing supply. The conditional use process provides a means of ensuring that the bed and breakfasts and vacation rentals do not proliferate to the point of having a negative effect on the community.

The amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that any development resulting from the proposed

amendments are small in scale and demand is limited. The primary nature of the changes proposed will allow scattered single family homes in the community to operate as short term rentals through the home occupation process. Under current code language, these properties have the opportunity to be used for home occupations that could conceivably generate higher levels of traffic than what would be expected as a short term rental. Nothing in the code prevents personal service use as a home occupation. These types of uses generally involve numerous trips to and from a business location on a daily basis. Given that home occupations are allowed today, the proposal does not create the opportunity for any more vehicle trips than are currently allowed.

- (5) The proposed amendment is consistent with relevant federal regulations.

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

7. The following findings are in response to testimony regarding Statewide Planning Goal 10. The City received a letter dated February 9, 2016 from Land Housing Advocates expressing concern that the City had not adequately addressed Statewide Planning Goal 10 in its analysis of the proposed code text amendments. In essence, the letter implies that allowing short term rentals and vacation rentals will diminish the supply of housing in Milwaukie by allowing conversion of housing to commercial lodging.

The City's response follows and includes the following findings:

- a. Rentals provide income to allow people to afford housing. Anecdotal evidence demonstrates that the rental income that is gained through short term rentals allows individuals to afford to own their homes. On February 9, 2016, two individuals testified before the Planning Commission, that revenue from short-term rentals made their housing affordable. This is a point that is also made in many articles about short-term rentals on the internet.
- b. Short-term rentals will have a very small impact on the Milwaukie housing market. In a February 12 email to Milwaukie Planning Director Dennis Egner, Philip Nameny, the City of Portland's planner managing the Portland's short term rental program, estimates that there are approximately 1500 total units being offered as short-term rentals within the Portland city limits. Of the 1500 units, just over 1/3 (about 550) have been processed as legal units. The legal units represent less than a fraction of one percent (0.2%) of the total number of housing units in Portland (265,000 dwelling units

in 2010). If we assume a similar proportion of legal units in Milwaukie, we can expect to have about 18 legal short term rental properties in Milwaukie based on Milwaukie's 9,138 dwellings (2010 census). This small number is within the margin of error for any housing forecasts that have been done for the City of Milwaukie by Metro (see finding 7.e. below).

Local governments, including Milwaukie, have no control over how many short-term rental operators choose to go through the process of getting the required permits for their rentals. Illegal units will always exist and can only be managed through very labor intensive enforcement. The internet brokers (Airbnb and VRBO) have no incentive to assist local governments in the enforcement of local regulations since they get their payments regardless of whether the operation is legal or not.

- c. Vacation rental conversion is likely to be rare and will not impact housing supply significantly. The City's proposal will allow short-term rentals as home occupations for residential dwellings throughout the community. The proposal requires that a resident occupy the home with the short-term rental use for no less than 270 days per year. The proposal also includes provisions for establishing vacation rentals where the owner/occupant is absent or is there for less than 270 days per year. In these cases, an applicant must go through a conditional use process with a required public hearing before the planning commission and public notice sent to surrounding properties. Given the involved process that would be required for a vacation rental conditional use and the overall expected low demand based on the number of short-term rentals in Portland, the impact of vacation rentals on the Milwaukie housing supply is expected to be minimal.
- d. Milwaukie is a small, slowly growing, suburban community with limited growth potential. According to Portland State University population estimate, the City of Milwaukie had a population of 20,485 in 2014. The official year 2000 US census population count for the City was 20,490. Essentially, Milwaukie has seen no population growth for almost 15 years. Over a similar time frame, the number of households in Milwaukie has increased by just over 200 from 8,561 in the year 2000 to 8,764 in 2013. In addition, the number of housing units increased from 8,988 in the year 2000 to 9,095 in 2013 – an increase of only 107 units (Data source: 2000 US Census and the 2013 American Community Survey).

There are a few reasons for Milwaukie's slow growth over the past 13 to 15 years. These include:

- The community is built out. For the most part, Milwaukie is built out and the only development that can occur is through infill and redevelopment.
- The City limits are confined by existing development. Almost all of the land within the City's urban service boundary with Clackamas County is already developed with a full range of urban services including urban levels of water, sewer, park and recreation, and fire protection service provided by special districts. There is no incentive for these properties to annex to the City and redevelop.

- Opportunities for infill development are limited. The majority of the infill opportunities in the city are through small lot partitions that allow the creation of one or two flag lots in the backyard of an existing single family home.
 - Redevelopment opportunities are constrained by market forces. The City recently conducted the Moving Forward Milwaukie project to reexamine commercial zoning in the downtown and central Milwaukie. As part of that project, an economic feasibility analysis examined five redevelopment sites downtown and two in central Milwaukie. The study found that rents in Milwaukie were too low for properties to redevelop without some form of development assistance.
- e. Metro forecasts predict household growth in Milwaukie over the next 25 years. Metro is in the process of updating its forecasts for transportation analysis zones (TAZs). In January 2016, City staff submitted comments to Metro staff regarding preliminary forecasts. Preliminary Metro forecasts for Milwaukie TAZs are included below (note that TAZs do not follow city boundaries exactly):
- | | |
|-----------------------------|--------|
| ▪ 2010 Milwaukie Households | 9,470 |
| ▪ 2015 Milwaukie Households | 9,472 |
| ▪ 2040 Milwaukie Households | 11,068 |
| ▪ 2015-2040 Change in HHs | 1,596 |

The forecast indicates a 17% increase in housing units over the 25-year period. The Metroscope econometric model allocates households to different jurisdictions around the region based on a number of factors including economic factors and land availability. This forecast assumes an increase of approximately 64 households per year over the time period. Despite the lack of development over the past 15 years, this does not seem like an unrealistic number given the City's proximity to downtown Portland and the close-in commute. The key will be to have a strong redevelopment program that can help bridge the financial gaps identified in the Moving Forward Milwaukie study.

- f. The City is preparing a housing needs analysis and updating its comprehensive plan. The background section of housing element of the City of Milwaukie Comprehensive Plan was last updated in the late 1990s. It provides little reliable data that can be used to address housing needs in 2016. Recognizing this, the City of Milwaukie has hired a consultant team to assist the City with a new housing needs analysis that will serve as the basis for updating the housing element of the comprehensive plan. The plan update is envisioned as a three-year process and will include policy analysis and potential map revisions. The upcoming housing needs analysis and corresponding plan amendments will ensure that Milwaukie's diverse housing needs are met well into the future.
- g. There are no legal commercial lodging units in Milwaukie. The City has no record of any legal commercial lodging units within the Milwaukie city limits. There are no hotels or motels and no bed and breakfast establishments. Based on testimony from operators of short-term rentals, there is demand for rentals in Milwaukie and the

renters who occupy short-term rentals help support the local economy by shopping locally and visiting local restaurants.

Conclusion

The City finds that statewide planning Goal 10 is satisfied by the proposal given that there is relatively low demand in Milwaukie for short term rentals and vacation rentals and that the impact on the housing supply will be small. In addition, the majority of rentals made available for visitors will be short-term rentals rather than vacation rentals and in these cases, the short-term rental will help make the residence more affordable for the owner/occupant. Finally, short-term rentals will have the positive impact of bringing visitors to Milwaukie to spend money in local shops and restaurants.

Underline/Strikeout Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Bed and breakfast" means a hosted form of commercial lodging within a residence. It is similar to a short-term rental, but where on any given evening, lodging rooms are available for rental or rented by three or more different parties. Generally, some food service is provided with lodging.

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-family unit. Lodging capacity is subject to provisions of the Uniform Building Code.

"Hotel" means a commercial building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is usually made for cooking in any individual room or suite.

"Motel or tourist court" means 1 or more commercial buildings designed or used as temporary living quarters for transients.

"Rooming house." See "boarding house."

"Vacation rental" means a housing unit that is rented out to a single party for a period of less than 30 days in length where there are no primary occupants or where the residents who occupy the unit do so for less than 270 days per year. A vacation rental is considered a form of commercial lodging. It is a primary use and is more commercial in nature than a short-term rental.

Residential Uses and Structures:

"Short-term rental" means a housing unit, an accessory dwelling unit, or a room (or rooms) within a housing unit that is rented out for lodging for a period of less than 30 days in length. A short-term rental is an accessory use to a primary residence and allowed as a home occupation where the residence must be occupied by the owner or operator for no less than 270 days per year. A short-term rental may be hosted (where the primary occupants are present on-site during the rental) or unhosted (where the primary occupants vacate the unit or site during the rental period). For hosted rentals, occupancy is limited to no more than 2 different parties per site at a time (see "bed and breakfast" for rentals to more than 2 parties). For unhosted rentals, occupancy is limited to 1 rental party per site at a time. Short-term rental operators may offer meals to lodgers.

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

19.301.2 Allowed Uses in Low Density Residential Zones

Table 19.301.2 Low Density Residential Uses				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Commercial Uses				
Bed and breakfast or Vacation rental	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Section 19.905 Conditional Uses</u>
Accessory and Other Uses				
Short-term rental	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

19.302.2 Allowed Uses in Medium and High Density Residential Zones

Table 19.302.2 Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Boarding, lodging, and rooming house	CU	CU	CU	CU	CU	<u>Section 19.905 Conditional Uses</u>
Commercial Uses						
Hotel or motel	N	N	<u>CU N</u>	<u>CU N</u>	CU	<u>Section 19.905 Conditional Uses</u>
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	<u>Section 19.905 Conditional Uses</u>
Accessory and Other Uses						
Short-term rental	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>

19.303 COMMERCIAL MIXED-USE ZONES**19.303.2 Uses**

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
<u>Boarding house</u>	<u>CU</u>	<u>CU</u>	Section 19.905 Conditional Uses
Commercial			
Commercial lodging Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month. Examples include hotels, motels, <u>vacation rentals</u> , and bed-and-breakfast establishments. Does not include senior and retirement housing.	P	P	
<u>Boarding, lodging, or rooming house</u> Boarding, lodging, or rooming house generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied. Examples include boarding house and cooperative housing.	<u>CU</u>	<u>CU</u>	Section 19.905 Conditional Uses
Accessory and Other			
<u>Short-term rentals</u>	<u>P</u>	<u>P</u>	Section 19.507 Home Occupation Standards

19.304 DOWNTOWN ZONES

19.304.2 Uses

Table 19.304.2 Downtown Zones—Uses			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
Residential			
<u>Boarding house</u>	<u>CU</u>	<u>N</u>	<u>Section 19.905 Conditional Uses</u>
Commercial			
Commercial lodging Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month. Examples include hotels, motels, <u>vacation rentals</u> , and bed-and-breakfast establishments. Does not include senior and retirement housing.	<u>P/CU</u>	<u>N</u>	<u>Section 19.905 Conditional Uses (for vacation rentals only)</u>
Boarding, lodging, or rooming house Generally means a private home where lodgers rent one or more rooms for one or more nights, and sometimes for extended periods of weeks, months, and years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied. They normally provide "bed and board," that is, at least some meals as well as accommodation.	<u>CU</u>	<u>N</u>	<u>Section 19.905 Conditional Uses</u>
Accessory and Other			
<u>Short-term rentals</u>	<u>P</u>	<u>P</u>	<u>Section 19.507 Home Occupation Standards</u>

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

G. Bed and breakfast;

H. Vacation rental;

I. Short-term rental when associated with a legally-permitted dwelling unit;

~~H.~~J. Any other use similar to the above and not listed elsewhere.

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

N. Hotels and motels;

~~NQ.~~ Any other use similar to the above and not listed elsewhere.

19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

Z. Hotels, motels, vacation rentals, and bed and breakfasts;

AA. Short-term rentals when associated with a legally permitted dwelling unit;

~~Z.~~AB. Any other use similar to the above and not listed elsewhere.

19.307.2 Conditional Uses Permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

G. High-impact commercial businesses, except adult entertainment businesses; hotels and motels are permitted uses (see Subsection 19.307.1.Z);

19.503 ACCESSORY USES

19.503.1 General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

- A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling and may be used as a short-term rental, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.
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19.507 HOME OCCUPATION STANDARDS

19.507.5 Special Provisions for Specific Uses

Short-term Rentals. A short-term rental is an accessory use to a primary residence and allowed as a home occupation provided the following provisions are met:

- A. The residence must be occupied by the owner or a primary operator for not less than 270 days per year.

Proposed Code Amendment

- B. Unhosted rentals (where the primary occupants vacate the unit or site during the rental period) are limited to no more than 95 days per year.
 - C. If a dwelling on a property with an accessory dwelling unit is being used for short-term rental purposes, either the primary residence or the accessory dwelling unit must be occupied by the property owner for not less than 270 days per year.
 - D. A property in a low-density residential zone or any property with a duplex is limited to having 1 short-term rental operating at any given time period.
 - E. At any given time, no more than 2 rental parties (i.e. under 2 separate reservations) shall occupy a dwelling unit used for short-term rental purposes.
 - F. Building code and fire code standards must be met.
 - G. The operator of a short term rental shall register with the City and comply with all relevant requirements of Title 5 of the Milwaukie Municipal Code. The registration process will be used to verify that all code provisions have been satisfied. The right to operate the short-term rental business may be revoked if the owner or operator fails to comply with these provisions or any other home occupation standards.
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Clean Amendments

Zoning Ordinance

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

"Bed and breakfast" means a hosted form of commercial lodging within a residence. It is similar to a short-term rental, but where on any given evening, lodging rooms are available for rental or rented by three or more different parties. Generally, some food service is provided with lodging.

"Boarding house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-family unit. Lodging capacity is subject to provisions of the Uniform Building Code.

"Hotel" means a commercial building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is usually made for cooking in any individual room or suite.

"Motel" means 1 or more commercial buildings designed or used as temporary living quarters for transients.

"Rooming house." See "boarding house."

"Vacation rental" means a housing unit that is rented out to a single party for a period of less than 30 days in length where there are no primary occupants or where the residents who occupy the unit do so for less than 270 days per year. A vacation rental is considered a form of commercial lodging. It is a primary use and is more commercial in nature than a short-term rental.

Residential Uses and Structures:

"Short-term rental" means a housing unit, an accessory dwelling unit, or a room (or rooms) within a housing unit that is rented out for lodging for a period of less than 30 days in length. A short-term rental is an accessory use to a primary residence and allowed as a home occupation where the residence must be occupied by the owner or operator for no less than 270 days per year. A short-term rental may be hosted (where the primary occupants are present on-site during the rental) or unhosted (where the primary occupants vacate the unit or site during the rental period). For hosted rentals, occupancy is limited to no more than 2 different parties per site at a time (see "bed and breakfast" for rentals to more than 2 parties). For unhosted rentals, occupancy is limited to 1 rental party per site at a time. Short-term rental operators may offer meals to lodgers.

CHAPTER 19.300 BASE ZONES

19.301 LOW DENSITY RESIDENTIAL ZONES

19.301.2 Allowed Uses in Low Density Residential Zones

Table 19.301.2 Low Density Residential Uses				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Commercial Uses				
Bed and breakfast or Vacation rental	CU	CU	CU	Section 19.905 Conditional Uses
Accessory and Other Uses				
Short-term rental	P	P	P	Section 19.507 Home Occupation Standards

19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES

19.302.2 Allowed Uses in Medium and High Density Residential Zones

Table 19.302.2 Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Boarding house	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Commercial Uses						
Hotel or motel	N	N	N	N	CU	Section 19.905 Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Accessory and Other Uses						
Short-term rental	P	P	P	P	P	Section 19.507 Home Occupation Standards

19.303 COMMERCIAL MIXED-USE ZONES**19.303.2 Uses**

Table 19.303.2 Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Residential			
Boarding house	CU	CU	Section 19.905 Conditional Uses
Commercial			
Commercial lodging Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month. Examples include hotels, motels, vacation rentals, and bed and breakfast establishments. Does not include senior and retirement housing.	P	P	
Accessory and Other			
Short-term rentals	P	P	Section 19.507 Home Occupation Standards

19.304 DOWNTOWN ZONES**19.304.2 Uses**

Table 19.304.2 Downtown Zones—Uses			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
Residential			
Boarding house	CU	N	Section 19.905 Conditional Uses
Commercial			
Commercial lodging Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month. Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments. Does not include senior and retirement housing.	P/CU	N	Section 19.905 Conditional Uses (for vacation rentals only)
Accessory and Other			
Short-term rentals	P	P	Section 19.507 Home Occupation Standards

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- G. Bed and breakfast;
 - H. Vacation rental;
 - I. Short-term rental when associated with a legally-permitted dwelling unit;
 - J. Any other use similar to the above and not listed elsewhere.
-

19.306.2 Conditional Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- N. Hotels and motels;
 - O. Any other use similar to the above and not listed elsewhere.
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19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

- Z. Hotels, motels, vacation rentals, and bed and breakfasts;
 - AA. Short-term rentals when associated with a legally permitted dwelling unit;
 - AB. Any other use similar to the above and not listed elsewhere.
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19.307.2 Conditional Uses Permitted

In a C-G Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- G. High-impact commercial businesses, except adult entertainment businesses; hotels and motels are permitted uses (see Subsection 19.307.1.Z);
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19.503 ACCESSORY USES

19.503.1 General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

- A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling and may be used as a short-term rental, provided that the guesthouse is not occupied for more than 4 months in a calendar year. A detached accessory dwelling unit approved per Subsection 19.910.1 is not considered a guesthouse.
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19.507 HOME OCCUPATION STANDARDS

19.507.5 Special Provisions for Specific Uses

Short-term Rentals. A short-term rental is an accessory use to a primary residence and allowed as a home occupation provided the following provisions are met:

- A. The residence must be occupied by the owner or a primary operator for not less than 270 days per year.
 - B. Unhosted rentals (where the primary occupants vacate the unit or site during the rental period) are limited to no more than 95 days per year.
 - C. If a dwelling on a property with an accessory dwelling unit is being used for short-term rental purposes, either the primary residence or the accessory dwelling unit must be occupied by the property owner for not less than 270 days per year.
 - D. A property in a low-density residential zone or any property with a duplex is limited to having 1 short-term rental operating at any given time period.
 - E. At any given time, no more than 2 rental parties (i.e. under 2 separate reservations) shall occupy a dwelling unit used for short-term rental purposes.
 - F. Building code and fire code standards must be met.
 - G. The operator of a short term rental shall register with the City and comply with all relevant requirements of Title 5 of the Milwaukie Municipal Code. The registration process will be used to verify that all code provisions have been satisfied. The right to operate the short-term rental business may be revoked if the owner or operator fails to comply with these provisions or any other home occupation standards.
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