



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to direct staff to file a General Amendment application to amend the Downtown Overlay District
Staff:	Rita Tungare

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development (8/12/13)		City Council

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Background:

In 2006, the City adopted new zoning regulations which established the Downtown Overlay Zoning District. The overlay is not simply a “retail-only” district, but rather limits the type of businesses that can occupy a first floor/street level space to businesses that are expected to generate pedestrian activity. The intent of the Overlay is “to preserve economic vitality and the pedestrian character of the downtown’s shopping core.”

The ordinance provides a staff-level exemption process based on specific findings by the Community Development Director. To date, staff has granted 4 of 9 formal exemption requests and 2 properties were removed from the Overlay by rezoning. In all situations, the petitioner was interested in office use occupying the space.

In 2011 and 2012, staff presented concerns about the impact that granting too many exemptions could have on the long term success of building a downtown shopping core. In 2012, the Committee decided to hold off on discussing any changes until the Comprehensive Plan process was completed.

Staff would like to receive some preliminary direction about how the Overlay District could be modified. Based on direction from the Committee, staff will prepare to file the appropriate zoning application(s) for formal review by Plan Commission and Planning and Development Committee.

Update of Discussion from P&D meeting in March 2013:

In March, staff presented three concepts for feedback from the P&D Committee: 1) Shrinking the overlay district by removing properties at the fringes; 2) Changing the district regulations to permit office uses that generate pedestrian traffic; and 3) Breaking the district into three smaller clusters.

The consensus of the Committee in March was that their primary concern was vacancies on Main Street and they expressed an interest in allowing for office uses that generate pedestrian traffic to locate on Main Street. Staff has outlined a revised proposal for the Committee’s feedback.

Attachments: *(please list)*

Proposal to modify the Downtown Overlay District; Background Memo regarding the Downtown Overlay District; Comprehensive Plan section addressing the Downtown Overlay District

Recommendation / Suggested Action *(briefly explain):*

Recommendation to direct staff to file a General Amendment application to amend the Downtown Overlay District.

For office use only:

Agenda Item Number: 3d

**Proposal to modify the Downtown Overlay District
For August 2013 Planning and Development Committee Feedback**

- Do not modify the Overlay District boundaries.
 - Keep the boundaries intact to enable the district regulations to be adjusted in the future without the need to add or remove property.

- Expand the permitted use list to include some office uses for first floor tenant spaces fronting on Main Street only.
 - Can be a temporary change with an end date, or a permanent change.
 - Office uses can be limited to those with known to generate daytime population/pedestrian traffic (such as a medical office use).
 - Consider a City Council review process for businesses (e.g. offices) that are not permitted but may meet the intent of the overlay (for example, a specific office use will meet the purpose of the overlay district by generating daytime population/pedestrian traffic).

- Revise the exemption criteria.
 - Consider allowing exemptions to the Overlay District restrictions for building(s) that were historically constructed for office or bank use.
 - Consider establishing a City Council appeal process for exemptions (appeal to be based on the information presented in support of the exemption).

Pros:

- Requires only a General Amendment, no rezoning of properties.
- Would likely reduce vacancies in visible Main Street storefronts.
- Potential for more daytime population/pedestrian traffic and customers for existing businesses. (Office and restaurant uses are complementary in terms of peak hours for customers, parking)
- Allows the market to decide if retail will out-bid office uses.
- Could be easily reversed in the future, or a specific date to reassess the restrictions can be set.

Cons:

- May limit the future potential of a retail concentration in downtown by allowing for breaks in retail/pedestrian activity.
- Prominent spaces envisioned for retail use may be occupied by office type uses for significant period of time.
- May be difficult to effectively distinguish between office uses that generate daytime population/pedestrian traffic.
- Difficult to monitor when office tenants change, due to lack of regulatory framework/oversight.
- City cannot force office uses to convert to retail use after the space is occupied. Office uses would be subject to non-conformity provisions and can remain office use until unoccupied for period of 180 days.
- May be difficult to draft defensible criteria for any City Council consideration of exemptions/appeals.

Office uses with typically generate daytime population/pedestrian traffic:

- Medical and dental offices, counseling, therapy, etc.
- Office-based service uses that are open to walk-in customers, including insurance offices, travel agency, financial planning/consultation, real estate/mortgage broker, law offices

Offices uses that generate limited pedestrian traffic:

- Primarily administrative offices/data processing/call centers
- Offices without regular walk-in customers
- Offices that are not open to the public

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MEMO

TO: Chairman Dan Stellato
And the Planning and Development Committee

FROM: Rita Tungare, Director of Community Development

CC: Russell Colby, Planning Division Manager

RE: Background on the Downtown Overlay District

DATE: July 29, 2013

BACKGROUND

In 2006, the City adopted a completely new Zoning Ordinance, which included a zoning “overlay” district within the downtown to “preserve economic vitality and the pedestrian character of the downtown’s shopping core.” The Downtown Overlay District (often incorrectly referred to as the “Retail Only” district) limits the type of businesses that can locate in the first floor/street level spaces to a set of businesses that generate pedestrian activity.

The concept of a “Retail Only” district within the downtown was discussed and promoted by the Downtown Partnership for a number of years prior to 2006.

Business uses allowed on the First Floor in the Downtown Overlay District:	Business uses not allowed on the First Floor, but allowed on the 2nd floor and elsewhere in Downtown:
Art Gallery/Studio	Business and Professional Office
Theater	Medical/Dental Office
Indoor Recreation	Bank
Hotel	Financial Institution (such as mortgage service)
Personal Services (Salons, Funeral Home, Tailor, Pet Grooming, Dry Cleaner, etc)	
Retail	
Restaurant	
Tavern	

EXISTING BUSINESSES

A number of banks, offices and other uses no longer permitted on the first floor within the Downtown Overlay District existed at the time the ordinance went into effect in 2006. Those businesses were considered “legal non-conforming”, meaning the business can continue to operate and may be replaced by the same business (bank replacing a bank, for example), as long as the space does not stay vacant for more than 180 days. After 180 days of the business leaving the site, any new business that moves into the location must be one listed on the Downtown Overlay District first floor use list.

EXEMPTIONS TO THE OVERLAY DISTRICT

The Downtown Overlay District provides for an exemption to the business restrictions in only very limited circumstances. The criteria to be considered are solely based on the physical characteristics of a given tenant space. A finding must be made by the Director of Community Development that the space is “Unsuitable for occupancy for any of the first floor uses permitted in the Downtown Overlay District”, and that altering the space to make it suitable for the permitted uses would either:

1. Be inconsistent with Historic Preservation requirements, OR,
2. Impose an undue financial burden on the property owner (cost exceeding 25% of building value)

Criteria that may be considered in making this determination:

- Inappropriate placement, size, or orientation of doors or windows
- A floor level which is not of a similar elevation to the adjoining sidewalk
- Lack of window area for display of goods
- Lack of street frontage
- Interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility

EXEMPTION REQUESTS

Over the past three years, the Community Development Department has received multiple inquiries from property owners and brokers regarding whether a given tenant space can be exempted from or removed from the Downtown Overlay District. Most who have contacted the City have stated that the only prospective tenants interested in their property are office users and that they have not had any interest from retailers.

Potential issues with the Exemption standards:

- Many downtown buildings could potentially qualify for an exemption based on physical characteristics. For example, a converted residential building in Century Corners could be exempted because the building was originally designed with a first floor elevated above the sidewalk and without an accessible entrance. Once one type of building has been granted an exemption, all similar buildings could be eligible for the same exemption.
- The Exemption standards do not take into account the marketability of a given tenant space at a given time. Some tenant spaces may be isolated from any “retail” or similar service uses, which may make the property unmarketable to a retail use.
- Granting multiple exemptions to the Overlay District undermines the purpose of the district, which is to build a concentrated core of pedestrian-oriented businesses.

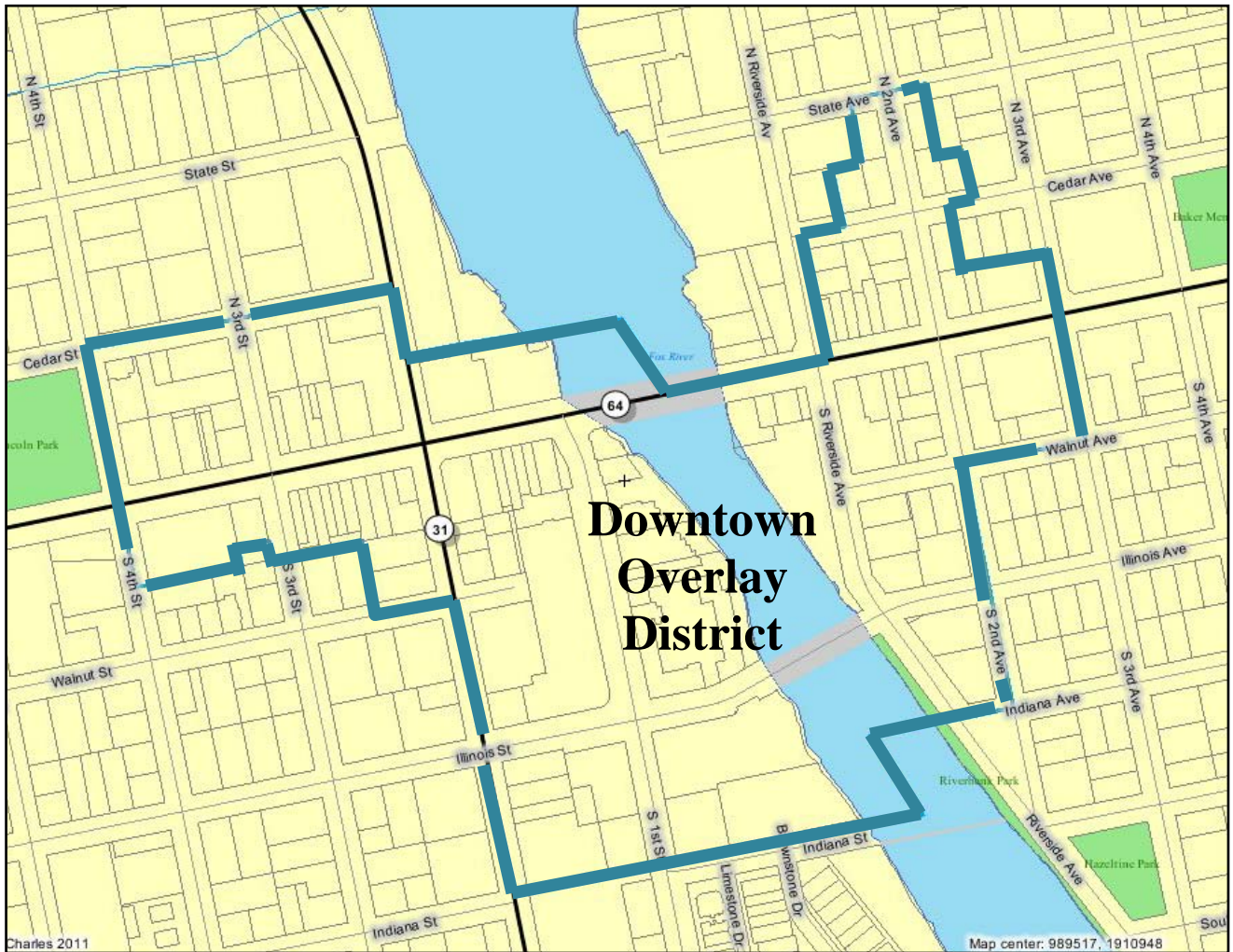
Other issues to consider:

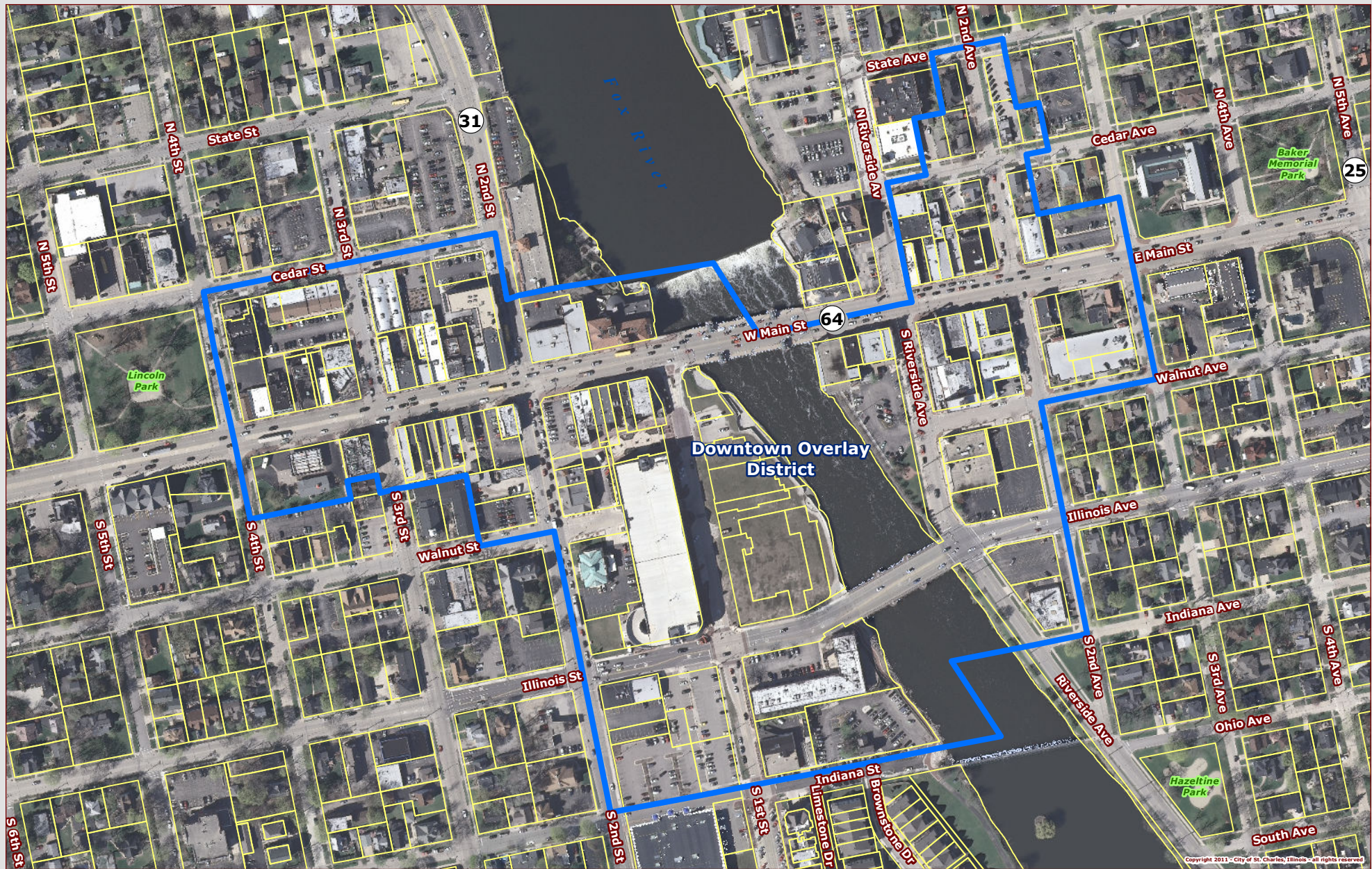
- The Downtown Overlay District is part of the Zoning Ordinance of the City and is subject to legal requirements. Decisions on exemptions generally have to be made by the City Council or the Director of Community Development, based on specific, objective criteria.
- Changes to the Downtown Overlay District would require an amendment to the City’s Zoning Ordinance. Amendments to the Zoning Ordinance require legal review, a Plan Commission public hearing and recommendation, and City Council review and approval.

Attachments:

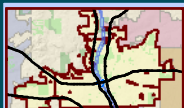
- Maps of the Downtown Overlay District
- Chapter 17.14 of the Zoning Ordinance
- Definition of Office uses in the Zoning Ordinance

Map of the Downtown Overlay District Boundaries







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North American Datum 1983
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 Downtown Overlay District  Parcels

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Downtown Overlay District

Except from the St. Charles Zoning Ordinance Title 17, Chapter 17.14 “Business and Mixed Use Districts”

17.14.010 Purpose Statements

F. Downtown Overlay District

The purpose of the Downtown Overlay District is to preserve the economic vitality and pedestrian character of downtown’s shopping core within the CBD-1 and CBD-2 Districts by encouraging the continuous flow of pedestrian movement. This is accomplished by limiting uses on the first floor that typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area. Only those uses listed in Table 17.14-1 shall be permitted on the street level or first floors of buildings/structures within the Downtown Overlay District.

17.14.020 Permitted and Special Uses; Downtown Overlay Exemptions

Table 17.14-1 lists permitted and special uses for the business districts, and for the first floor level of the Downtown Overlay District.

Buildings within the Downtown Overlay District are restricted with respect to the uses permitted on the first floor level, as provided in Table 17.14-1. Notwithstanding these restrictions, the first floor level of a building within the Downtown Overlay District may be occupied for any use permitted within the underlying zoning district (i.e., CBD-1 or CBD-2), upon certification by the Director of Community Development that its physical characteristics make it unsuitable for occupancy for any of the first floor uses permitted within the Downtown Overlay District, and that altering such physical characteristics would either 1) be incompatible with the purpose of Chapter 17.32 (Historic Preservation) of this Title, or 2) impose an undue financial burden on the property owner. Such physical characteristics may include but shall not be limited to: Inappropriate placement, size or orientation of doors or windows, a floor level which is not of a similar elevation to the adjoining sidewalk, lack of window area for display of goods, lack of street frontage, and interior space which is not adaptable to the permitted uses because of structural components or limitations on accessibility. For purposes of this section, an undue financial burden shall mean where the estimated cost of altering the building exceeds 25% of the current appraised value of the property.

Downtown
Overlay
District

BUSINESS AND MIXED USE DISTRICTS

TABLE 17.14-1 PERMITTED AND SPECIAL USES								
P=Permitted Use S=Special Use A=Permitted Accessory Use SA=Special Use, Accessory Only	ZONING DISTRICT						SPECIFIC USE STANDARDS	
	BL	BC	BR	CBD-1	DOWNTOWN OVERLAY FIRST FLOOR			CBD-2
					CBD1	CBD2		
RESIDENTIAL USES								
Artist Live/Work Space				P			P	Section 17.20.030
Assisted Living Facility		S		S			P	
Dwelling, Upper Level	P			P			P	
Dwelling Unit, Auxiliary							P	Section 17.20.030
Dwelling, Multi-Family				P			P	
Dwelling, Townhouse							P	
Dwelling, Two-Family							P	
Dwelling, Single-Family	P						P	
Group Home, Large							P	Section 17.20.030
Group Home, Small							P	Section 17.20.030
Independent Living Facility							P	
CULTURAL, RELIGIOUS, RECREATIONAL AND ENTERTAINMENT USES								
Art Gallery/Studio	P	P	P	P	P	P	P	
Carnival (as temporary use)		P	P	P				Section 17.20.040, 050
Cultural Facility		P	P	P	P	S	S	
Indoor Recreation and Amusement		P	P	P	P	S	S	
Live Entertainment		P	P	P	P			
Lodge or Private Club	P	P	P	P				
Outdoor Amusement			S					
Outdoor Recreation		P	P					
Park, Neighborhood	P			P	P	P	P	
Place of Worship	P	P	P	P			P	
Public Plaza	A	A	A	P	P	P	P	
Temporary Outdoor Entertainment	A	A	A	P	P			Section 17.20.030
Theater		P	P	P	P	P		
GOVERNMENTAL AND INSTITUTIONAL USES								
College/University		P	P	S				
Emergency Medical Center			P					
Fairground			S					
Golf Course			S					
Homeless Shelter				S			S	
Hospice							S	
Hospital			P					
Library				P			P	
Office, Government		P		P			P	
Post Office		P	P	P			P	
Public Service Facility		P	P	S				
School, Specialized Instructional	P	P	P	P			P	
School, Primary or Secondary							P	
RETAIL AND SERVICE USES								
Bank	P	P	P	P			S	Section 17.20.030
Bed and Breakfast				P			P	Section 17.20.030
Car Wash		S	P					Section 17.24.100
Currency Exchange		P	P	S				
Day Care Center	P	P	P	S			P	
Drive-Through Facility	S	S	S	SA			SA	Section 17.24.100
Financial Institution	P	P	P	P			P	
Gas Station		P	P					Section 17.20.030
Heavy Retail and Service		P	S					
Home Improvement Center		P	P					
Hotel/Motel		P	P	P	P			

BUSINESS AND MIXED USE DISTRICTS

TABLE 17.14-1 PERMITTED AND SPECIAL USES ZONING DISTRICTS								
P=Permitted Use S=Special Use A=Permitted Accessory Use SA=Special Use, Accessory Only	BL	BC	BR	CBD-1	DOWNTOWN OVERLAY FIRST FLOOR		CBD-2	SPECIFIC USE STANDARDS
					CBD1	CBD2		
					Kenel			
Medical/Dental Clinic	P	P	P	P			P	
Motor Vehicle Rental	P	P	P				P	
Motor Vehicle Service and Repair, Minor	P	P	P					Section 17.20.030
Motor Vehicle Sales and Leasing		P	P					Section 17.20.030
Office, Business and Professional	P	P	P	P			P	
Outdoor Sales, Permanent	SA	SA	SA	S	S			Section 17.20.030
Outdoor Sales, Temporary	A	A	A	A	A		A	Section 17.20.040, 050
Pawn Shop			S					
Personal Services	P	P	P	P	P	P	P	
Coffee or Tea Room	A	P	P	P	P	A	A	
Restaurant	S	P	P	P	P			
Retail Sales	P	P	P	P	P	P	P	
Tattoo Parlor			S					
Tavern/Bar	S	P	P	P	P			
Theater		P	P	P	P			
Veterinary Office/Animal Hospital		P	P					
INDUSTRIAL/STORAGE USES								
Mini-Warehouse		P	P					
Temporary Motor Vehicle Storage		P	P					Section 17.20.030
OTHER USES								
Accessory Uses	A	A	A	A	A	A	A	Chapter 17.20, 17.22
Parking Garage/Structure			A	S	S	S	SA	Chapter 17.24
Parking Lot, Private	A	A	A	A	A	A	A	Chapter 17.24
Parking Lot, Public				P	P	P	P	Chapter 17.24
Planned Unit Development	S	S	S	S	S	S	S	Chapter 17.04
Transportation Operations Facility		S	P	S				
Communication Tower		S	S					Section 17.22.020
Communication Antenna	P	P	P	P			P	Section 17.22.020
Utility, Community/Regional		S	S				S	
Utility, Local	P	P	P	P	P	P	P	
Wind Turbine, Structure Mounted	A	A	A					Section 17.22.020.G
Wind Turbine, Tower Mounted		S	S					Section 17.22.020.H

(Ord. 2011-Z-11 § 2; Ord. 2008-Z-24 § 4, 5; Ord. 2008-Z-3 § 2; Ord. 2003-Z-13 § 4, 6, 7; Ord. 2001-Z-42 § 1; Ord. 2001-Z-40 § 1; Ord. 2001-Z-11 § 2, 3; Ord. 1999-Z-20 § 1; Ord. 1998-Z-19 § 1; Ord. 1996-Z-12 § 11-13; Ord. 1995-Z-5 § 1; Ord. 1993-Z-19 § 4; Ord. 1993-Z-4 § 1 (B, D); Ord. 1990-Z-7 § 1; Ord. 1989-Z-6 § 1; Ord. 1986-Z-11 § XI; Ord. 1986-Z-4; Ord. 1985-Z-2 § 1; Ord. 1984-Z-6 § 2; Ord. 1984-Z-4 § 1; Ord. 1984-Z-3 § 1; Ord. 1983-Z-9 § 1; Ord. 1982-Z-3 § 1; Ord. 1982-M-16 § 1; Ord. 1981-Z-7 § 2; Ord. 1981-Z-3 § 1; Ord. 1980-Z-13 § 1; Ord. 1980-Z-3 § 1; Ord. 1978-Z-3; Ord. 1976-Z-15 § 2; Ord. 1975-Z-8 § 1; Ord. 1973-Z-1 § 1; Ord. 1972-Z-56 § 1, 2; Ord. 1972-Z-46 (A, B, C (part)); Ord. 1968-31 (part); Ord. 1967-14 (part); Ord. 1966-33 § 1, 2; Ord. 1961-29; Ord. 1960-18 § VIII (E) (2); Ord. 1960-16 § VIII (F) (2, 3); Ord. 1960-16 § VIII (E) (3); Ord. 1960-16 § VIII (D) (2, 3); Ord. 1960-16 § VIII (C) (2, 3); Ord. 1960-16 § VIII (B) (2).)

Definitions of office type uses in the Zoning Ordinance

Bank. An establishment such as a bank, savings bank, or credit union that offers financial services including maintaining checking and savings accounts, and issuing loans and other credit. Investment and other financial services may be provided as part of a bank's range of services. This use is distinct from Financial Services Institution, which does not offer checking and savings accounts.

Financial Institution (G). An establishment, the principal use or purpose of which is the provision of financial services including, but not limited to, mortgage companies and investment services. Financial Institution shall not include currency exchanges, banks, credit unions, and savings banks.

Office, Government (G). An office of a local, State or Federal government organization. This use is distinct from a Public Service Facility, as defined herein.

Office, Business or Professional (G). An office used for business, professional or administrative uses, which may or may not offer services to the public, and is engaged in the processing, manipulation or application of business information or professional expertise. This use may include as accessory uses, facilities not available for use by the general public such as meeting facilities, employee amenities such as exercise rooms, and food service. This use does not involve the fabricating, assembling, warehousing, or repair of physical products, and does not include Medical/Dental Clinics, Financial Institutions or Professional Training Centers.

Medical/Dental Clinic. A medical or dental office or clinic offering professional medical or dental services primarily on an out-patient basis. Such services may include examination and consultation, treatment, surgery, radiology, MRI, on-site testing laboratories, physical therapy, diagnostic services, training, administration, and other services to patients provided by licensed medical or dental professionals. This use includes facilities licensed by the State of Illinois as ambulatory surgical treatment centers. This use does not include a Hospital as defined herein or a facility licensed by the State of Illinois as an emergency center under the Emergency Medical Services (EMS) Systems Act.

Downtown Improvement Plan

Fox River. The Fox River was the focus of the City's initial settlement and today remains a focal point of the community. The Fox River corridor provides a scenic setting, relief from the urban environment, and a number of other tangible and intangible benefits. The City should continue working with the Park District to realize the established vision and enhance public access to the river.

Downtown Retail Overlay District. The Downtown Overlay District is intended to preserve the economic vitality and pedestrian character of Downtown's shopping core by limiting uses on the first floor that "typically generate relatively little pedestrian activity or are otherwise incompatible with a pedestrian oriented shopping area." While this is an admirable objective, defining "typical" can result in missed opportunities. In addition, while all successful and vibrant downtowns have a large component of retail, they are also characterized by a varying mix of uses that generate activity at all periods of the day. Furthermore a detailed market analysis conducted as part of this process found that key retail categories are fairly saturated within the Downtown's trade area. Given the number of vacancies Downtown, along with current market and economic conditions, the City should consider relaxing use restrictions in the District to fill storefronts on a temporary basis until demand for downtown retail space is stronger.

Gateways. While streetscaping in Downtown distinguishes this part of the City from other areas, the differences can be subtle to a casual observer and the edges of Downtown are not well demarcated. Given the importance of Downtown, the City should install gateway features at key entry points, that are integrated to the extent possible, with redevelopment of prominent parcels and highly visible locations. Gateway features consisting of signage, lighting, and landscaping should complement the existing streetscape and announce entry into Downtown St. Charles.

Wayfinding. Wayfinding should continue to be provided throughout Downtown, and additional opportunities for signage and new community destinations identified. Guidance should be provided to important downtown sites such as Pottawatomie Park, historic Main Street, and other local landmarks (public and private), and supporting functions such as public parking lots and structures or visitors information.

Pedestrian Friendly Streets. Downtown must be able to efficiently and safely move vehicles, bicycles, and pedestrians. Given the combination of a pedestrian-oriented environment, the Fox River, Main Street/IL Route 64, and the function of Downtown St. Charles as a regional attraction, effectively balancing a number of transportation related functions can be challenging. Truck traffic on Main Street/IL 64 and Geneva Road/IL 31 impacts Downtown St. Charles by placing loud and slow moving vehicles on the corridors. This is further exacerbated by the grooved concrete roads that provide the traction necessary due to the sloping terrain, creating noise and vibrations that impact the pedestrian atmosphere. The City should continue to explore solutions to this issue, including working with IDOT on changing the road surfaces; identifying a local re-route that would remove truck traffic off a portion of these streets; or identifying bypass routes that would remove truck traffic entirely from the Downtown. The preferred alternative should balance net impact with costs and influences on other areas of the City and region.

Parking. Parking management is an important issue in Downtown St. Charles. Unlike a commercial corridor like Randall Road where surface parking predominates, providing convenient access to store entries, parking in a downtown is subtly provided for the "area" by both the City and local businesses. Parking is currently located strategically throughout Downtown, on the street, in public and private surface lots, and two parking structures that have recently been built to accommodate demand. The City should continue to provide parking strategically in all areas of Downtown, and carefully monitor demand to ensure that both current and future needs are met. Before new structures are built, the City should consider real-time signage and wayfinding that guides drivers to structures with open capacity to ensure all existing parking is utilized.

Sidewalk Gaps & Crosswalk Improvements The very nature of Downtown requires a comprehensive sidewalk network with safe crossings and signage. The presence of the Fox River makes Downtown a regional destination that is linked to other communities. Private development and public improvements in Downtown should work in concert to build a comprehensive bike path network that allows for constant movement along the river corridor with easy access to Downtown goods and services.

Existing & Future Trails. The City and Downtown are well served by a bicycle network that connects nearby parks and neighborhoods with a larger regional trail system. The trail system provides both opportunities for recreation and economic development. The City should continue to implement the trail system as planned, and where possible, promote connections to parks, neighborhoods, and local businesses.

