



Kent Taylor Civic Hall
200 NE Second Street
McMinnville, OR 97128

City Council Meeting Agenda
Tuesday, July 28, 2020
6:00 p.m. – LEVEL 10 CANCELLED
7:00 p.m. – Regular Council Meeting

Welcome! The public is welcome to attend, however if you are not feeling well, please stay home and take care of yourself. In accordance with Governor Kate Brown's Executive Order we are limiting the amount of people at Civic Hall and if we meet capacity we may ask you to leave. **With new face covering mandate all who wish to attend public meetings must wear a face mask or some kind of face covering is required.**

The public is strongly encouraged to relay concerns and comments to the Council in one of three ways:

- Email at any time up to 12 p.m. the day of the meeting to Claudia.Cisneros@mcminnvilleoregon.gov;
- If appearing via telephone only please sign up prior to the meeting by emailing the City Recorder at Claudia.Cisneros@mcminnvilleoregon.gov as the chat function is not available when calling in zoom;
- Join the zoom meeting; send a chat directly to City Recorder, Claudia Cisneros, to request to speak and use the raise hand feature in zoom to request to speak, once your turn is up we will announce your name and unmute your mic.

You can live broadcasts the City Council Meeting on cable channels Xfinity 11 and 331, Frontier 29 or webstream here:
www.mcm11.org/live

CITY COUNCIL REGULAR MEETING:

You may join online via Zoom Meeting:

<https://mcminnvilleoregon.zoom.us/j/99379592755?pwd=dEhqdHBuME9xZi9ESlFwaVdKdkJqZz09>

Zoom ID: 993-7959-2755

Zoom Password: 248025

Or you can call in and listen via zoom: 1-253- 215- 8782
ID: 993-7959-2755

6:00 PM – LEVEL 10 MEETING –CANCELLED

7:00 PM – REGULAR COUNCIL MEETING – VIA ZOOM & COUNCIL CHAMBERS

1. CALL TO ORDER & ROLL CALL
2. PROCLAMATION
 - a. National Health Center Week
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT – *The Mayor will announce that any interested audience members are invited to provide comments. Anyone may speak on any topic other than: a matter in litigation, a quasi-judicial land use matter; or a matter scheduled for public hearing at some future date. The Mayor may limit comments to 3*

Kent Taylor Civic Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made a least 48 hours before the meeting to the City Recorder (503) 435-5702 or Claudia.Cisneros@mcminnvilleoregon.gov.

minutes per person for a total of 30 minutes. The Mayor will read comments emailed to City Recorded and then any citizen participating via Zoom.

4. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports
- c. February 2020 Cash and Investment Report (in packet)

5. CONSENT AGENDA

- a. Consider the Minutes of the December 10, 2019 City Council Work Session and Regular City Council Meeting and Consider the Minutes of the January 14, 2020 City Council Regular Meeting.
- b. Consider **Resolution No. 2020-48**: A Resolution for City of McMinnville, Oregon Extending the City's Declaration of State of Emergency Expressed in Resolution 2020-18, Resolution 2020-28 and Resolution 2020-43.

6. ORDINANCE

- a. Consider second reading of **Ordinance No. 5093**: An Ordinance Repealing And Replacing Title 15 Of The McMinnville City Code, Specific To Buildings And Construction, Amending Section 2.50.510, Specific To Code Compliance - Applicability, And Sections 8,10.250, Health And Safety – Motor Vehicles, And Section 8.10.035, Health And Safety – Storage.
- b. Consider first with possible second reading of **Ordinance No. 5094**: Ordinance Amending Section 17.03 Of The McMinnville Municipal Code, Zoning Ordinance, General Provisions.

7. ADJOURNMENT



National Health Center Week Proclamation

Whereas, For over 45 years, Virginia Garcia Memorial Health Center, part of the nationwide network of community health centers, has provided high-quality, affordable, comprehensive primary and preventive health care to our County's underserved communities, delivering value to, and having a significant impact on, our region's health care system; and

Whereas, Health Centers, like Virginia Garcia, are a critical element of the health system, serving both rural and urban communities, and often providing the only accessible and dependable source of primary care in their communities; and

Whereas, Every day, Virginia Garcia develops new approaches to integrating a wide range of services beyond primary care, including oral health, vision, behavioral health, and pharmacy services, to meet the needs and challenges of our diverse community; and

Whereas, The Health Center model at Virginia Garcia continues to prove an effective means of overcoming barriers to healthcare access, including geography, income and insurance status, improving health care outcomes and reducing health care system costs; and

Whereas, Health Centers like Virginia Garcia reduce overall costs of care by helping manage patients chronic conditions, keeping them out of costlier health care settings like hospital emergency rooms; and

Whereas, Health Centers like Virginia Garcia are on the front lines of emerging health care crises, providing access to care for our nation's veterans, addressing the opioid epidemic, and responding to public health threats including COVID-19; and

Whereas, Virginia Garcia Memorial Health Center provides primary and dental care for 1 in 9 residents of Yamhill County, through their clinics, mobile outreach and more; and

Whereas, Right here, in our city of McMinnville, is home to the McMinnville Primary Care and Dental clinics providing primary, dental, and pharmacy health care services to thousands in our community and employs over 60 people; and

Whereas, National Health Center Week offers us the opportunity to celebrate Virginia Garcia's delivery sites, their dedicated staff, board members, patients and all those responsible for their continued success and growth since Virginia Garcia opened their doors more than 45 years ago.

Now, Therefore, I, Scott A. Hill, Mayor of the City of McMinnville, do hereby proclaim August 9-15, 2020 to be:

National Health Care Center Week

I encourage all residents to learn more about their local community health center and take part in this week by following them on social media, lending your voice in advocacy and, if possible, by donating to their work.

In Witness Whereof, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 28th day of July, 2020.

Scott A. Hill, Mayor

CITY OF MCMINNVILLE - CASH AND INVESTMENT BY FUND
February 2020

FUND #	FUND NAME	GENERAL OPERATING		
		CASH IN BANK	INVESTMENT	TOTAL
01	General	\$1,256,486.96	\$9,260,456.78	\$10,516,943.74
05	Special Assessment	\$548.13	\$143,618.82	\$144,166.95
07	Transient Lodging Tax	\$593.52	\$0.00	\$593.52
10	Telecommunications	\$894.34	\$1,030.00	\$1,924.34
15	Emergency Communications	\$630.04	(\$80,905.19)	(\$80,275.15)
20	Street (State Tax)	\$13.00	\$1,842,436.43	\$1,842,449.43
25	Airport Maintenance	\$840.71	\$689,749.03	\$690,589.74
45	Transportation	\$848.60	\$6,030,033.57	\$6,030,882.17
50	Park Development	\$761.10	\$1,315,127.78	\$1,315,888.88
58	Urban Renewal	\$249.31	\$213,093.29	\$213,342.60
59	Urban Renewal Debt Service	\$947.67	\$327,839.49	\$328,787.16
60	Debt Service	\$310.51	\$1,097,048.13	\$1,097,358.64
70	Building	\$188.06	\$1,427,500.00	\$1,427,688.06
75	Wastewater Services	\$969.85	\$2,013,697.06	\$2,014,666.91
77	Wastewater Capital	\$718.38	\$31,451,103.65	\$31,451,822.03
79	Ambulance	\$718.74	(\$1,025,164.72)	(\$1,024,445.98)
80	Information Systems & Services	\$368.69	\$219,886.68	\$220,255.37
85	Insurance Reserve	\$886.77	\$1,501,290.54	\$1,502,177.31
CITY TOTALS		1,266,974.38	56,427,841.34	57,694,815.72

MATURITY			INTEREST	
DATE	INSTITUTION	TYPE OF INVESTMENT	RATE	CASH VALUE
N/A	Key Bank of Oregon	Checking & Repurchase Sweep Account	0.20%	\$ 1,266,974.38
N/A	Key Bank of Oregon	Money Market Savings Account	0.02%	\$ 8,034,432.45
N/A	State of Oregon	Local Government Investment Pool (LGIP)	2.25%	\$ 44,662,113.87
N/A	State of Oregon	Park Improvement Bonds (LGIP)	2.25%	\$ 404,506.02
N/A	State of Oregon	Transportation Bond (LGIP)	2.25%	\$ 2,352,819.15
N/A	State of Oregon	Urban Renewal Loan Proceeds (LGIP)	2.25%	\$ 266,271.03
N/A	MassMutual Financial Group	Group Annuity	3.00%	\$ 707,698.82
				<u>\$ 57,694,815.72</u>

\$ -

CITY OF McMinnville
MINUTES OF CITY COUNCIL WORK SESSION
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, December 10, 2019 at 6:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Adam Garvin	Wendy Stassens
	Zack Geary	Remy Drabkin
	Sal Peralta	
	Kellie Menke, Council President	

Also present were Attorney Walt Gowell, City Manager Jeff Towery, Human Resources Director Kylie Bayer-Fertterer, Parks and Recreation Director Susan Muir, Police Chief Matt Scales, Fire Chief Rich Leipfert, Fire Marshal Debbie McDermott, Fire Operations Chief Amy Hanifan, Interim City Recorder Rebecca Holmes, Information Technology Director Scott Burke, Finance Director Jennifer Cuellar, and members of the News Media – Tom Henderson NewsRegister and Jerry Eichten, McMinnville Community Media.

1. CALL TO ORDER: Mayor Hill called the meeting to order at 5:38 p.m.

2. DISCUSSION ON FIRE DEPARTMENT COST RECOVERY.

Fire Chief Leipfert presented. He would be sharing cost recovery options other cities were using and sharing what the Fire Department was currently using and what they were not using for cost recovery. The focus this evening was in fire prevention, especially proactive fire inspections and prevention programs that would enhance safety. The current fees were for code enforcement for second re-inspections, non-code required inspections, and environmental review as well as standby fees for fire and rescue standby, hazardous materials response, and vehicle accidents for non-residents. They also charged for fire alarm responses, medical alarm responses, general violation fees such as burning in violation of the code, permits for fireworks and events, EMS fees/ambulance billing, and emergency vehicle standby. Opportunities to expand permitting as allowed by the State Fire Code included annual operation permits for aircraft refueling, fuel tank installation, welding operations, food carts, and others as allowed by code. Another opportunity would be modification to the inspection fee schedule including inspections for new owners of existing businesses or new businesses without a change of occupancy. He also suggested adding inspection fees other Fire Departments were using such as an initial inspection fee based on the size of the facility, hazard of the facility, or a combination of both.

Fire Marshal McDermott discussed the current inspection schedule. Inspection frequency was based on occupancy type. Annual inspections were done for hospitals, nursing homes, jails, schools/licensed day cares, fraternity houses/dormitories, care homes/halfway houses/social rehab, wrecking yards, and bars/nightclubs. Bi-annual inspections were done for theaters/concert halls/community halls, high hazard occupancies, hotels/apartments, and businesses located on 3rd Street due to the high risk associated with economic impact. The three year cycle included churches/swimming pools/stadiums, factory/industrial, storage, and business/mercantile.

Fire Chief Leipfert wanted to develop a fee structure for violations found during inspections. He recommended civil penalties for violations that had not been successfully mitigated. These fees could range according to hazard level from minor violations to significant life safety issues, such as misuse of extension cords to disabled life safety systems (sprinklers and alarms). They would also like to charge for Fire Prevention Plan reviews which looked at Fire Department access, water supply, hydrant placement, lock box, and above and below ground fuel tanks. Cost recovery for these programs was a standard practice in Oregon by several municipalities including Springfield, Gresham, Albany, Lake Oswego, Eugene, Portland, Corvallis, and Ashland.

Councilor Geary clarified they did not charge for Fire Prevention Plan reviews currently. When did those happen in the process? Fire Marshal McDermott said it began at the pre-construction meeting and once the plans were submitted, they were routed to her office and they did a full plan review and gave input to the Building Official. They also went out and conducted new construction inspections. All of these were done free of charge.

Fire Chief Leipfert said some of the options for consideration were: expand operational permits, new inspections for new businesses, charge inspection fees for first and subsequent inspections, apply City civil penalties to violations, start charging for Fire Prevention Plan review, and lift assist/misuse of the EMS.

Councilor Garvin asked if any other municipalities had fire levies to offset the costs. Fire Chief Leipfert said Albany and Springfield had levies.

Councilor Garvin asked if either Albany or Springfield had the same misuse issues as McMinnville. Fire Chief Leipfert said most Fire Departments that provided service to care facilities had misuse issues.

Councilor Garvin had a hard time charging for fire prevention. The top priority should be taking care of the bad apples and making sure it was equitable across the board for every user. He recommended considering a levy which was not listed in the options.

Councilor Peralta asked how much revenue the Department was looking to raise through the proposed fees to offset the costs. Fire Chief Leipfert said this year they had \$100,000 budgeted for cost recovery that was revoked due to the election.

Councilor Peralta asked what positions the \$100,000 would support. Fire Chief Leipfert said there were a floating Fire Fighter position that equated to \$140,000 and a logistics position that equated to \$97,000.

Councilor Peralta was supportive of cost recovery. He thought they should move slowly, work with the stakeholders that opposed the previous ordinance, and consider a levy ahead of districting. He thought the fees were only part of the solution and the districting would take too long to address the critical shortfall.

Council President Menke said they were asking for cost recovery. She was not ready for a levy, but would support looking into the fees proposed. For many years McMinnville had not been charging for things that they should and that other cities charged for. They needed to approach this carefully and have many discussions.

Councilor Geary asked about the inspection process. Fire Marshal McDermott discussed how businesses did not have to get a fire inspection prior to moving into an already existing building. When that happened, they had to go through corrective measures which often took many months to get the business into compliance and get the space they were now occupying to meet Fire Code. Currently there was no charge to go through that process.

Councilor Geary was in favor of moving forward with recovering costs for that process. He thought they should charge a plan review fee and re-inspection fee. He asked who people should call if they had a complaint about a business not being safe.

Fire Marshal McDermott said it would be sent to her office and they would investigate the complaint.

Fire Chief Leipfert discussed the civil penalties portion and how they used education as a primary tool to gain compliance. There were vendors who routinely worked in the community and did not obtain permits. These types of fees would allow them to address those doing unpermitted work. Most municipalities used business licensing as the first step in driving the process. There were also business registries without a license fee that had the same first step process. He was an advocate for a way to identify new businesses and existing businesses because they had a struggle with changing businesses and occupants of businesses.

Councilor Geary asked about the inspection schedule for storage units. The uses of storage units had changed where people were sometimes running small operations out of them. Had the code changed to keep up with hazardous uses in an otherwise banal space?

Fire Marshal McDermott explained storage units were odd because once rented they became a private space and they had no authorization to inspect storages. If they drove by and saw that business was being operated that was not allowed by the lease then they could work with it on that basis.

Councilor Geary asked about the structure of the safer grant and how it might affect a district. Fire Chief Leipfert said they were still waiting to find out about the structure of the grant, but once they received the information he would forward it to Council.

Mayor Hill would like to see a list of comparable cities that were not in a district and used the operational fees proposed. Educational and preventative pieces were the last things they would want to charge for. He would also like to see what the impact of charging fees would have on the City. He was not in favor of a levy approach as they were trying to put the district together and there

needed to be a good comparison to other cities. Levies convoluted how they could bring things together.

Councilor Geary asked how much time they spent on food carts. Fire Marshal McDermott said at every event they had to re-inspect them. It would be better to have an annual inspection where the carts received a permit. They had just now gained the authority to inspect permanent food carts. Right now the first and second inspections were done at no charge, but they charged for third inspections and any subsequent.

Councilor Peralta thought at the next meeting they should poll the Council to see if there was interest in a public safety levy.

3. ADJOURNMENT: Mayor Hill adjourned the Work Session at 6:52 p.m.

s/s Claudia Cisneros
Claudia Cisneros, City Recorder

CITY OF McMinnville
MINUTES OF CITY COUNCIL MEETING
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, December 10, 2019 at 7:02 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Adam Garvin	Wendy Stassens
	Zack Geary	
	Sal Peralta	
	Kellie Menke, Council President	
	Remy Drabkin – via telephone	

Also present were City Attorney Walt Gowell, City Manager Jeff Towery, Human Resources Director Kylie Bayer-Fertterer, Parks and Recreation Director Susan Muir, Police Chief Matt Scales, Fire Chief Rich Leipfert, Fire Marshal Debbie McDermott, Fire Operations Chief Amy Hanifan, Permit Technician Rebecca Holmes, Information Technology Director Scott Burke, Finance Director Jennifer Cuellar, Planning Director Heather Richards, Engineering Manager Larry Sherwood, Conveyance System Maintenance Supervisor Joe Rinkes, and members of the News Media – Tom Henderson NewsRegister and Jerry Eichten, McMinnville Community Media.

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:02 p.m. and welcomed all in attendance.
2. PLEDGE

Councilor Geary led the Pledge of Allegiance.
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT: Mayor Hill invited the public to comment.

There were no public comments.
4. PRESENTATIONS
- 4.a. City Archive Presentation

Permit Technician Holmes shared a short video on what she found in the vault while working on archived files. She had cataloged and digitized some of the earliest historical records of McMinnville. She explained the records she found and the stories that she took away from the process. The founding

documents were beautifully crafted in hand written calligraphy. A stunning level of care and detail was exhibited. Each ordinance was stamped with the City's seal, the same seal that sat on the City Recorder's desk today. To build the City they first established a safe and peaceful place to live. A police and fire presence was established to protect public safety. They gave public notice, cared about infrastructure, and passed hundreds of ordinances to improve sidewalks, sewers, and streets. They laid the foundations for city planning using a grid system. Before roads, they built sidewalks with no bicycle riding on the sidewalks. The economy included laborers, farmers, engineers, students, doctors, butchers, dentists, business owners, bankers, peddlers, and performers. Television and radio were not yet invented, and the circus, vaudeville, and other entertainers visited town. They kept meticulous records to properly document spending and public processes, held elections, established rates and regulations, and collected taxes. They contracted with companies to build poles to run electricity, set speed limits, and established procedures. The Council had met on Tuesdays for over 100 years as ordained in 1900. City Park was established in 1906. A library was created by ordinance in 1911 and built in 1912. The evolution of the City reflected their own, after they were safe and secure, they connected with each other as they learned language, created art, established and celebrated traditions, and participated in the world.

Mayor Hill and the Council expressed appreciation for her work with the City. Mayor Hill said the livability of the City did not happen by happenstance. It was through people who cared and worked hard.

City Manager Towery said some of the documents that were found would be framed and put on display including the original plat of the McMinnville Airport and a plat map of downtown.

4.b.

Planning Commission Annual Presentation

Planning Director Richards introduced Roger Hall, Chair of the Planning Commission, and Lori Schanche, Vice Chair. There were nine members on the Commission, two from each ward and three at-large members. It was a good cross-section of citizens. Commissioner Chroust-Masin was going off of the Commission after serving for 17 years and Commissioner Knapp was going off the Commission to serve on the Historic Landmarks Committee. The responsibilities of the Commission were to plan for growth and development in an orderly fashion with adequate resources for housing, business, industry, transportation, recreation, culture, comfort, health, and welfare of McMinnville residents so that residents and businesses enjoyed a high quality of life. They were advisory to the City Council and a quasi-judicial decision making body. One of their responsibilities was to be the Citizen Involvement Committee for the City. In this calendar year they held 18 public hearings. They worked on a Long Range Planning Needs

Assessment to address state and federal law mandates and recommended strategic planning. From that they created a five year Work Plan that was adopted in 2017. These included long range plans, Comprehensive Plan amendments, and Zoning Ordinance amendments. In 2018 there was a lot of focus on long range planning, data gathering and citizen engagement for future growth discussions in McMinnville, specialty plans, Development Code text amendments, and quirky infill development. In 2019 they were still working on these things, but people came to the table. There had been a lot of planned development amendments responding to housing needs. The Commission reviewed 27 land use applications in 2019 including administering the Development Code, applying the Comprehensive Plan, Development Code, Zoning Map, area plans, etc. to specific properties both public and private, and making land use decisions and findings. Those decisions set up the pipeline for 667 new dwelling units. Some of the projects that came through the Planning Commission were Chegwyn Village, Oak Ridge Meadows, Memory Care Center on NE Dunn Place, planned development amendment on SE Norton Lane, and Baker Creek North. The long range planning included amending the Development Code to reflect changing community preferences and market conditions within the framework of the Comprehensive Plan. The Great Neighborhood Principles and Historic Preservation Plan were Comprehensive Plan text amendments. The Commission also recommended to the Council an innovative housing pilot project Floating Zone which would be a Zoning Ordinance amendment. The Commission had also been involved in the Housing Strategy and Housing Needs Report. They were currently underway with the Economic Opportunities Analysis and Public Land Needs and the Three Mile Lane Plan. She recently found out that the population forecasts were going to be updated in 2020. Also for 2020, the Planning Commission would be working through HB 2001, City Center Housing Strategy, Downtown Plan, Urban Reserve Area, UGB amendment, and natural resources mapping. They were also working on the Growing McMinnville Mindfully program which would be planning for future growth and housing needs.

Planning Commission Chair Hall said the Commission was a great group of people to work with. He asked the Council to provide them two more people to fill the vacancies. Planning Director Richards said there was one at-large vacancy and one vacancy in Ward 1.

Mayor Hill expressed his appreciation to the Commission for their work.

5. ADVICE/ INFORMATION ITEMS

5.a. Reports from Councilors on Committee & Board Assignments

Councilor Peralta congratulated the Mayor for being part of the group that got approval to start purchasing land for the next phase of the Bypass. He saw 2019 as the year the state became the second leading state in the country

for homelessness and their rural region was the number one region in the country for unsheltered homeless. He thought a fair amount of progress was made in terms of dealing with unlawful long term camping. They also created a revenue stream to help address homelessness. It was his hope in 2020 that they could do the hard work of addressing mental illness. More definitive action needed to be taken on the staffing shortfall for fire and EMS. He thought they should also consider wrapping in funding for police due to the increased issues with homelessness. He hoped they would leverage City resources for grants to do more work on the restoration of City parks.

Councilor Garvin said the YCOM meeting was today but he could not attend. He had participated in the interviews for the Airport Commission. They interviewed five great candidates.

Councilor Drabkin said the Affordable Housing Task Force would be meeting tomorrow morning. There were vacancies on the Task Force that needed to be filled.

Councilor Geary reported on the Historic Landmarks Committee meeting where the First Federal application was continued and the Mini Super Hidalgo project was discussed. He said the programming of McMinnville Community Media was excellent and successfully covered Santa's Parade live. They were currently working on capital improvements. He planned to participate in the Cookie Competition next week.

Council President Menke said there would be a Visit McMinnville meeting next Wednesday. She discussed the need for land in order to provide housing for the homeless.

Mayor Hill discussed the meetings that had been held with the Oregon Transportation Committee regarding the impacts of not completing the Bypass. There was a book titled *How to be a Great Boss* on the dais for the Council to read. He, Councilor Stassens, and Council President Menke were trying to put together what the upcoming dinner meetings would look like to build unity and cohesiveness on the Council and have better dialogue. Beginning in 2020, the dinner meeting would be held on the fourth Tuesday of every month. Their first assignment was to read the book. There was an opening on the McMinnville Water & Light Commission.

1. Water and Light Commissioner Appointment Jody Christensen

Mayor Hill nominated Jody Christensen to fill the vacancy on the Water and Light Commission and asked for a motion.

Council President Menke MOVED to appoint Jody Christensen to the Water and Light Commission, SECONDED by Councilor Peralta. Motion PASSED unanimously.

5.b.

Department Head Reports

Police Chief Scales said the major radio upgrade should be online by the end of January. They would be doing the Shop with a Cop program on Sunday. Officer Robert Harmon would be retiring at the end of the year.

Fire Operations Chief Hanifan said the City had been in litigation along with Newberg, Yamhill County, and Tualatin Valley Fire and Rescue against Metro West. The parties had come to a resolution and there would be no financial impact to the City. She asked that the Council approve the agreement.

2. Settlement and Services Agreement

Council President Menke MOVED to authorize the City Manager to execute the Settlement and Services Agreement, SECONDED by Councilor Garvin. Motion PASSED unanimously.

Parks and Recreation Director Muir explained they were taking applications for the Enrichment Services Advisory Committee. The deadline was Sunday at midnight.

Planning Director Richards asked about the public hearing process for the Baker Creek North application. If Council wanted to hold a public hearing, staff would bring it to Council on January 14 for the staff report and the public hearing would be held on January 28. At the Planning Commission, they had received written comments opposed to the project and three people testified. Two of those had concerns about the design standards and one was nervous about growth and development and the smaller lots. The newspaper had an article about the project today that summarized the testimony as well.

Councilor Geary asked about the cost for the public hearing. Planning Director Richards said they would not charge for it because it was not in the fee schedule. In terms of staff time and resources, it would be about \$1,700.

Councilor Garvin would like to have a public hearing as proposed.

City Manager Towery said Councilor Stassens did not think a public hearing was needed.

Council President Menke was not in favor of a public hearing because there were no significant objections.

Councilor Peralta said he was neutral.

Councilor Geary thought there should be a public hearing due to the size of the application.

Councilor Drabkin was always supportive of a public hearing.

There was consensus to hold a public hearing on the Baker Creek North application.

1. Visit McMinnville Agreement

City Manager Towery discussed the Visit McMinnville Agreement. There had been a series of meetings regarding the agreement and this would be a new three year agreement that would commence on July 1, 2020. As part of the agreement, a Task Force would be formed made up of Visit McMinnville Board members and other community stakeholders to make recommendations to the Council regarding future allocations of Transient Lodging Tax funds. There would be the potential to engage consultants and the work to bring forward recommendations could take 12-18 months. This agreement would give them time to define the work, hire consultants, perform and analyze the work, and initiate implementation. The agreement would include provisions for the City and Visit McMinnville to budget the necessary resources to conduct the work, provide TLT resources to Visit McMinnville to continue its current work plan, and allow the City to set aside resources that could be used to implement projects and initiatives that resulted from this work. They would spend the next few months negotiating a successor agreement and designing a detailed project description and charge for the Task Force that included a timeline and budget for the project. It would be brought back to the Council in the spring for feedback with a new agreement, budget, and work plan for Visit McMinnville in May or June.

Councilor Drabkin did not think the agreement was reflective of the Council's direction. She was concerned about interrupting the contract and shifting gears and bringing in a consultant that would be expensive. She did not want to interrupt the work that was happening in the organization which had a broad positive economic impact on the area. The idea of diverting resources from an organization that was creating a lot of economic growth within the City's budget was concerning. They had spent four years building the organization that was doing the work they had asked them to do and were doing it well and creating more revenue for the City. She thought they should explore other options.

City Manager Towery said this was a joint proposal with both the Visit McMinnville Board and City staff. It was in response to what they heard from the Council over a series of budget conversations and work sessions. They were not ending the relationship with Visit McMinnville, but were negotiating a new three year agreement. He apologized if it was not clear that the valued work of Visit McMinnville would continue and they jointly saw this as an opportunity to take another look at how the TLT could best serve the community and drive economic development.

Erin Stephenson, Executive Director of Visit McMinnville, said they had discussed this at the last Board meeting. She was proud that in a short amount of time they had become leaders on a statewide level when it came to tourism and effectively using tourism dollars for economic development. They heard that there was a desire to have ongoing dialogue about how the TLT was used to maximize economic development in the community. They went through a very thorough process four years ago to create Visit McMinnville but that didn't mean they couldn't have an ongoing dialogue about the most effective ways to spend these dollars within the parameters that were laid out within the law. Visit McMinnville thought they were doing the most effective job that they could with these dollars. If Council wanted to investigate other ways these dollars could be spent, they were willing to have that conversation.

Councilor Peralta said the contract was expiring in a year and they would have to renegotiate the contract anyway. This was sooner than when that would happen but he had no issue with starting it now. In terms of how the TLT was spent, although Visit McMinnville had done above and beyond in terms of the effectiveness of using the TLT, the legislative authority of the City allowed them to use the funds on capital projects and they should be considering that use. The mission of Visit McMinnville was to promote travel and tourism into the community and as much as it was valuable to the community, it came with a cost and that cost was gentrification and unaffordable housing. He was concerned that they were catering too much to higher end tourists outside of the community that they were not doing enough to help people locally. It was not a negative reflection of Visit McMinnville's work, but was a more limited scope of priorities that they had as a City.

Councilor Drabkin was not opposed to re-evaluating the contract and use of TLT funds, but the methodology of ending a contract early and reorganizing a budget and setting aside money with no plan as opposed to looking at other options. She thought they could have Visit McMinnville do strategic planning that more broadly focused on the economic impacts of the area that might not require a consultant to do.

Councilor Peralta said they were not ending the relationship or funding, but were renegotiating an existing contract ahead of the next fiscal year for this organization. It would not stop the work that was currently happening.

Council President Menke said Visit McMinnville had done an outstanding job. They had brought tourism and jobs to the community. The TLT dollars had to be spent on tourism related activities. There had been a lot of dialogue in the last year on this topic and starting this process now would provide more certainty for Visit McMinnville.

Ms. Stephenson said regarding timing, the contract said if any changes were to be made it would have to be done by December 31. That was what pushed this conversation to this point in time or they could wait another year at which point they would be negotiating as they were headed out of contract. Visit

McMinnville had a strategic planning session set for January and the best time for her Board to be thoughtful about this conversation was in that setting. They would be looking at destination development and business recruitment as well as continuing marketing and economic development. She thought the proposal in front of Council was a broad framework in which to start the conversation. They wanted to work together in open dialogue to come up with the best possible path forward for the community.

Councilor Garvin said Visit McMinnville had done so well they were ahead of the curve and they could have the conversation a year early. They were not asking to stop the progress on marketing, but there were other things in the City that the growth dollars could be used for. He was in favor of the agreement.

Councilor Geary said because of Visit McMinnville's success they could have this discussion due to the growing TLT dollars. It was not taking funding away from Visit McMinnville but to make sure some of the funding came back into the City for projects. He asked for clarification on destination development.

Ms. Stephenson said they could not use the TLT funding for facilities even if tourists used them in a substantial way. The funding was only for facilities that had a primary tourism function. The Board planned to discuss what destination development looked like for McMinnville.

Jeff Knapp, Visit McMinnville, said destination development was a national trend. Marketing had its benefits, but they were trying to build a destination where they could impact both visitors and improve the quality of life for residents. They were looking at opportunities, leveraging grants, having conversations with the City, and exploring business recruitment. They could define what destination development was, but they also had a lot of data to support what they would recommend right now. This was a direction they were heading as an organization and it coincided with the conversation they were having right now.

Councilor Geary asked about the timeline and if this set them up for the one year automatic renewal and they were discussing how they would do the three year contract coming up. City Manager Towery explained the recommendation was to start the conversation about a new three year contract and they would not complete the final year of the current contract. The next several months would be strategic planning and building what they thought the Task Force would be able to do and how to incorporate that into the work Visit McMinnville was already doing and initiate a three year agreement starting July 1, 2020. The work of the Task Force would consume a portion of the new three year agreement during which Visit McMinnville would still be doing their work. Visit McMinnville came to the Council every year with a budget and work plan for approval.

City Attorney Gowell said absent of any Council action, the automatic one year renewal would occur next July 1 which would be the sixth year of a six year agreement. At the end of that year, the agreement would be terminated unless renewed. It was not unusual to have an early renegotiation. The City Manager had proposed starting that process, but not giving notice of termination earlier than it would otherwise terminate.

City Manager Towery said it would give the City and Visit McMinnville time to do strategic planning and building annual work plans and budgets. He thought it was a mutual advantage and now was the right time.

Councilor Geary asked where the funding for the consultant would come from. City Manager Towery said describing the work and deciding who paid what would be part of the upcoming conversations.

Councilor Drabkin thought the conversations could still take place without changing the agreement. It was the methodology that was bothersome to her. She thought the Council could direct Visit McMinnville that in the upcoming strategic planning, to show Council how Visit McMinnville could grow and evolve before contract renewal and what they could recommend for broader uses of TLT funding.

Council President Menke MOVED to direct staff to initiate a negotiation on a Successor Agreement with Visit McMinnville, SECONDED by Councilor Peralta. Motion PASSED 4-1 with Councilor Drabkin opposed.

5.c. August and September Cash and Investment Reports (in packet)

6. CONSENT AGENDA

- a. Consider request from CS Property Holdings LLC dba The Douglas on Third at 703 NE 3rd St. for an off-premises liquor license.
- b. Consider request from Slake House LLC at 1036 NE Baker St. for a limited on-premises liquor license.
- c. Consider request from Mikey's Pizzeria dba Joysticks Arcade at 211 NE 3rd St. for a limited on-premises liquor license.
- d. Consider Resolution 2019-64: A Resolution Approving Appointments for City Recorder and Finance Director.

Council Peralta MOVED to adopt the consent agenda as presented; SECONDED by Council President Menke. Motion PASSED unanimously.

7. ORDINANCE

- a. Consider first reading with possible second reading of **Ordinance No. 5083**: An Ordinance Amending Ordinance No. 5018 relating to single use bags.

No Councilor present requested that the Ordinance be read in full.

City Attorney Gowell read by title only Ordinance No. 5083 amending Ordinance No. 5018 relating to single use bags.

City Manager Towery said during the last legislative session, the legislature passed HB 2059 which preempted McMinnville's Ordinance 5018 which was adopted in 2017 and amended in 2018. The League of Oregon Cities tried to grandfather regulations of cities that had already put limitations on plastic bags, but that effort was unsuccessful. The House Bill did allow cities to set penalties and this ordinance did set penalties consistent with Council's prior actions.

Councilor Peralta stated if they did nothing, the state preempted the ordinance anyway. City Attorney Gowell said that was correct. The ordinance would clean up the Municipal Code.

Councilor Geary MOVED to pass Ordinance No. 5083 to a second reading; SECONDED by Councilor Garvin. Motion PASSED unanimously.

City Attorney Gowell read by title only for a second time Ordinance No. 5083.

Councilor Geary MOVED to adopt Ordinance No. 5083, an Ordinance Amending Ordinance No. 5018 relating to single use bags, SECONDED by Councilor Garvin. Motion PASSED unanimously by roll call vote.

8.

RESOLUTION

a. Consider **Resolution No. 2019-65**: A Resolution adopting a Building Fee Schedule.

Planning Director Richards said this resolution would raise the building fees by 3%. Last year additional fees had been added to the fee schedule to be in compliance with the state. Some fees had been lowered and if there was one inspection for more than one appliance, there would be one fee charged. The increases were according to the CPI index and would continue to build a reserve for the Building Fee program.

Councilor Peralta MOVED to adopt Resolution No. 2019-65 a resolution adopting a Building Fee Schedule; SECONDED by Council President Menke. Motion PASSED unanimously.

8.b.

Consider **Resolution No. 2019-66**: A Resolution authorizing City Committee/Commission Appointments.

Planning Director Richards said every year in October staff advertised committee vacancies and the Council President, Mayor, and Chair of the committees interviewed the candidates. Two positions would be filled on the Affordable Housing Task Force with terms expiring December 31, 2022, one position for the Airport Commission with a term expiring in four years, two

positions for the Historic Landmarks Committee for four year terms, two for the Landscape Review Committee for three year terms, and one Planning Commission position for Ward 2 for a four year term. There were still two openings on the Planning Commission.

Councilor Geary MOVED to adopt Resolution No. 2019-66 a resolution authorizing City Committee/Commission Appointments; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 8.c. Consider **Resolution No. 2019-67**: A Resolution authorizing the City Manager to enter into a contract with Cues, Inc. through the Houston Galveston Area Council Cooperative Purchasing Program (HGAC) for the purchase of a new CCTV Inspection Van.

Engineering Manager Sherwood said this was a request to purchase a new CCT inspection van. The current van was 22 years old and was due for replacement. The van was used on a daily basis to assess the City's pipelines to avoid back-ups and identify needed repairs. He reviewed the procurement process with the City Attorney and the purchase was in the approved budget. They were able to trade in the old van for \$7,000.

Councilor Drabkin was no longer on the phone.

Councilor Geary MOVED to adopt Resolution No. 2019-67 A Resolution authorizing the City Manager to enter into a contract with Cues, Inc. through the Houston Galveston Area Council Cooperative Purchasing Program (HGAC) for the purchase of a new CCTV Inspection Van, SECONDED by Council President Menke. Motion PASSED unanimously.

7. ADJOURNMENT: Mayor Hill adjourned the Meeting at 9:10 p.m.

Claudia Cisneros, City Recorder

CITY OF McMinnville
MINUTES OF CITY COUNCIL REGULAR SESSION
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, January 14, 2020 at 7:00 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Claudia Cisneros

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	
	Adam Garvin	
	Zack Geary	
	Kellie Menke, Council President	
	Sal Peralta	
	Wendy Stassens	

Also present were City Attorney Walt Gowell, City Manager Jeff Towery, Fire Chief Rich Leipfert, Human Resources Manager Kylie Bayer-Fertterer, Community Development Director Mike Bisset, Interim Finance Director Elizabeth Comfort, Planning Director Heather Richards, Senior Planner Chuck Darnell, Associate Planner Jamie Fleckenstein, and Jerry Eichten, McMinnville Community Media.

1. CALL TO ORDER: Mayor Hill called the meeting to order at 7:00 p.m. and welcomed all in attendance.
2. PLEDGE OF ALLEGIANCE
Council President Menke led the Pledge of Allegiance.
3. INVITATION TO CITIZENS FOR PUBLIC COMMENT

Ethan Downs, McMinnville resident, asked about the status of the resolution that had been given to Council regarding climate change. Many people were eager to help and take action.

Ukaia Helensteiner, McMinnville resident, said students at the high school had requested in October that the Council pass the climate change emergency resolution. People had been asking the City to take action, which it had not done since 2007. While some steps had been taken, not enough had been done. They had a petition with 500 signatures from high school students who supported the resolution.

Liz Marlia-Stein, McMinnville resident, wanted to know why the students were not getting a response. She showed a picture of her children and grandchildren and how they had started Fire Drill Fridays. She invited the Council to come and show the City that they cared.

Nic Payton, McMinnville resident, was part of the Climate Ambassadors for the high school. They had been doing a lot to combat climate change at the school. They were looking forward to working with the City. Climate change had been a threat for several decades and he urged the City to move the process forward.

4. ADVICE/ INFORMATION ITEMS

4.a. Reports from Councilors on Committee & Board Assignments

Councilor Garvin said they had a lively Airport Commission meeting where funding for the \$2.1 million dollar project was discussed. The YCOM meeting was canceled. They were successful in interviewing for the Enrichment Services Advisory Committee. There would be a recommendation coming to the Council for appointments to that Committee.

Councilor Drabkin reported on the Affordable Housing Task Force who were revising their action plan and would be coming to Council with a request to change the Task Force to a permanent Committee. She addressed some of the feedback on the Homelessness Subcommittee being disbanded. They were pulling that subcommittee back up into the Affordable Housing Task Force. They were not having regular attendance by members and the action plans were not moving at the pace that they wanted them to be. They would still be focusing on homelessness solutions. She had met with the Gospel Rescue Mission and members from the faith based community to address some of the feedback that the Mission had been receiving and to discuss the role of all of the partners.

Council President Menke attended the City Center Housing Strategy meeting where the Action Plan was reviewed. She also participated in the MURAC interviews. The McMinnville Economic Vitality Leadership Council would meet tomorrow. Visit McMinnville's Board of Directors meeting would be held on Thursday and there would be Budget Committee interviews on Thursday and Friday.

Councilor Peralta reported on the Mid-Willamette Valley Council of Governments meeting. They would be starting the search for a new Executive Director. There would be an implementation meeting on the 27th-28th regarding HB 2003.

Councilor Geary said there would be a joint work session with the School District and KOB. He asked for a staff update regarding the climate change resolution.

Mayor Hill said on Friday the County Housing Solutions Committee would be meeting. He reported on the Parkway Committee meeting. The Parkway Committee would be meeting with the Oregon Transportation Committee again in February. The Mid-Willamette Valley Transportation Committee did not have a meeting in January and would meet in February. On February 3rd there would be a State of the City and Mayor's Award event at Mac Market.

4.b. Department Head Reports

City Manager Towery said staff was reviewing the sustainability initiative that was adopted several years ago. A number of strategies had been implemented. Staff would come back to the Council with a status on those initiatives as well as a review of the climate change resolution at the March Work Session.

5. CONSENT AGENDA

- a. Consider the Minutes of the August 13, 2019 City Council Work Session and Regular City Council Meeting.
- b. Authorize City Manager to Execute the Contract with Erskine Law Practice, LLC for the 2020 Calendar Year.

Council President Menke MOVED to adopt the consent agenda as presented; SECONDED by Councilor Drabkin. Motion PASSED unanimously.

6. RESOLUTIONS

- 6.a. Consider **Resolution 2020-01**: A Resolution Approving Certificate of Special Election Results Regarding Measure 36-202.

Councilor Peralta MOVED to adopt Resolution 2020-01; SECONDED by Council President Menke. Motion PASSED unanimously.

- 6.b. Consider **Resolution 2020-02**: A Resolution authorizing the approval of a cooperative fund exchange agreement between the City of McMinnville and Oregon Department of Transportation.

Community Development Director Bisset stated this was the fourth year of the fund exchange process which exchanged federal funds for state funds that were applied to the City's loan payment for the City's share of the first phase of the Bypass project.

Councilor Geary MOVED to adopt Resolution 2020-02; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 6.c. Consider **Resolution 2020-03**: A Resolution granting a 20' wide easement to McMinnville Water & Light on City owned airport property (Tax Lot R4424 01304).

Community Development Director Bisset said the resolution would grant an easement on Airport property to allow McMinnville Water & Light to construct a 24 inch water line across the property. This property was at the end of a runway and outside of the Urban Growth Boundary. It was currently farmed under a farm lease and staff had reviewed the project with the farmer and he was in favor of the proposal. The easement would allow McMinnville Water & Light to stay out of state highway right-of-way and help minimize construction impacts of the project.

City Attorney Gowell had reviewed the easement and found it to be in order.

Councilor Geary MOVED to adopt Resolution 2020-03; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 6.d. Consider **Resolution 2020-04**: A Resolution Approving Old Sheridan Rd IGA with McMinnville Water & Light.

Community Development Director Bisset stated this was the last corridor project in the 2014 Transportation Bond Measure package. There would be improvements to Old Sheridan Road between 99W and Cypress. As part of the transportation upgrades, McMinnville Water & Light would put in water line and electrical upgrades. All of these upgrades would be included in the bid and done by the same contractor. The Intergovernmental Agreement documented how that would happen. After the improvements were constructed, McMinnville Water & Light would reimburse for the cost of their improvements. There was also a Task Order with the design engineer. The scope of work had increased by \$35,000 and McMinnville Water & Light had agreed to that and would reimburse the City for those costs.

Councilor Stassens MOVED to adopt Resolution 2020-04; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 6.e. Consider **Resolution 2020-05**: A Resolution accepting the Annual Financial Report for the McMinnville Urban Renewal Agency for Fiscal Year Ended June 30, 2019, per Oregon Revised Statute 457.460.

Planning Director Richards said per Oregon regulations they needed to provide an annual financial report for the Urban Renewal Agency. After the Council accepted it, they would publish notice that it was available for the next two months. It was a report on where they were at with the Agency in terms of tax increment that was being collected and how it was being spent and the indebtedness they were incurring as they were moving the plan forward.

Mayor Hill said the Urban Renewal Agency had reviewed the Annual Financial Report at 6 p.m. before this meeting.

Council President Menke MOVED to adopt Resolution 2020-05; SECONDED by Councilor Peralta. Motion PASSED unanimously.

- 6.f. Consider **Resolution 2020-06**: A Resolution Appointing Members to the McMinnville Planning Commission.

Planning Director Richards said this was a request to appoint two Planning Commissioners to fill terms that had expired in December. They recommended Beth Rankin be appointed to the Ward 1 position and Robert Banagay be appointed to the At Large position.

Mayor Hill said the nominating committee was made up of Planning Director Richards, Planning Commission Chair Hall, and himself. They held thorough, good interviews.

Councilor Geary MOVED to adopt Resolution 2020-06; SECONDED by Council President Menke. Motion PASSED unanimously.

7. ORDINANCES

There was consensus to consider Ordinances 5090 and 5091 first.

7.g. Consider first reading with possible second reading of **Ordinance No. 5090**: An Ordinance approving a Zone Change from R-1 (Single-Family Residential) to R-4 (Multiple Family Residential) for a 0.82 acre parcel on NW 2nd Street.

7.h. Consider first reading with possible second reading of **Ordinance No. 5091**: An Ordinance approving a Conditional Use Permit for a dental clinic at 1945 NW 2nd Street.

Associate Planner Fleckenstein presented the PowerPoint for both ordinances. This was a request for a Zone Change and Conditional Use for 1945 NW 2nd Street. The subject property was 0.82 acres between NE Meadows Drive and NE Hillside Parkway. The zone change would rezone the property from R-1 (single family residential) to R-4 (multiple-family residential). The Conditional Use would allow for the development of a dental clinic on the property. He showed an aerial photo of the property describing the site location and displayed the preliminary site plan concept. Ordinance 5090 would approve the Zone Change from R-1 to R-4. He explained the existing and proposed zoning maps of the property. He then discussed the review criteria per MMC 17.74.020. Criterion B, the proposed amendment is orderly and timely, was not applicable to this Zone Change as the Zone Change concerned “needed housing” so they would only be looking at Criterion A, Consistency with the Comprehensive Plan, and Criterion C, utilities and services can be efficiently provided. The application was consistent with Comprehensive Plan Chapter V, Housing and Residential Development regarding locational considerations for R-4 zoning; Chapter VI, Transportation; Chapter VII, Community Facilities; and Chapter IX, Urbanization including the Great Neighborhood Principles. Regarding utilities, there would be an increased sewer flow and increased traffic from the proposed R-4 development. Comprehensive Plan Policy 71.13 described the factors that should serve as criteria in determining areas appropriate for high-density residential development. The proposal met the following criteria: areas not committed to low or medium density development, areas that can be buffered from low density residential areas, areas which have direct access from a major collector or arterial street, areas not subject to development limitations, and areas where the existing facilities have the capacity for additional development. Minor arterials such as 2nd Street were designed for 20,000 average daily trips and medium/high density adjacent uses. The applicant submitted a trip generation evaluation examining how the increased density would differ from the existing density on the property. Some findings based on the new trips showed that the traffic increase would not have a significant impact on 2nd Street or surrounding traffic network. McMinnville had no standard for requiring a Traffic Impact Analysis which would analyze specific levels of services of nearby streets and intersections. There was a condition of approval that would require a traffic analysis if the proposed development increased trips by more than 200 average daily trips or 20 pm peak hour trips. Other factors in the Comprehensive Plan Policy for location of high density were: areas within

a one-half mile wide corridor centered on existing or planned public transit routes and areas within one-quarter mile from neighborhood and general commercial shopping centers. There was a transit route on 2nd Street with stops immediately adjacent to the site and the site was in a quarter mile of commercial shopping areas. The final policy was areas adjacent to either private or public permanent open space. The site was nearby, but not adjacent to, open space. There was a condition of approval that 7% of the multiple-family development be reserved for usable open space. The proposal checked the boxes of six Great Neighborhood Principles: 1. Natural Feature Preservation; 3. Parks and Open Spaces, 4. Pedestrian Friendly, 5. Bike Friendly, 11. Housing for Diverse Incomes and Generations, and 12. Housing Variety. There were adequate facilities/services. Regarding streets, the site was accessed from 2nd Street which was a minor arterial. Minor arterials were designed to accommodate 20,000 average daily trips and medium to high density adjacent uses. The trip generation study concluded the proposed development would not significantly affect 2nd Street. There was a condition of approval that required a Transportation Impact Analysis if net new trips from the proposed development exceeded the thresholds. Regarding utilities, they could adequately serve R-1 development, however there were issues with sewer capacity to serve R-4 development. There was a condition of approval that the development would be limited to 48 Equivalent Dwelling Unit Fixture Units until the downstream sanitary sewer capacity issues were addressed. There was also a condition that stormwater detention was required. He showed a chart of key criteria and issues. There was no public testimony received by the Planning Department prior to the public hearing. There was one testimony at the public hearing that expressed concern about increasing traffic levels on 2nd Street but was not opposed. The Planning Commission found the applicable criteria were satisfied or satisfied with conditions and voted 7-0 to recommend approval with conditions.

Associate Planner Fleckenstein then reviewed the Conditional Use request. This would allow the development of a new dental clinic on an R-4 zoned site. He referred to the preliminary site plan concept. The clinic would be 3,200 square feet on the southwest corner of the site with an off street parking lot adjacent to the McMinnville Water & Light substation. He discussed the Conditional Use review criteria in MMC 17.74.030. It required consistency with the Comprehensive Plan and compatibility with and minimal impact on the surrounding neighborhood. There was no significant impact on the surrounding area when compared to the impact of the permitted development. The site and structure had an attractive design, they would be preserving the environmental assets of mature trees on the site, and there was a bona fide intent and capability to develop and use the land. The property owner was a local dentist looking to expand her business within McMinnville and had been a long-time resident. The Planning Commission recommended four conditions: limiting the hours of operation of the dental clinic, limiting the height of the clinic structure to no more than 35 feet, limiting the location and intensity of outdoor lighting, and requiring a fence along the western property line. He discussed the chart with key criteria and issues and how the conditions helped meet the criteria. No public testimony was received by the Planning Department prior to the public hearing. There was one testimony at the public hearing expressing concern about increasing traffic levels on 2nd Street. The Planning Commission found the applicable criteria were satisfied or satisfied with conditions and recommended 7-0 and to approve the application with conditions. This approval was conditional on the approval of

Ordinance 5090. The Council's options were to complete the first and second readings of the ordinances as recommended by the Planning Commission or call for a public hearing on the applications. The 120 day timeline expired on February 8, 2020. A Special Meeting on February 4, 2020 would allow notice of the public hearing.

Councilor Peralta asked what the applicant's response was to the Planning Commission's conditions. Associate Planner Fleckenstein said the applicant was in support of the conditions.

Councilor Peralta was in favor of moving forward with the first reading of these ordinances. This was the kind of development that made sense for the City in terms of increasing the density of residential and tying residential to commercial activities. He thought the applicant was capable of seeing the project to completion.

The rest of Council concurred.

No Councilor present requested that the ordinances be read in full.

City Attorney Gowell read by title only Ordinance No. 5090, approving a Zone Change from R-1 (Single-Family Residential) to R-4 (Multiple Family Residential) for a 0.82 acre parcel on NW 2nd Street.

City Attorney Gowell read by title only Ordinance No. 5091, approving a Conditional Use Permit for a dental clinic at 1945 NW 2nd Street.

Councilor Geary MOVED to pass Ordinances 5090 and 5091 to a second reading; SECONDED by Councilor Garvin. Motion PASSED unanimously.

City Attorney Gowell read by title only for a second time Ordinances 5090 and 5091.

Council President Menke MOVED to approve Ordinance No. 5090, approving a Zone Change from R-1 (Single-Family Residential) to R-4 (Multiple Family Residential) for a 0.82 acre parcel on NW 2nd Street; SECONDED by Councilor Garvin. Ordinance No. 5090 PASSED unanimously by roll-call vote.

Councilor Peralta MOVED to approve Ordinance No. 5091, approving a Conditional Use Permit for a dental clinic at 1945 NW 2nd Street; SECONDED by Council President Menke. Ordinance No. 5091 PASSED unanimously by roll-call vote.

5 MINUTE RECESS

Mayor Hill reconvened the meeting at 8:12 p.m.

7.a.

Consideration of the First Reading of the **Ordinance No. 5084**: An Ordinance Amending the Comprehensive Plan Map Designation of the Property at the Northeast Quadrant of the Intersection of NW Hill Road and NW Baker Creek Road from a Commercial Designation to a Mix of Residential and Commercial Designations.

- 7.b. Consideration of the First Reading of the **Ordinance No. 5085**: An Ordinance Approving a Zone Change of the Property at the Northeast Quadrant of the Intersection of NW Hill Road and NW Baker Creek Road from a Mix of R-1 (Single Family Residential) and EF-80 (Exclusive Farm Use) to C-3 (General Commercial) and R-4 (Multiple Family Residential).
- 7.c. Consideration of the First Reading of the **Ordinance No. 5086**: An Ordinance Approving a Planned Development Amendment to Amend the Conditions of Approval and Reduce the Size of an Existing Planned Development Overlay District at the Northeast Quadrant of the Intersection of NW Hill Road and NW Baker Creek Road.
- 7.d. Consideration of the First Reading of the **Ordinance No. 5087**: An Ordinance Approving a Planned Development Overlay District to Allow for the Development of a 280 Lot Residential Subdivision with Modifications from the Underlying Zoning Requirements at the Northeast Quadrant of the Intersection of NW Hill Road and NW Baker Creek Road.
- 7.e. Consideration of the First Reading of the **Ordinance No. 5088**: An Ordinance Approving a Tentative Subdivision for a 280 Lot, Phased Single-Family Detached Residential Development at the Northeast Quadrant of the Intersection of NW Hill Road and NW Baker Creek Road.
- 7.f. Consideration of the First Reading of the **Ordinance No. 5089**: An Ordinance Approving a Landscape Plan and Street Tree Plan for the Baker Creek North Subdivision.

Senior Planner Darnell said this was the consideration of six ordinances for the Baker Creek North project. The site was in the northwest of the City north of Baker Creek Road and east of Hill Road. One request was for a Comprehensive Plan map amendment on the southwestern portion of the site to reduce the size of an existing area designated as Commercial on the Comprehensive Plan map. The proposed amendment would result in the commercial designation being reduced from 11.3 acres to 6.62 acres, and the remaining 4.68 acres of existing commercially designated land being designated as Residential. Another request was for a zone change from a mix of R-1 and EF-80 to a mix of 6.62 acres of C-3 and 48.7 acres of R-4. Another request was for a Planned Development amendment to reduce the size of the existing Planned Development Overlay District governed by Ordinance 4633 to the size of the proposed 6.62 acre C-3 site and amending the conditions of approval of the Commercial Planned Development Overlay District to allow up to 120 multiple family dwelling units and require a minimum of 2 acres of neighborhood commercial uses on the site. There was a request for a Planned Development to allow for the development of 280 single family detached dwelling units, public right-of-way improvements, and open spaces on the proposed 48.7 acres of R-4 land with modifications from the underlying zoning requirements for lot size, setbacks, lot dimensions and frontages, driveway widths, alley widths, block lengths, block perimeter lengths, street tree spacing standards, and street tree setbacks from utilities. There was also a request for a tentative subdivision to allow for a 10 phase subdivision including a total of 280 single family detached dwelling units, public right-of-way improvements, and open spaces consistent with the proposed Planned Development plan. The Landscape Plan review request was for the landscaping of

proposed open space tracts within the subdivision phases and a street tree plan for the planting of street trees in the planter strips within the right-of-way adjacent to the single family dwelling unit lots. All applications were submitted for concurrent review per MMC Section 17.72.070. He showed site location and areas on the parcel for the public park, commercial, and residential. He also presented the current and proposed zoning on the site as well as the proposed development plan.

Senior Planner Darnell discussed the Comprehensive Plan Amendment, CPA 1-19, review criteria found in Section 17.74.020. The proposed amendment was consistent with the goals and policies of the Comprehensive Plan. There was a deficit of commercial and residential lands. The 2001-2003 Buildable Lands Inventory and McMinnville Residential Land Needs Analysis and Growth Management Plan said there was a need for 537 acres of residential land. The 2013 Economic Opportunities Analysis showed a deficit of 35 acres of commercial land. Section 17.74.020 also stated that when considering a Comprehensive Plan map amendment, the housing policies of the McMinnville Comprehensive Plan shall be given added emphasis and the other policies contained in the plan shall not be used to 1. Exclude needed housing; 2. Unnecessarily decrease densities; or 3. Allow special conditions to be attached which would have the effect of discouraging needed housing through unreasonable cost or delay. The reduction of the commercial land would add 4.68 acres of residential land while still providing some commercial land need (6.62 acres). The proposed amendment needed to be orderly and timely, considering the pattern of development in the area, surround land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment. The applicant cited housing need as a change in the community to warrant the amendment to reduce commercial land and increase residential land. The surrounding area was guided for residential. The smaller commercial designation would allow for more appropriately scaled commercial development and neighborhood commercial was intended for commercial land.

Senior Planner Darnell then discussed the criteria for the Zone Change application, ZC 1-19. The proposed amendment needed to be consistent with the goals and policies of the Comprehensive Plan. He referred to Chapter IV, Economy of McMinnville, which stated the application needed to ensure commercial development that maximizes efficiency of land use through utilization of existing commercially designated lands, through appropriately locating future commercial lands, and discouraging strip development. The proposed C-3 zoning was consistent with the area of the site designed as commercial on the Comprehensive Plan map. The C-3 zone allowed for diverse and more efficient use of the site. However, the existing Planned Development would regulate the use and development to ensure locational requirements and scale of commercial development were consistent with Comp Plan policies and supported the intended neighborhood commercial uses. The applicant was proposing a Planned Development amendment, and the Planning Commission recommended ZC 1-19 not be approved unless PDA 2-19 was approved. Comprehensive Plan Chapter V, Housing and Residential Development, stated the application should promote development of affordable, quality housing for all City residents and should promote a residential development pattern that was land-intensive and energy-efficient, that provided for an urban level of public and private services, and that allowed unique and innovative development techniques to be employed in residential designs. Comprehensive Plan Policy 71.13 included criteria to determine if areas were appropriate for high-density residential development. The site met most of the locational

requirements for higher density housing. It was located on an arterial street and future transit corridor (Baker Creek Road). It was located adjacent to commercial services (the proposed C-3 zoned portion of the site). It was not subject to development limitations, located south of Baker Creek and floodplain lands. The site did not meet the following locational requirements without more detail for development of the site: adjacency to public or private open space, ability to buffer from low density residential, and capacity of existing services to serve the development. The Traffic Impact Analysis did not analyze the maximum development of the R-4 zone. These issues were addressed in the proposed Planned Development applications with a specific development plan. The Planning Commission recommended ZC 1-19 not be approved unless PD 1-19 and PDA 2-19 were approved.

Regarding the Planned Development amendment, PDA 2-19, the request was to amend an existing Planned Development Overlay District governed by Ordinance 4633. It would reduce the size of the Planned Development to be consistent with the reduced Comprehensive Plan designation of commercial land and to amend the existing conditions of approval to allow up to 120 multiple family units and require a minimum of 2 acres of neighborhood commercial uses. No specific development plan had been submitted for this portion of the site. The existing Planned Development conditions did not allow multiple family residential, required a minimum of 14% landscaping which was higher than the standard C-3 zone, required development plan review by the Planning Commission, required the building height to be limited to 35 feet, and limited commercial hours of operation, lighting, signage, and outside storage. There are conditions of approval that limit the use of commercial development. The Planned Development amendment review criteria included: special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements and the objectives of the proposed amendment will introduce a mix of uses by allowing multiple family dwelling units and provide neighborhood commercial uses within the site to serve surrounding residential development. The City must find that these special objectives, either as proposed or as revised with conditions of approval, warrant a departure from the standard regulation requirements. The Planning Commission found that the special objectives could warrant a departure from the existing regulations in Ordinance 4633 if the development of the site was designed appropriately given: the location surrounded by residential uses and public parks and the intent to provide neighborhood serving commercial uses. The mixed uses were integrated on the site and the development of the site was consistent with applicable Comprehensive Plan policies. The changes in the conditions within the City since the original Planned Development adopted in 1996 were: housing inventory and affordability issues and the Residential Buildable Lands Inventory which identified the need for additional residential land and dwelling units. Regarding the preservation of the commercial uses in the northwest area of the City, the current 11.3 acres was larger than necessary for neighborhood serving commercial uses. However, the City had planned for at least five acres of commercial development in the northwest area since 1991 (Ordinance 4506). In order to maintain space for commercial development, a minimum size of five acres was recommended by the Planning Commission with allowance for integration of multiple family units. The amendment had to be consistent with the Comp Plan objectives. These included Goal IV, Policy 22, 27, 68, and 69. The suggested conditions of approval were that up to 120 multiple family dwelling units be allowed but

only if the units were integrated with the neighborhood commercial uses. This integration shall either be within a mixed use building or in a development plan that integrated the uses between buildings in a manner found acceptable to the Planning Commission. The minimum commercial development shall be five acres. Five acres of this site must retain ground floor commercial uses, allowing multiple family development to occur on the remainder of the site and as part of a mixed use development. The five acres will be calculated based upon all of the development requirements associated with the commercial development including any standards related to the mixed use residential development. For the purposes of this Planned Development Overlay District, allowed neighborhood commercial uses were defined as those that were permitted in the C-1 zone. In addition, restaurant shall be permitted as a neighborhood commercial use in this district. No retail uses should exceed 10,000 square feet in size except for grocery stores. The applicant could request another use to be considered permitted within the district at the time of the submittal of the detailed development plans for the site to be considered by the Planning Commission. He explained the permitted uses in the C-1 zone such as a bakery, barbershop or beauty shop, confectionery or candy store, drugstore or pharmacy, florist, garden shop, nursery, food store, laundry or dry cleaning, medical or dental office, shoe repair shop, sewage pump station, and wireless communications facilities.

Councilor Drabkin asked if a restaurant would not be permitted. Senior Planner Darnell said that it was not currently permitted but would be added as a permitted use for this district.

Councilor Drabkin asked if a drive thru or fast food would be allowed. Senior Planner Darnell explained it did not prohibit a drive thru or fast food chain, but it would need to be approved by the Planning Commission. Planning Director Richards stated the transportation infrastructure would not support a high intensive use such as fast food. The Planning Commission would have the opportunity to look at the site design to see what could be accommodated.

Council President Menke asked if a 7-11 would be allowed. Planning Director Richards stated they would encourage food availability in a neighborhood that was currently a food desert where people could go pick up sundries. Whether that would be a 7-11 or something else, the market conditions would determine that.

Councilor Stassens asked about incorporating residential and commercial. What did that look like? Senior Planner Darnell said they described it as a mixed use building or a plan that integrated the uses between buildings.

Senior Planner Darnell said there were a number of Comp Plan policies related to access and transportation. These were in Policy 24, 25, 26, 29, and 31 and Proposal 6. A suggested condition of approval was: detailed development plans showing elevations, site layout, signing, landscaping, parking, and lighting must be submitted to and approved by the Planning Commission before actual development may take place. He then listed the site design components that the detailed development plans should include. These were: shared access points and internal circulation, parking location behind building, parking maximums (110% of minimum), building orientation toward rights-of-way, human scale building façade features, building height maximum of 45 feet, pedestrian

connections and amenities, landscaping (minimum of 14% of the site), community gathering space, open space for multiple family units (minimum of 10% of the site), signs (appropriate for mixed use and neighborhood commercial buildings), and lighting.

Councilor Drabkin asked if this would allow for mixed residential/commercial. Senior Planner Darnell concurred that was the intent of increasing the height to 45 feet. Planning Director Richards said the condition was set up to encourage mixed used residential and commercial to meet the requirement that 5 acres have ground floor commercial.

Senior Planner Darnell said another condition was that prior to any future development of the site, a traffic impact analysis shall be provided. The traffic impact analysis shall include an analysis of the internal circulation system, the shared access points, and the traffic-carrying capacity of all adjacent streets and streets required to provide eventual access to Baker Creek Road.

Senior Planner Darnell then reviewed Planned Development, PD 1-19, which would be a new Planned Development Overlay District to allow 280 single family residential lots, 18 open space tracts, and dedication of a parcel for a public park. It included requests for modifications from: minimum lot sizes (use of lot size averaging), reduced side yard setbacks, lot dimensions (exceeding a 2:1 depth-to-width ratio), driveway and alley widths, block length and block perimeter lengths, and street tree spacing standards. The Development Plan included a variety of different lot types, from 70 foot wide single family dwelling to 26 foot wide single family dwelling. The 26 and 30 foot wide lots would be alley loaded with an alley in the rear for vehicular access. The reduced setbacks were requested as follows:

- SFD-70, SFD-60, SFD-50, and SFD-40: minimum 5 foot side yard setback
- SFD-45: minimum 4 foot side yard setback
- SFD-30a and SFD-26a: minimum 3 foot side yard setback
- Lots 131-135 and Lots 269-280: minimum 30 foot rear yard setback for tree preservation
- All front, exterior side, and rear setbacks (other than increased above) to follow R-4 requirements

He demonstrated the typical small lots diagram of the building footprints. He also provided the lot types by subdivision phase. He then discussed the Planned Development review criteria as found in Section 17.51.030(C). There must be special physical conditions or objectives of a development which the proposal would satisfy to warrant a departure from the standard regulation requirements. The applicant's stated special objectives were:

1. Preserve trees in rear yards and tracts.
2. Accommodate homes along the bluff while keeping appropriate separation from the natural areas on the adjacent property.
3. Developing around the BPA easement that traversed the site.
4. Provide a diversity of lot sizes to accommodate a mix of housing sizes at various price points to meet the goals and policies of the City's Comprehensive Plan and this code to serve today's market needs of home consumers in McMinnville.

5. Focus on the detached single-family residential housing type.
6. Offer on-site open space amenities to the residents who cannot cross a minor arterial to reach the nearest neighborhood park.
7. Provide access to City park facilities.
8. Create a sense of place.
9. Ensure adequate off-street parking.
10. Avoid “cookie cutter” approach to housing on any block face.
11. Promote future transit service.

Regarding the trees proposed to be preserved in the open space tracts and rear yards, conditions were recommended to require larger rear yard setbacks on lots 131-135 and lots 269-280 and to require tree inventory and arborist reports prior to any removal of trees greater than 9 inches in diameter (other than those shown to be removed in L 12-19). He discussed the proposed natural area preservation. The larger lots located along the bluff and sloped area were on the north end of the site. The applicant would dedicate Parcel D and the floodplain for a public park. There would be conditions that required a geotechnical analysis prior to development and geo-tech recommendations during construction. A mix of housing types was demonstrated and there was a transition from higher to lower density (south to north). The denser lot types were near the arterial street and future transit route on Baker Creek Road. The less dense lot types were along the bluff and sloped portions of the site to transition between the development and natural areas. There were conditions that required the plan to be binding on the site and allow lot size averaging as proposed. The smaller lots were proposed to be alley-loaded. This would reduce vehicle conflicts with sidewalk space, lessen garage door prominence on the front façade, and some would front onto the common open space tracts. Some conditions required lots less than 40 feet wide to be alley loaded and that the alleys would be private and maintained by the HOA. There were 18 open space tracts proposed. The City would accept Tracts G, I, J, K, and L to allow for the extension of the BPA trail. Tracts A-F, H, and N-S would be private and maintained by the HOA. The conditions stated which tracts were accepted by the City and which required improvements as shown in the plans. The applicant was proposing a City park dedication which was supported by the Parks Master Plan which included acquiring a special use park adjacent to the BPA easement. The Plan also called for acquiring a greenway along Baker Creek connecting Tice Park and the BPA easement, developing the Westside Trail, and developing a trail in the Baker Creek greenway. Conditions would require dedication of the BPA Trail tracts and would require trail improvements to some standard as exists south of Baker Creek Road. They also required an additional connection for pedestrian access from the northwest area of the site, an enhanced crossing at Kent Street, dedication of the park parcel and easement to connect to Oak Ridge Meadows, and improvement of the BPA trail, trailhead terminus, and greenway trail around the floodplain. There would be private recreational amenities as well. The applicant requested driveways wider than allowed by the code. The Planning Commission added a condition to allow the driveway widths proposed by the applicant on the private lots, but to require the driveway width not to exceed the maximum width between the property line and street (no more than 40% of lot frontage). This would reduce vehicle conflicts in the sidewalk space and provide more space for trees and utilities. There was an exception for the SFD-40 lots to allow them to have a 20 foot

wide driveway. The lot sizes and dimensions proposed would result in denser detached single family housing. To avoid “cookie cutter” housing as described by the applicant, the Planning Commission recommended that specific design standards apply at the time of the building permit review. These included style and massing, quality and type of exterior materials, front porches/entry areas, roof design and materials, exterior doors and windows, garage door types, exterior lighting, and exterior colors. There was also a condition that would not allow any same house design in adjacency to another, including both sides of the street. There were conditions for the applicant to put in a meandering, wider sidewalk along Baker Creek Road and longer block lengths and block perimeter lengths with mid-block pedestrian connections. The streets were adequate to support the anticipated traffic, and the development would not overload the streets outside the planned area. The proposed utility and drainage facilities were adequate for the population densities and type of development proposed.

Senior Planner Darnell reviewed the subdivision application, S 1-19. The subdivision was consistent with the Baker Creek North Planned Development plans (PD 1-19). It would allow for the 280 lot detached single family subdivision to be done in 10 phases. The criteria for this application were Chapter 17.53, Land Division Standards, and the requirements of PD 1-19.

Councilor Peralta asked why the traffic at 99W and Baker Creek was not being considered in the traffic plan. Senior Planner Darnell stated that intersection was not identified as one to be included. The furthest intersection that was included was Michelbook Lane and Baker Creek Road.

Councilor Peralta said at Michelbook there was an identified need to add a traffic light at the intersection. He asked what the impact might be on 99W and Baker Creek. He had heard a lot of complaints from citizens about increased traffic on 99W and Baker Creek.

Community Development Director Bisset said there had been many discussions regarding the capacity of intersections as the City continued to grow. When the Transportation System Plan was adopted in 2010, it evaluated how the system would be served at full build out. They agreed as a community that congestion would continue to increase at major intersections. They did not have the ability to build their way out of traffic. They would look to improve the bicycle/pedestrian network to provide alternate modes of transportation, look to the partnership with the County to have more robust transit service, and look to add capacity within the existing network. ODOT was working on a roadway safety project to add capacity to most major signalized intersections along 99W. There would also be left turn phasing added to the side streets on these intersections. It would improve traffic flow but would cause congestion on side streets. The traffic study that was done for this application showed that the nearby intersections would meet the City’s standards with the exception of Michelbook which would need to be signalized in the future.

Planning Director Richards said regarding which intersections were selected for the study, they looked at the impact of the new development on immediate intersections.

The Transportation System Plan had already identified that a particular street could carry a certain number of cars and how it would operate when it hit other streets. That was a system impact that they already planned for, but they wanted to understand the immediate public improvements that would be needed adjacent to the development that had not already been built out.

Councilor Garvin asked why no Hill Road intersections were included. Planning Director Richards explained a roundabout had already been designed to accommodate the build out of this area. The expectation was that there would be disbursement of the traffic on both Baker Creek and Hill.

Councilor Geary said the estimations were made on the assumed build out of the big pieces, but this proposal was asking to build at a higher density than what was assumed. Were they assuming that it was still at the same rate or would the rates change? Senior Planner Darnell said the overall density being proposed was not substantially higher than what was assumed under the R-1 zone. The transportation analysis that was provided did analyze the 280 dwelling units and the surrounding intersections and a maximum worst case scenario build out on the commercial piece of 100,000 square feet of retail space which was much more than what was likely to be developed. There was also a requirement that the transportation analysis be updated once the commercial development plans were solidified.

Senior Planner Darnell continued to discuss the tentative subdivision request. The street network would align with the surrounding existing streets including Hill Road, Meadows Drive, and Shadden Drive. There were connections to surrounding subdivisions including Shadden Drive and Blake Street. The lots were consistent with PD 1-19. The size and shape of the lots were appropriate for the proposed use and responded to the topographic conditions of the site. Street access was provided to each proposed lot per City standards, and there would be alley access on the smaller lots per PD 1-19. Regarding the plat phasing, the applicant was proposing 10 phases. Conditions of approval required Phase 1A to expire in two years from the date of approval and each subsequent phase to expire five years from the date of approval. That would allow for the applicant's proposed tentative timeframe. Some phases might be constructed concurrently. There was also a condition of approval that the applicant shall provide 25% of the single family lots within each phase of the subdivision for sale for a period of six months for each subdivision phase. The applicant shall provide information detailing the number of lots that would be made available for individual sale for review and approval by the Planning Director prior to recording of the final plat for each subdivision. Upon approval, the referenced lots would be made available for sale to the general public for a minimum of 180 days prior to building permit issuance for said lots. Another condition required a redesign of the intersection geometry at Gregory and Augustine Streets and another condition required the alleys to be private either in tract or easement. The general conditions of approval included: CC&Rs and Homeowner's Association to assume maintenance of the open space tracts and public park until 2032, right-of-way dedication along Baker Creek Road, standards for right-of-way improvements, process for improvements and review of final plats, and requirement for the applicant to obtain permits if necessary

from the Department of Environmental Quality, Department of State Lands, and US Army Corps of Engineers.

Councilor Stassens asked if they were requiring alleys to be private did that mean the HOA would also be responsible for the alleys. Senior Planner Darnell said yes, that was correct.

Senior Planner Darnell discussed the Landscape Plan review, L 12-19. The application included a request for removal of 17 deciduous trees, Street Tree Plan for the new and improved public rights-of-way, and landscaping in the open space tracts. The conditions of approval included verifying approved tree species, allowing variations in spacing of street trees, identification of additional locations for street trees, requiring tree species were appropriate for planting near overhead electrical transmission lines, setbacks from utilities, planting standards, requiring submittal of a revised Landscape Plan that achieved all the required conditions of approval, and requiring submittal of a landscape and development plan for the public sewer pump station in Tract G.

Senior Planner Darnell explained the meeting processes. A neighborhood meeting was held on November 1, 2018 and there were 10 attendees. The Planning Commission held a public hearing on December 5, 2019 and two written public testimonies were received and three people testified in opposition. The opposition was related to the reduction of commercial land, traffic on Baker Creek Road, design and architectural standards, housing mix, and mass and scale of the project. The applicant's testimony included concern with some architectural standards and driveway limitations. He provided a site history beginning with Ordinance 4506 where five acres was designated for commercial land south of Baker Creek Road. Ordinance 4626 reduced the commercial land south of Baker Creek Road and allowed multiple family. There was a condition of approval that land north of Baker Creek Road be changed to commercial with no multiple family. Ordinance 4633 separated the land use application that designated 12.34 acres of commercial land north of Baker Creek Road and a condition of approval that prohibited multifamily. Ordinance 5021 approved the Planned Development Amendment on land south of Baker Creek Road, approved Baker Creek West and Baker Creek East, and repealed Ordinance 4626. Ordinance 5076 reduced the size of the existing Planned Development Overlay District regulated by 4633 to allow the McMinnville Water & Light substation expansion. He discussed how this area had been planned for higher density residential and commercial use to be a neighborhood activity center.

Planning Director Richards noted the Transportation System Plan was built based off the premise in the McMinnville Growth and Management Plan for the high density residential in this area even though the Plan was never adopted. The high density residential was plugged into the model for the overall system.

Councilor Garvin asked what prevented the Plan from being adopted. Planning Director Richards explained it did not move forward because the Urban Growth Boundary amendment did not move forward.

Senior Planner Darnell said the Planning Commission recommendations were to approve these applications with conditions. The Council options were to complete the first and second readings of the ordinances as recommended by the Planning Commission or call for a public hearing on the applications. The hearing would be held on January 28, 2020. Per direction during the Department Head comments at the December 10, 2019 Council meeting, public hearing notices had to be mailed in order to meet the required notification timeframe.

Councilor Peralta said there were concerns regarding the floodplain not being accurate today and the map needing to be updated. Because the floodplain was determined at the time the property was purchased, they were not able to update the floodplain in a way that affected future development. When they did these types of zone changes, was that the time they could update the floodplain map as a condition of changing the zone.

Senior Planner Darnell said the floodplain area was identified in the City's zone consistently with the FEMA firm panels. The area shown as the floodplain was currently what was regulated by FEMA as the 100 year floodplain. They were working under the standards which called for using that as the floodplain area and the standards that then applied in that floodplain.

Planning Director Richards said they could not change the floodplain area as the flood plain zone was specific to the adopted maps in the Development Code Comprehensive Plan and were date specific. If they wanted to change that, they would have to change the policy language to be able to apply it differently.

Councilor Garvin asked about the commercial acres and when they voted in 2017 on Baker Creek East and West they were allowed less commercial property because some of that land was allocated to this area and now they wanted to reduce that commercial land.

Senior Planner Darnell said the commercial designation that existed today was created in 1996 by Ordinance 4633 which was the result of a condition of approval in Ordinance 4626. What came in for development under Ordinance 5021 for Baker Creek East and West was working under all of the previous approvals. Nothing was changed in that more recent development proposal. The application tonight was requesting that it be reduced to 6.62 acres. It was referenced in the findings that there was other commercial designated land to the north that would provide the locational requirement for higher density residential.

Councilor Garvin asked how many acres it was referencing at that point. Senior Planner Darnell said it was referencing what was there today, the 11.3 acres, which was being requested to be reduced to 6.62.

Planning Director Richards said in 2017 when there was a lot of discussion about the commercially zoned property, a significant amount of the discussion was on the design and development standards for the multi-family units that would be built there. Most of the conditions were relative to that so they could mitigate the impact to the

single family residential neighborhoods around it. The locational analysis was to make sure multi-family was located near transit, parks, and commercial services. The finding for the multi-family product south of Baker Creek was that it would be near commercial services, but it was not specific to size.

Councilor Garvin MOVED to hold a public hearing on Ordinances 5084, 5085, 5086, 5087, 5088, and 5089 on January 28, 2020; SECONDED by Councilor Geary. Motion PASSED unanimously.

8. ADJOURNMENT: Mayor Hill adjourned the Regular City Council Meeting at 9:23 p.m.

Claudia Cisneros, City Recorder



**City of McMinnville
Fire Department**
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STAFF REPORT

DATE: July 21, 2020
TO: Mayor and City Councilors
FROM: Rich Leipfert, Fire Chief
SUBJECT: A Resolution to extend Resolution No. 2020-18 Declaring Local State of Emergency for City of McMinnville
STRATEGIC PRIORITY & GOAL:



COMMUNITY SAFETY & RESILIENCY

Proactively plan for & responsively maintain a safe & resilient community.

OBJECTIVE/S: Lead and plan for emergency preparedness

Report in Brief: This action is the consideration of a new resolution to extend Resolution No. 2020-18, Declaring Local State of Emergency for City of McMinnville.

Background: On March 16th, 2020, Mayor Hill declared a State of Emergency for the City of McMinnville due to the COVID-19 Virus and its impact on the City of McMinnville. This action is allowed by City Emergency Operations Plan adopted by City Council in 2009, and ORS 401. Resolution No. 2020-18 was ratified before City Council at the March 24th, 2020 Regular City Council Meeting and set to expire on May 1, 2020. Resolution 2020-28 went before City Council at the April 28th, 2020 Regular City Council meeting to extend Resolution 2020-18. Resolution 2020-28 was adopted and Emergency Declaration was extended to expire on June 27, 2020. Resolution 2020-43 went before City Council at the June 23rd, 2020 Regular City Council meeting to extend Resolution 2020-18. Resolution 2020-43 was adopted and Emergency Declaration was extended to expire on July 31, 2020.

Discussion: Resolution No. 2020-18 was scheduled to expire on May 1, but may be extended as necessary of the Common Council. COVID-19 continues to present a high potential public health threat to public health and safety, the duration of which is still unknown. The declaration of emergency is still needed to address the City's ability to respond and recover from this emergency and therefore asking for Resolution No. 2020-48 to extend the state of emergency to September 4, 2020, but may be extended again as necessary of the Common Council.

Attachments:

Resolution Number 2020-48
Resolution Number 2020-43
Resolution Number 2020-28
Resolution Number 2020-18
Signed Declaration of State of Emergency

Fiscal Impact: No changes

Recommendation: Council to adopt Resolution No. 2020-48 extending the duration of a State of Emergency for the City of McMinnville.

RESOLUTION NO. 2020-48

A Resolution for City of McMinnville, Oregon Extending the City’s Declaration of State of Emergency Expressed in Resolution 2020-18.

RECITALS:

WHEREAS, The Mayor of the City of McMinnville signed a Declaration of State of Emergency on March 16, 2020; and

WHEREAS, McMinnville City Council ratified Resolution No. 2020-18 effective March 24, 2020 declaring a state of emergency for the entire City of McMinnville in response to the COVID-19 pandemic; and

WHEREAS, Resolution No. 2020-18 was scheduled to remain in effect until at least May 1, 2020, but was extended to June 27, 2020 by Resolution No. 2020-28 by the Common Council on April 28, 2020; and

WHEREAS, Resolution No. 2020-28 was scheduled to remain in effect until June 27, 2020, but was extended to July 31, 2020 by Resolution No. 2020-43 by the Common Council on June 23, 2020; and

WHEREAS, COVID-19 continues to present a high potential public health threat to public health and safety, the duration of which is still unknown.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. The declaration of emergency is still needed to address the City’s ability to respond and recover from this emergency.
2. The Emergency Declaration was established in Resolution 2020-18 (March 24, 2020) the resolution was extended to July 31, 2020 in Resolution 2020-43 (June 23, 2020) and shall be extended to September 4, 2020 by Resolution 2020-48.
3. This resolution is effective immediately and shall remain in effect until September 4, 2020, but may be extended as necessary by the Common Council.

Adopted by the Common Council of the City of McMinnville at a meeting held the 28th day of July 2020 by the following votes:

Ayes: _____

Nays: _____

Approved this 28th day of July 2020.

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

RESOLUTION NO. 2020-43

A Resolution for City of McMinnville, Oregon Extending the City's Declaration of State of Emergency Expressed in Resolution 2020-18.

RECITALS:

WHEREAS, The Mayor of the City of McMinnville signed a Declaration of State of Emergency on March 16, 2020; and

WHEREAS, McMinnville City Council ratified Resolution No. 2020-18 effective March 24, 2020 declaring a state of emergency for the entire City of McMinnville in response to the COVID-19 pandemic; and

WHEREAS, Resolution No. 2020-18 was scheduled to remain in effect until at least May 1, 2020, but was extended to June 27, 2020 by Resolution No. 2020-28 by the Common Council on April 28, 2020; and

WHEREAS, COVID-19 continues to present a high potential public health threat to public health and safety, the duration of which is still unknown.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. The declaration of emergency is still needed to address the City's ability to respond and recover from this emergency.
2. The Emergency Declaration was established in Resolution 2020-18 (March 24, 2020) the resolution was extended to June 27, 2020 in Resolution 2020-28 (April 28, 2020) shall be extended to July 31, 2020.
3. This resolution is effective immediately and shall remain in effect until July 31, 2020, but may be extended as necessary by the Common Council.

Adopted by the Common Council of the City of McMinnville at a meeting held the 23rd day of June 2020 by the following votes:

Ayes: _____ Drabkin, Garvin, Geary, Menke, Peralta, Stassens _____

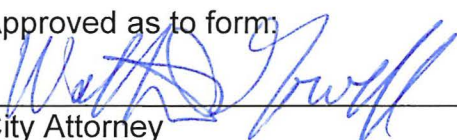
Nays: _____

Approved this 23rd day of June 2020.




MAYOR

Approved as to form:



City Attorney

Attest:



City Recorder

RESOLUTION NO. 2020-28

A Resolution for City of McMinnville, Oregon Extending the City’s Declaration of State of Emergency Expressed in Resolution 2020-18.

RECITALS:

WHEREAS, The Mayor of the City of McMinnville signed a Declaration of State of Emergency on March 16, 2020; and

WHEREAS, McMinnville City Council ratified Resolution No. 2020-18 effective March 24, 2020 declaring a state of emergency for the entire City of McMinnville in response to the COVID-19 pandemic; and

WHEREAS, Resolution No. 2020-18 was scheduled to remain in effect until at least May 1, 2020, but may be extended as necessary by the Common Council; and

WHEREAS, COVID-19 continues to present a high potential public health threat to public health and safety, the duration of which is still unknown.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF McMINNVILLE, OREGON, as follows:

1. The declaration of emergency is still needed to address the City’s ability to respond and recover from this emergency.
2. The Emergency Declaration established in Resolution 2020-18 (March 24, 2020) shall be extended to June 27, 2020.
3. This resolution is effective immediately and shall remain in effect until June 27, 2020, but may be extended as necessary by the Common Council.

Adopted by the Common Council of the City of McMinnville at a meeting held the 28th day of April 2020 by the following votes:

Ayes: Drabkin, Garvin, Geary, Menke, Peralta, Stassens

Nays: _____

Approved this 28th day of April 2020.



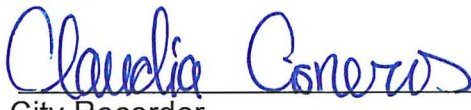
MAYOR

Approved as to form:



City Attorney

Attest:



City Recorder

RESOLUTION NO. 2020-18

A Resolution for City of McMinnville, Oregon Ratifying the Declaration of State of Emergency signed by Mayor Scott Hill on March 16, 2020.

RECITALS:

WHEREAS, Governor Kate Brown, on March 8, 2020 declared a state of emergency due to the COVID-19 virus, finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1); and

WHEREAS, The World Health Organization, on March 11, 2020 declared COVID-19 to be a pandemic threat that causes respiratory distress with the potential to cause serious illness and loss of life; and

WHEREAS, The City of McMinnville may require significant resources to provide for the health and safety of residents; and

WHEREAS, The State of Oregon, pursuant to ORS 401.309(1); authorizes the governing body of Oregon cities and counties to declare a local state of emergency; and

WHEREAS, The City of McMinnville, pursuant to the Emergency Operation Plan authorized the Mayor to declare a local state of emergency; and

WHEREAS, The Mayor of the City of McMinnville finds that conditions require a local state of emergency; and

WHEREAS, The Mayor of the City of McMinnville signed a Declaration of State of Emergency on March 16, 2020;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MCMINNVILLE OREGON, HEREBY RATIFY THE DECLARATION OF STATE OF EMERGENCY SIGNED BY MAYOR SCOTT HILL ON MARCH 16,2020 AND AUTHORIZES THE FOLLOWING:

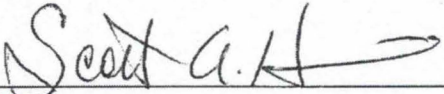
1. City Manager of the City of McMinnville, as the Emergency Manager as indicated in the Emergency Operation Plan, may take any and all necessary steps authorized by law to coordinate a response to this emergency; and
2. The state of emergency declaration provides the City Manager of the City of McMinnville is authorized to reallocate any city funds for emergency use; and
3. City Manager of the City of McMinnville is authorized to coordinate an effective response by redirecting funding for emergency use as needed and suspending standard procurement procedures; and
4. This resolution is effective immediately and shall remain in effect until at least May 1, 2020, but may be extended as necessary.

Adopted by the Common Council of the City of McMinnville at a meeting held the 24th day of March 2020 by the following votes:

Ayes: ~~Drabkin~~, Garvin, Geary, Menke, Peralta, Stassens

Nays: _____

Approved this 24th day of March 2020.



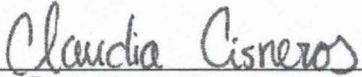
MAYOR

Approved as to form:



City Attorney

Attest:



City Recorder



DECLARATION OF STATE OF EMERGENCY

To: Brian Young, Yamhill County Emergency Manager,
Yamhill County Office of Emergency Management

From: Mayor Scott Hill,
City of McMinnville, Oregon

At 3/16/2020 (time) on 1:20pm (date),

The COVID -19 Pandemic is spreading within the State of Oregon, Yamhill County

The current situation and conditions are:

Taking this action allows City staff greater flexibility to address hazards posed by the COVID-19 by facilitating more expedient coordination with public agencies and quicker deployment of resources and staffing to safeguard the community. It also provides for the ability to modify work schedules of emergency responders to meet reduced staffing or increased emergency responses due to the COVID-19.

The state of emergency declaration provides the City Manager with the latitude to coordinate an effective response by redirecting funding for emergency use as needed and suspending standard procurement procedures.

City Manager of the City of McMinnville, as the Emergency Manager, may take any and all necessary steps authorized by law to coordinate a response to this emergency.

City Manager of the City of McMinnville is authorized to initiate emergency request for aid from Yamhill County, the State of Oregon, and the Federal Emergency Management Agency as necessary.

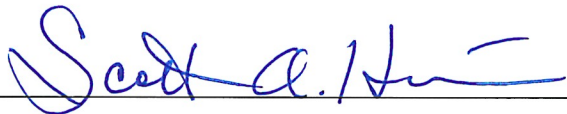
The Common Council of the City of McMinnville will ratify the Declaration of State of Emergency with Resolution No. 2020-18 on March 24, 2020.

Additionally, the designation aides the City's efforts when requesting assistance and/or reimbursement for expenditures related to COVID -19 response.

The declaration, set to expire on May 1, 2020 may be renewed if necessary

The geographic boundaries of the emergency are:
The City Limits of McMinnville, OR 97128

WE DO HEREBY DECLARE THAT A STATE OF EMERGENCY NOW EXISTS IN THE CITY OF MCMINNVILLE AND THAT THE CITY HAS EXPENDED OR WILL SHORTLY EXPEND ITS NECESSARY AND AVAILABLE RESOURCES. WE RESPECTFULLY REQUEST THAT THE COUNTY PROVIDE ASSISTANCE, CONSIDER THE CITY AN "EMERGENCY AREA" AS PROVIDED FOR IN ORS 401, AND, AS APPROPRIATE, REQUEST SUPPORT FROM STATE AGENCIES AND/OR THE FEDERAL GOVERNMENT.

Signed:  _____

Title: Mayor Scott Hill

Date & Time: 3/16/2020 1:20pm

This request may be passed to the County via radio, telephone, or fax. The original signed document must be sent to the County Emergency Management Office, with a copy placed in the final incident package.



City of McMinnville
Planning Department
231 NE Fifth Street
McMinnville, OR 97128
(503) 434-7311
www.mcminnvilleoregon.gov

STAFF REPORT

DATE: July 28, 2020
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: Ordinance No. 5093 – Amendments to Title 15 of the McMinnville Municipal Code, *Buildings and Construction*

STRATEGIC PRIORITY & GOAL:



COMMUNITY SAFETY & RESILIENCY

Proactively plan for & responsively maintain a safe & resilient community.

OBJECTIVE/S: Build a community culture of safety (consider safety best practices)

Report in Brief:

This is the consideration of Ordinance No. 5093, amending Title 15 of the McMinnville Municipal Code (MMC), entitled *Buildings and Construction*. This ordinance repeals the existing Title 15 and replaces it with Title 15 as described in Exhibit A of Ordinance No. 5093. (Please see attached Ordinance No. 5093).

Ordinance No. 5093 also amends Section 2.50.510, *Applicability of Chapter*, of the MMC, and Section 8.10.250, *Motor Vehicles* and adds Section 8.10.035, *Storage*, of the MMC.

City Council conducted the first reading of Ordinance No. 5093 at their meeting on July 14, 2020, and this is the consideration of the second reading of Ordinance No. 5093.

Background:

Chapter 15 of MMC has not been updated substantially since 1978, and an evaluation to this part of the MMC has been identified as an action in the MAC Town 2032 Strategic Plan under the goal of **Community Safety and Resiliency**, and strategy, *proactively plan for and responsively maintain a safe and resilient community*.

The Building Official, Fire Marshall and Code Compliance team have been meeting regularly to discuss what is in the code, how it can be improved to serve our community and if there are any other programs that we should bring to City Council for consideration under this chapter.

The team reviewed the following policies, projects and programs and discussed them in a work session with the City Council on April 22, 2020.

- **Building Codes:** Until 2019, the authority to address dangerous buildings has resided with municipal building departments across the State. This was authority included in the building codes, adopted by Oregon, and administered locally. In 2019, an attorney general's opinion clarified and significantly reduced the authority of building departments. As a result, there are several areas of regulation and compliance that may be of benefit to adopt locally that are no longer included in the Oregon codes. For example, regulations on grading, demolition, signs, and dangerous buildings.
- **Fire Codes:** Chapter 15 of the MMC describes the purpose and application of the Fire Codes within the City of McMinnville. The Fire Marshal reviewed the existing code language and found that it is antiquated in many aspects. The current code references the Uniform Fire Code which no longer exists as well has many sections that are no longer needed because they have been incorporated in the current state adopted fire code. While looking into rewriting McMinnville's Fire Code section the Fire Marshal explored ideas that will help them be successful well into the future by utilizing general and not specific wording to reduce the need for continual updates. Also, the Fire Marshal provided some suggested amendments that would allow them to enforce specific areas of the code through local appeals and code enforcement processes.
- **Adoption of the IPMC 2018 International Property Maintenance Code:** In response to increased requests to address dangerous and dilapidated residential structures, the Code Compliance team researched and evaluated the IPMC 2018 International Property Maintenance Code as a remedy. This code discusses topics such as secured windows and doors, room temperature, moisture, plumbing and electrical requirements, as well as dangerous structures. The team explored how this code could help the City respond to complaints of substandard and unsafe living situations, both rentals and owned, etc.
- **House Moving Regulations:** The City is refreshing the current house moving regulations from 1980. Some changes explored include expanding the permit application review process to include McMinnville Water & Light, ODOT and the McMinnville Police Department, as well as the City's building and engineering departments. The goal of the revision is to insure that all necessary parties have an opportunity to vet the moving routes and methods, as well as the scheduling of the moves. Although these types of projects don't happen frequently, the City should be prepared to thoroughly review any upcoming house moving permit applications.
- **Rental Housing Inspection Program:** The Code Compliance team researched the viability of a Rental Housing Inspection Program in McMinnville. The purpose of the Rental Housing Inspection Program is to address the issue of substandard rental properties, promote greater compliance with health and safety standards and preserve the quality of McMinnville neighborhoods and available housing. The program achieves compliance of health, safety and welfare code violations in/on residential rental properties that are a threat to the occupant's safety, and a negative impact on the surrounding neighborhoods. Code Compliance will work with tenants and landlord to improve the quality of the City's rental housing stock and its ability to support the health of McMinnville's renters; particularly low income and minority households that are already at higher risk of poor health."

Discussion:

After receiving direction from the City Council to move forward with the proposed code amendments, the team elected to bring the code amendments to the City Council in two separate packages, the first in July and the second in August.

This first package contains proposed amendments to the MMC that address the following areas:

- **Building Codes** – This Chapter of the proposed amendments identifies how the building inspection program will be administered by the City of McMinnville (permits, inspections and fees), including the building codes that will be utilized (including the adoption of the International Property Maintenance Code) as well as the adoption of Appendix J of the International Building Code for grading on private property. It is important to note that this effort does not amend the state building codes adopted by the Oregon Building Codes Division that are administered locally in McMinnville, but simply provides local structure for the administration and management of the program. The proposed amendments allow the Building Official to approve alternate materials, methods of design and methods of construction, modifications, right of entry to a property to make an inspection, issue stop work orders and mitigate unsafe buildings. In addition any violation of this Chapter that is not considered an immediate danger to the public health and safety is determined to be a public nuisance and will be noticed, abated and appealed per the process described in Chapter 2.50 of the MMC in order to streamline code enforcement. (Please see attached Chapter 2.50 of the MMC).
- **Fire Codes** – This Chapter of the proposed amendments affirms the adoption and implementation of the Oregon Fire Code in the City of McMinnville with local modifications, the need for fire protection system maintenance, and fire season restrictions. In addition any violation of this Chapter that is not considered an immediate danger to the public health and safety is determined to be a public nuisance and will be noticed, abated and appealed per the process described in Chapter 2.50 of the MMC in order to streamline code enforcement.
- **Standard Specifications for Public Works Construction** – This Chapter of the proposed amendments updates and carries forward from the previous Title language the standard specifications for public works construction that the City of McMinnville adopts by reference.
- **House Moving Regulations** – This Chapter of the proposed amendments updates the process and procedures for moving a house in the City of McMinnville, establishing the requirement for a permit, application and fee for the process. This Chapter also incorporates a previous chapter of Title 15, exempting the relocation of historic landmarks within the City of McMinnville from certain fees and system development charges. And finally, in addition any violation of this Chapter that is not considered an immediate danger to the public health and safety is determined to be a public nuisance and will be noticed, abated and appealed per the process described in Chapter 2.50 of the MMC in order to streamline code enforcement.

In addition to the proposed Title 15 amendments, Ordinance No. 5093 also amends the following sections of the MMC:

- **Chapter 2.50.510** – adding the applicability of the Code Compliance process to Title 15.
- **Chapter 8.10.250** – adding the ability to screen inactive motor vehicles on private property with a car cover.
- **Chapter 8.10.035** – adding a section on the storage of items on private property.

Throughout the proposed amendments are references to penalties assigned as Class Code Violations. As a reminder these violations were established in 2019 with the adoption of Chapter 2.50 of the MMC and are provided below as reference. The fees associated with these Class Code Violations have been approved by resolution of the City Council as part of the McMinnville Fee Schedule.

CODE VIOLATION FEES

TYPE OF FEE	FEE
Class 1 Code Violation	\$5,000.00
Class 2 Code Violation	\$2,000.00
Class 3 Code Violation	\$1,000.00
Class 4 Code Violation	\$500.00
Class 5 Code Violation	\$250.00
Class 6 Code Violation	\$100.00
Class 7 Code Violation	\$50.00
Class 8 Code Violation	\$25.00

The second package of code amendments to Title 15 that will be brought to the City Council in August, 2020 will include the following items:

- Demolition
- Fire Safety During Construction
- Protection of Adjacent Property
- Encroachments into Right of Way
- Retaining Walls
- Cell, Radio and other Towers
- Flag Poles
- Signs
- Transitional Housing Accommodations
- Rental Maintenance Program

Attachments:

- Chapter 2.50 of the McMinnville Municipal Code
- Ordinance No. 5093 with Exhibit A of proposed amendments

Fiscal Impact:

If City Council adopts Ordinance No. 5093, then a Resolution will be proposed with the appropriate fees identified in the Ordinance to be considered by City Council at their meeting on August 11, 2020, prior to the Ordinance becoming effective on August 14, 2020.

Recommendation:

Staff recommends adoption of Ordinance No. 5093.

Chapter 2.50

CODE COMPLIANCE

Sections:

- 2.50.010** **Applicability of chapter.**
- 2.50.020** **Definitions.**
- 2.50.110** **Identification and investigation.**
- 2.50.120** **Notice of code violation.**
- 2.50.210** **Corrective action by responsible person.**
- 2.50.220** **Corrective action by compliance officer.**
- 2.50.230** **Obtaining a corrective action warrant.**
- 2.50.240** **Executing a corrective action warrant.**
- 2.50.250** **Notice and collection of corrective action costs.**
- 2.50.260** **Corrective action remedies not exclusive.**
- 2.50.310** **Notice of civil penalty.**
- 2.50.320** **Civil penalty classification levels.**
- 2.50.510** **Protests and appeals.**

2.50.010 **Applicability of chapter.**

A. The provisions of this chapter apply to the enforcement of civil code provisions identified in the following portions of the McMinnville Municipal Code, including all plans, permits, or licenses adopted or issued pursuant to such provisions:

1. All chapters of Title [5](#) of this code (Business Taxes, Licenses and Regulations);
2. All chapters of Title [8](#) of this code (Health and Safety);
3. All chapters of Title [17](#) of this code (Zoning) and all ordinances adopted pursuant to Title [17](#) of this code or the McMinnville comprehensive plan, regardless of whether such ordinances are codified in the McMinnville Municipal Code.

B. Notwithstanding the provisions of subsection [A](#) of this section, the provisions of this chapter do not apply to the enforcement of any violation identified as a misdemeanor or for which the punishment may include any term of imprisonment, or to any criminal, traffic or parking laws, including the laws set forth in the following titles of the McMinnville Municipal Code:

1. Title [9](#) of this code – Public Peace, Morals and Welfare;
2. Title [10](#) of this code – Vehicles and Traffic. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.020 Definitions.

As used in this chapter:

“Code” or “McMinnville Municipal Code” means the provisions of all ordinances adopted by the city council, regardless of whether codified into the McMinnville Municipal Code, that are subject to the provisions of this chapter, as described in Section [2.50.010](#).

“Code violation” means any substance, condition or action that violates any requirement or prohibition set forth in the McMinnville Municipal Code, including the terms and conditions of any permit, license, or other grant of authority issued or executed pursuant to the provisions of such code.

“Compliance officer” means any person designated by the city manager or designee as having responsibility for enforcing the civil provisions of the McMinnville Municipal Code.

“Corrective action” means an action that is necessary and sufficient to bring any substance, condition or action into compliance with the provisions of the McMinnville Municipal Code.

“Exigent circumstances” means any circumstances that would cause a reasonable person to believe that immediate entry on a premises or other relevant action is necessary to prevent:

1. Physical harm to persons or property;
2. Destruction of evidence; or
3. Other consequences that would improperly frustrate legitimate code compliance efforts.

“Person” means a natural person, firm, partnership, association or corporation.

“Person in charge of a premises” means an owner, agent, occupant, guest, tenant, lessee, contract purchaser, contractor, employee, squatter, or any other person having possession or control of a premises, or supervision over a construction project on a premises.

“Post” or “posting” means the action of physically placing or affixing a notice authorized or required to be posted by this chapter to any portion of the premises in a manner likely to be seen by any responsible person. In the event that the premises is occupied, posting of notice may be accomplished by personal delivery to any person in charge of the premises.

“Premises” means any publicly or privately owned building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.

“Responsible person” means any person that is responsible for permitting, allowing, or causing to exist any substance, condition or action that is prohibited by the provisions of the McMinnville Municipal Code.

“Warrant” or “administrative warrant” means a written order issued by the McMinnville municipal court judge, authorizing entry onto a premises for the purpose of carrying out any of the provisions of this chapter related to the investigation or correction of a code violation. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.110 Identification and investigation.

- A. Upon the receipt of a complaint or the proactive observance of any city employee, a compliance officer is authorized to investigate and determine whether a code violation exists by gathering and documenting evidence, as appropriate to the nature of the alleged violation.
- B. When entry on private property is necessary or desirable for the identification or investigation of the code violation, a compliance officer is authorized as follows:
1. A compliance officer is authorized to enter onto a public or private premises that is open to the public at all reasonable times to determine whether a code violation exists.
 2. A compliance officer is authorized to enter onto a private premises that is not open to the public at reasonable times to determine whether a code violation exists when the compliance officer:
 - a. Has received permission from any person in charge of the premises;
 - b. An administrative warrant has been issued pursuant to the provisions of this chapter authorizing entry for inspection of the premises;
 - c. Determines that an emergency or other exigent circumstances exist requiring immediate entry.
- C. An administrative search warrant may be issued by the municipal court judge upon the oath and application of a compliance officer, which must include a sworn affidavit showing probable cause for the entry and inspection by stating the purpose and extent of the proposed inspection, citing the chapter(s) of the McMinnville Municipal Code that serve(s) as the basis for the inspection, and giving information concerning the code violation in question and/or the premises on which it is located.
- D. A person must not interfere with or attempt to prevent a compliance officer from entering onto any premises when such entry is authorized by the provisions of this section. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.120 Notice of code violation.

- A. If the city manager or designee is satisfied that a code violation exists, the compliance officer will cause a notice of code violation to be posted on the premises, or at the site of the code violation, directing the responsible person to correct the code violation.
- B. At the time of posting, the compliance officer must also cause a copy of the notice of code violation to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County. If the mailed notice of code violation is returned as undeliverable or is unclaimed by the property owner, it will not preclude the city from taking enforcement or corrective actions as described in this chapter.
- C. The notice of code violation must contain:

1. A description of the real property, by street address or otherwise, on which the code violation exists.
 2. A description of the code violation found to exist by the compliance officer.
 3. A determination of whether the code violation presents an immediate threat to the public health, welfare or safety.
 4. A direction to correct the code violation within 10 days from the date of notice.
 5. If the code violation is for a public nuisance described in Chapter [8.10](#), a statement that unless the code violation is corrected by the deadline, the city may correct the code violation and assess the full cost of corrective action, including administrative charges, against all responsible persons and that such corrective action costs will become a lien on the property if not paid in full within 30 days of invoicing.
 6. A statement that failure to correct a code violation may warrant imposition of a civil penalty upon all persons responsible for the code violation.
 7. A statement that the owner or any responsible person may protest the notice of code violation by giving written notice to the city manager within 10 days from the date of the notice, together with a written statement as to why a code violation does not exist.
- D. Upon completion of the posting and mailing of the notice of code violation, the compliance officer must execute and place on file with the city manager or designee a certificate stating the date and place of the mailing and posting.
- E. If the compliance officer meets all requirements for posting and mailing the notice of code violation set forth in this section, then the failure of any person to receive actual notice will not void any code compliance process set forth in this chapter.
- F. If the owner or other responsible person fails to appeal the notice of code violation in compliance with the procedures set forth at Section [2.50.510\(A\)](#), then the violation will be deemed proved and no further appeal of the notice of code violation will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.210 Corrective action by responsible person.

- A. All responsible persons must correct all violations described in the notice of code violation not later than the date set forth in the notice, or the date set forth in any final order or judgment issued on appeal.
- B. If a responsible person admits responsibility for the violation, they may submit a voluntary compliance plan for correcting the violation to the compliance officer within 10 days after posting and mailing of the notice of violation. The compliance plan must contain the following:
1. The responsible person's name, mailing address, telephone number and email address;
 2. A written admission of responsibility for the violation;

3. A detailed plan for correction of the violation(s) over a reasonable period of time;
 4. Written consent for the compliance officer or their designee to enter the premises for the purpose of:
 - a. Verifying compliance with the terms of the compliance plan; or
 - b. Taking actions to correct the violation upon determining that the terms of the compliance plan have not been met.
- C. The compliance officer will review the voluntary compliance plan and may approve the plan as presented, approve a modified plan, or reject the plan, at their discretion. The decision of a compliance officer regarding whether to accept, reject or modify a voluntary compliance plan is final and not subject to appeal. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.220 Corrective action by compliance officer.

- A. The city may enter a premises as provided in this section, and may take all necessary actions to correct code violation, whenever a responsible person fails to take corrective action as described in Section [2.50.210\(A\)](#), or upon the determination by a compliance officer that a person has failed to comply with the terms of a voluntary compliance plan approved pursuant to Section [2.50.210\(C\)](#). Except when the compliance officer has received consent from a responsible person or as provided in subsection [B](#) of this section, a corrective action warrant is required before a compliance officer may enter the premises.
- B. If the violation for which a notice of code violation has been issued is determined to be an immediate threat to the public health, welfare or safety, and is not corrected within the specified time frame, the city manager may order the code violation to be corrected without a warrant. The following nonexclusive list of code violations may be corrected by the city without a warrant:
1. Any structural element that has been significantly compromised as determined by the city building official or designee, and not governed by any other section of this code.
 2. Any fire hazard as determined by the fire marshal or designee, and not governed by any other section of this code.
 3. Any public nuisance violation identified Chapter [8.10](#), as determined by a compliance officer to present an immediate threat to the public health, welfare or safety, including but not limited to violations involving rat harborage and weed abatement.
- C. The McMinnville municipal court is authorized to issue a corrective action warrant authorizing any compliance officer to make searches and seizures reasonably necessary to enforce any provision of the McMinnville City Code pertaining to code violations. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.230 Obtaining a corrective action warrant.

A. Every warrant authorized by this section must be supported by affidavit or sworn testimony establishing probable cause to believe that a code violation has occurred, describing:

1. The applicant's status in applying for the warrant;
2. The premises to be entered;
3. A statement of the violation to be corrected;
4. The ordinance or regulation requiring or authorizing the corrective action;
5. The basis for taking the corrective action;
6. A statement that consent to enter onto the property to correct the violation has been unsuccessfully sought from a responsible person or other facts and circumstances that reasonably justify the failure to seek or inability to obtain such consent.

B. Probable cause to issue a warrant will be found when:

1. There is reasonable belief that a code violation exists with respect to the premises;
2. The city has complied with the notice requirements set forth in Section [2.50.120](#); and
3. The time period for the owner or other responsible person to correct the violation has passed.

C. The court may, before issuing a corrective action warrant, examine the applicant and any other witness under oath and must be satisfied of the existence of grounds for granting such application. If the court is satisfied that cause for correcting the violation(s) exists and that the other requirements for granting the application are satisfied, the court must issue the corrective action warrant, particularly describing the person or persons authorized to execute the warrant, the premises to be entered, and a statement of the general corrective actions that may be taken.

D. In issuing a corrective action warrant, the court may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described premises to remove any person or obstacle and to assist a compliance officer in any way necessary to enter the premises to correct the violation. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.240 Executing a corrective action warrant.

A. *Occupied Property.* In executing a corrective action warrant, the person authorized to execute the warrant must, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant must be left with the occupant or the person in possession. The warrant is not required to be read aloud.

- B. *Unoccupied Property.* In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person. In such case a copy of the warrant must be conspicuously posted on the property.
- C. *Return.* A warrant must be executed within 30 days of its issue and returned to the court by whom it was issued within 30 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.
- D. A person must not interfere with or attempt to prevent a compliance officer from entering onto any premises when such entry is authorized by the provisions of this section.
- E. The city manager has the final authority to decide whether or not to enter onto a premises to correct or abate a code violation in each particular case. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.250 Notice and collection of corrective action costs.

- A. The owner, all persons in charge of the premises, and all other responsible persons are jointly and severally liable for all costs associated with corrective actions taken by the city, including administrative costs, warrant costs, and attorney fees.
- B. The city manager or designee must keep an accurate record of the full cost recovery expense incurred by the city for all corrective actions.
- C. After the code violations have been determined by the city to be corrected, the city manager or designee must cause a notice of corrective action costs to be posted on the premises, or at the site of the code violation.
- D. At the time of posting, the city manager or designee must also cause a copy of the notice of corrective action costs to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- E. The notice of corrective action costs must contain:
1. A copy of the notice of code violation and any final orders issued in the matter;
 2. The total costs of corrective actions due and payable within 30 days of the notice of corrective action costs;
 3. Notification that the costs of corrective actions will become a lien against the premises if not paid when due; and
 4. Notification that if any owner or other responsible person objects to the notice of corrective action costs, a written protest must be filed with the city manager within 10 days from the date of the notice.
- F. *Collection and Abatement Costs.*

1. The costs listed in the notice of corrective action costs will become delinquent if not paid within 30 days of the date of the notice or within 10 days of the date set forth in any final order or judgment issued on appeal of the cost notice, whichever comes later.
 2. Assessment of the delinquent correction action costs must be made by city council resolution to be entered in the docket of city liens. When the entry is made, it will constitute a lien on all real property on which the corrective action occurred.
 3. The lien will be enforced in the same manner as liens for street improvements, as described in Chapter [3.12](#), and will bear interest at the rate of nine percent per year, accruing from the date of the entry of the lien into the lien docket.
- G. If the compliance officer meets all requirements for posting and mailing the notice of corrective action costs set forth in this section, then the failure of any person to receive actual notice will not void the assessment of any corrective action costs.
- H. If the owner or other responsible person fails to appeal the notice of corrective action costs in compliance with the procedures set forth at Section [2.50.510\(A\)](#), then the cost assessment shall be deemed proved and no further appeal of the notice of corrective action costs will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.260 Corrective action remedies not exclusive.

- A. The correction of code violations and the assessment of any costs associated with corrective actions are not penalties, but are additional remedies.
- B. The imposition of a civil penalty does not relieve a person of the duty to correct a code violation or pay all corrective action costs assessed by the city.
- C. The correction of a code violation within 10 days of the date of the notice of code violation or the final order issued upon any appeal of the notice, will relieve a responsible person from the imposition of any civil penalty under this chapter. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.310 Notice of civil penalty.

- A. Upon finding that a code violation exists and has not been voluntarily corrected within 10 days of the date of the notice of code violation or the final order issued upon appeal of the notice, the city manager or designee may impose a civil penalty.
- B. Each day that a code violation continues to exist will constitute a separate violation and a new civil penalty may be assessed for each consecutive day the violation continues without correction.

- C. The compliance officer shall cause the notice of civil penalty to be posted on the premises and forwarded by certified mail, postage prepaid, to any person in charge of the premises and the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- D. If the certified notice of civil penalty is returned as undeliverable or is unclaimed by any person, it will not preclude the city from imposing a civil penalty as described in this chapter.
- E. The notice of civil penalty must contain the following:
1. A description of the real property, by street address or otherwise, on which the code violation exists.
 2. A description of the code violation found to exist by the compliance officer.
 3. A copy of the notice of code violation and any final orders issued in the matter.
 4. A statement indicating whether the code violation has been corrected or is considered a continuing violation subject to the imposition of a daily civil penalty.
 5. A calculation of the total amount of the civil penalty or, in the case of a continuing violation, the amount of civil penalty that has accrued as of the date of the notice.
 6. A statement that the amount of the civil penalty may become a lien on the premises if not paid in full within 30 days of invoicing.
 7. A statement that the owner or any responsible person may protest the notice of civil penalty by giving written notice to the city manager within 10 days from the date of the notice, together with a written statement as to why the civil penalty should be modified or not assessed.
- F. If the compliance officer meets all requirements for posting and mailing the notice of civil penalty set forth in this section, then the failure of any person to receive actual notice will not void the assessment of any civil penalty.
- G. If the owner or other responsible person fails to appeal the notice of civil penalty in compliance with the procedures set forth at Section [2.50.510\(A\)](#), the amount of the civil penalty will be deemed final and no further appeal of the notice of civil penalty will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.320 Civil penalty classification levels.

- A. The penalty for committing a code violation that is subject to the provisions of this chapter is a civil penalty. The amount of the civil penalty will be established by city council resolution.
- B. Code violations are classified for the purpose of assessing a civil penalty into the following categories:
1. Class 1 code violations;
 2. Class 2 code violations;
 3. Class 3 code violations;

4. Class 4 code violations;
5. Class 5 code violations;
6. Class 6 code violations;
7. Class 7 code violations;
8. Class 8 code violations;
9. Unclassified code violations as described in subsection [C](#) of this section; and
10. Specific fine code violations, as described in subsection [D](#) of this section.

C. The violation of any code provision that is subject to this chapter and that does not specify the classification of the code violation is an unclassified code violation. An unclassified code violation may be assessed a civil penalty in lieu of a fine as a Class 3 code violation, except that when a code violation is classified in accordance with ORS [153.012](#), then:

1. A Class A violation may be assessed a civil penalty as a Class 3 code violation;
2. A Class B violation may be assessed a civil penalty as a Class 4 code violation;
3. A Class C violation may be assessed a civil penalty as a Class 5 code violation; and
4. A Class D violation may be assessed a civil penalty as a Class 6 code violation.

D. The violation of any code provision that is subject to this chapter, and that specifies a specific fine amount or maximum fine amount, may be assessed a civil penalty in lieu of the fine, in a daily amount not to exceed the specific fine. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.510 Protests and appeals.

A. *Protest to the City Manager.*

1. An owner or other responsible person of a premises may protest a notice of code violation issued pursuant to Section [2.50.120](#), a notice of corrective action costs issued pursuant to Section [2.50.250](#), or a notice of civil penalty issued pursuant to Section [2.50.310](#) by submitting a written protest to the city manager within 10 days of the date of the notice.
2. The written protest must, at a minimum, contain the following information:
 - a. The name, mailing address, telephone number and email address of the person submitting the protest;
 - b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;

- c. A written statement, and all supporting evidence, specifying the basis for the protest.
 3. The city manager will review the notice and the protest, together with all supporting evidence in the record, and will issue a final order that either upholds, amends, or dismisses the findings and determination set forth in the notice.
 4. If the city manager issues a final order that upholds or amends the Notice, the owner or responsible person must comply with the terms of the order within 10 days from the date of the order.
- B. *Appeal to the Hearings Officer.*
 1. An owner or other responsible person of a premises may dispute a final order issued by the city manager pursuant to subsection [A](#) of this section by submitting a written appeal to the city recorder within 10 days of the date of the final order. A hearings officer will preside over the appeal hearing.
 2. The written appeal must, at a minimum, contain the following information:
 - a. The name, mailing address, telephone number and email address of the person submitting the protest;
 - b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;
 - c. A written statement, and all supporting evidence, specifying the basis for appealing the city manager's final order.
 3. Subject to the requirements of this code section, the McMinnville hearings officer may adopt additional procedures for the conduct of any hearings before them, but at a minimum, must allow:
 - a. Each party to introduce evidence, including rebuttal evidence, that is relevant to prove or refute any matter raised in the underlying notice or city manager's final order; and
 - b. An opportunity for each party to cross-examine all witnesses who testify.
 4. Following the close of the record, the McMinnville hearings officer will issue a decision within 10 days that either upholds, amends, or dismisses the city manager's final order.
 5. If the hearings officer decision upholds or amends the city manager's final order, then the hearings officer's final order must include:
 - a. A brief statement of the findings of fact;
 - b. The amount of any assessed corrective action costs, civil penalties, and associated administrative costs;
 - c. The date by which any costs and assessments must be paid; and
 - d. An order directing the responsible person to correct the code violation, pay the assessed corrective action costs or pay the assessed civil penalty, as appropriate to the nature of the appeal;

6. If the hearings officer decision dismisses the city manager's final order, then the hearings officer's final order must include:

- a. An order that any incurred fees be refunded; and
- b. An order that all costs of the abatement will be dismissed or refunded.

C. *Appeal of Hearings Officer's Final Order.* Any party to the appeal may obtain review of the hearings officer's final order by writ of review pursuant to ORS Chapter [34](#). (Ord. 5078 §1 (Exh. 1 (part)), 2019).

This website is for demonstration or proofing purposes only. It is not necessarily endorsed by City of McMinnville and should not be relied upon for the content of any document.

The McMinnville Municipal Code is current through Ordinance 5092, passed April 14, 2020.

Disclaimer: The city recorder's office has the official version of the McMinnville Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

City Telephone: (503) 435-5702

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ORDINANCE NO. 5093

AN ORDINANCE REPEALING AND REPLACING TITLE 15 OF THE MCMINNVILLE CITY CODE, SPECIFIC TO BUILDINGS AND CONSTRUCTION, AMENDING SECTION 2.50.510, SPECIFIC TO CODE COMPLIANCE - APPLICABILITY, AND SECTIONS 8,10.250, HEALTH AND SAFETY – MOTOR VEHICLES, AND SECTION 8.10.035, HEALTH AND SAFETY – STORAGE.

RECITALS:

WHEREAS, The City of McMinnville in an effort to provide for the welfare, safety and health of the citizens of the City of McMinnville has a local McMinnville Municipal Code; and

WHEREAS, Title 15 of the McMinnville City Code governs local codes relative to “Buildings and Construction”; and

WHEREAS, Title 15 has not been updated since 1980; and

WHEREAS, Codes, best practices and program parameters have changed substantially for buildings and construction since 1980; and

WHEREAS, the City of McMinnville would like to continue to provide for the welfare, safety and health of the citizens of the City of McMinnville relative to buildings and construction with updated local codes reflecting current best practices; and

WHEREAS, the City of McMinnville does not have a property maintenance code and has received many complaints from citizens regarding properties that are not maintained to a minimum standard of maintenance, safety and health; and

WHEREAS, the City of McMinnville would like to update its local fire codes for buildings and construction to ensure the safety, welfare and health of its citizens and businesses; and

WHEREAS, the Oregon Building Codes Division adopts Oregon’s State Building Code; and

WHEREAS, the State allows for adoption of several optional appendices to the Building Code; and

WHEREAS, the State allows adoption of local ordinances regulating matters not otherwise encompassed by the State Building Code under ORS 455.030; and

WHEREAS, the City has the authority under ORS 455.020(4) to enact certain building code regulations to supplement the Statewide Building Code; and

WHEREAS, having a consistent local administrative chapter is intended to provide for consistent application of all adopted specialty codes.

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That Title 15 (BUILDINGS AND CONSTRUCTION), of the McMinnville City Code is repealed and replaced as provided in Exhibit A to this Ordinance.
2. That this Ordinance is effective thirty days from its adoption.

Passed by the Council this 28th day of July, 2020, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

City Recorder

City Attorney



EXHIBIT A

**CITY OF MCMINNVILLE
PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128**

503-434-7311

www.mcminnvilleoregon.gov

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE

The following language will replace Title 15 of the McMinnville Municipal Code

TITLE 15 BUILDINGS and CONSTRUCTION

CHAPTERS:

- | | |
|-------|---|
| 15.02 | Building Codes |
| 15.04 | Fire Codes |
| 15.06 | Standard Specifications for Public Works Construction |
| 15.08 | House Moving Regulations |

Chapter 15.02
BUILDING CODES

Sections:

15.02.010	Administration
15.02.020	Building Codes
15.02.030	Revisions to Codes
15.02.040	Alternate Materials, Methods of Design and Methods of Construction
15.02.050	Modifications
15.02.060	Permits
15.02.070	Inspections
15.02.080	Fees
15.02.090	Powers and Duties of Building Official
15.02.095	Applicability
15.02.100	Violations and Penalties
15.02.200	Protests and Appeals

15.02.010 Administration

- A. The City provides a building inspection program, including plan review, permit issuance and inspection for the adopted specialty building codes listed in section 15.02.020 of this Chapter.
- B. The program is administered by the Building Official under the supervision of the City Manager or designee and the authority of ORS 455.150(3).
- C. The Building Official is authorized to adopt rules of procedure for such administration that include, the authority to stop work and disallow occupancy or use of any building or service equipment in violation of this ordinance; the authority to refund all or part of building permit application fees for cause; and the authority to dispose of permit applications and supporting documents, and to declare permits to have expired, at a point in time after applications are received and after permits have been issued.
- D. The program provides services in accordance with its operating plan as required by OAR 918-020-0090 and the remainder of this chapter.

15.02.020 Building Codes

The City adopts the most recent editions of the following codes:

- A. Application of the Building Code. ORS Chapter 455.150 and OAR 918-020-0010 through OAR 918-020-0490 are adopted by reference. A violation of a provision in those State laws is an offense against the City.

- B. Oregon Structural Specialty Code, as adopted by ORS [455.150](#) through [455.895](#), OAR 918-460-0000 through 918-460-0070 (hereinafter “Structural Specialty Code”);
- C. Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0000 through 918-440-0510;
- D. Oregon Plumbing Specialty Code, as adopted by ORS [447.020](#)(2), OAR 918-750-0110 and delegated to the city by ORS [455.153](#) (hereinafter “Plumbing Specialty Code”);
- E. Oregon One- and Two-Family Dwelling Specialty Code, as adopted by ORS [455.610](#) and OAR 918-480-0001 through 918-480-0150 (hereinafter called the “One- and Two-Family Specialty Code”).
- F. Oregon Manufactured Dwelling Installation Specialty Code as adopted by ORS 446.230.
- G. Oregon Manufactured Dwelling and Parks Specialty Code as scoped by OAR 918-600-0010 and adopted ORS 446.
- H. International Property Maintenance Code, as published by the International Code Council with the following modifications:
 1. Section 101.1. Insert: *City of McMinnville*
 2. Section 103.5. Insert: *Will not exceed the amount established by a Class 1 Code Violation plus full cost recovery as established by the City of McMinnville Fee Schedule.*
 3. Section 109.6. Amend “*Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code, protest and appeal per section 2.50.510 of the McMinnville Municipal Code*”.
 4. Section 111. Amend. *Appeals will be processed per section 2.50.510 of the McMinnville Municipal Code.*
 5. Section 112.4. Insert: *Will not exceed the amount established by a Class 4 Code Violation.*
 6. Section 302.4. Insert: *10 inches (height of weeds/overgrown grass allowed in local jurisdiction).*
 7. Section 304.14. Insert: *May 1 through October 30.*
 8. Section 308.2.2. Delete entire section.

9. Section 602.3 Insert: *October 1 through June 30.*
10. Section 602.4 Insert: *October 1 through June 30..*

I. International Building Code, Appendix J, Grading with the following modifications:

1. J101.2 Flood Hazard Areas. Section deleted and replaced with the following:
Unless the applicant has submitted an engineering analysis, prepared in accordance with standard engineering practice by a registered design professional, that demonstrates the proposed work will not result in any increase in the level of the base flood, and has a permit from the Department of State Lands, grading, excavation and earthwork construction, including fills and embankments, shall not be permitted in floodways that are in recognized flood hazard areas or in flood hazard areas where design flood elevations are specified but floodways have not been designated.
2. J102.1 Definitions. Section deleted and replaced with the following:
The following words and terms shall, for the purposes of this code, have the meanings shown herein. Refer to Chapter 2 of the current Oregon Structural Specialty Code for general definitions.
3. J103.2 Exemptions. Item 2 deleted and replaced with: *Excavation for construction of a structure permitted under the current Oregon Structural Specialty Code.*
4. J103.2 Exemptions. Last paragraph deleted and replaced with: *Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of any other laws or ordinances of this jurisdiction.*
5. J104.1 Submittal Requirements. Section deleted and replaced with the following:
Grading plans must be prepared by an Oregon registered design professional.
Exception: The building official may waive the need for an Oregon registered design professional where the nature of work is determined not to be highly technical in nature or there is no unreasonable potential risk to life or safety.
6. J104.4 Liquefaction Study. Section deleted and replaced with the following:
Where local zoning allows for development on sites with mapped maximum considered earthquake spectral response accelerations at short periods (S_1) greater than 0.5g as determined by the current Oregon Structural Specialty Code, a study of the liquefaction potential of the site shall be provided and the recommendations incorporated in the plans.
7. J105.1 General Requirements. Section deleted and replaced with the following:
Inspection shall be governed by the current Oregon Structural Specialty Code.
8. J105.2 Special inspections. Section deleted and replaced with the following:

The special inspection requirements of the current Oregon Structural Specialty Code shall apply to work performed under a grading permit where required by the building official.

15.02.030 Revisions to Codes

From time to time revisions, amendments and/or other changes are made to the codes identified in section 15.02.020 of this chapter. The amended codes are issued as new editions. The new editions of the codes adopted in section 15.02.020 of this chapter shall be considered adopted by the city.

15.02.040 Alternate Materials, Methods of Design and Methods of Construction

- A. The provisions of the technical codes are not intended to prevent the use of any material method of design or method of construction not specifically prescribed by the technical codes, provided an alternate has been approved and its use authorized by the building official.
- B. The building official may approve an alternate, provided the building official finds that the proposed design is satisfactory and complies with the provisions of the technical codes and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.
- C. The building official shall require that sufficient evidence or proof be submitted to substantiate claims that may be made regarding its use. The details of an action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

15.02.050 Modifications

Whenever there are practical difficulties involved in carrying out the provisions of the technical codes, the building official may grant modifications for individual cases. The building official shall first find that a special individual reason makes the strict letter of the technical code impractical and the modification is in conformity with the intent and purpose of the technical code, and that such modification does not lessen health, life and fire safety requirements or any degree of structural integrity. The details of actions granting modifications shall be recorded and entered in the files of the code enforcement agency.

15.02.060 Permits

- A. **Permits Required.** Any owner, person, or authorized agent who intends to construct, alter, enlarge, repair, move, demolish, or change the occupancy of any building, structure, appurtenance, or service equipment or cause any such work to be done must first make application to the building official and obtain the required permit.

- B. The permit holder or applicant shall not proceed with construction activity prior to issuance of a permit or until receiving specific written authorization to do so by the Building Official.
- C. Work requiring a permit shall not be commenced until the permit holder or an authorized agent of the permit holder has made available on site, a copy of the permit authorizing such work and supporting documents such as City approved construction documents. The permit and supporting documents shall be maintained and available by the permit holder until final approval has been granted by the Building Official.
- D. The issuance of a permit based on construction documents and other data does not prevent the Building Official from thereafter requiring the correction of errors in the construction documents and other data, or from preventing building operation, such as building inspections, plan reviews, permit issuance, and investigations, from being carried on thereunder when in violation of this Chapter or any other ordinances of this jurisdiction.
- E. Partial Permits. The Building Official is authorized to promulgate additional administrative rules and regulations related to the efficient administration and review of partial permits. Elements for partial permits shall include but not be limited to deferred submittals, temporary permits and phased construction.
- F. Design Profession of Responsible Charge. Where it is required that documents be prepared by a registered design professional, the Building Official shall be authorized to require the owner or the owner's authorized agent to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner or the owner's authorized agent shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner or the owner's authorized agent if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.
- G. Work without a permit – Investigation fee.
 - 1. Whenever work for which a permit as required by this code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.
 - 2. An investigation fee, in addition to the permit fees, shall be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either this code, any technical codes nor from any penalties prescribed by law.

- H. Suspension or Revocation. The Building Official may, in writing, suspend or revoke a permit issued under the provision of this Chapter whenever the Permit is issued in error on the basis of incorrect, inaccurate, or incomplete information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the McMinnville Municipal Code.
- I. The Building Official may adopt administrative procedures regarding permit and permit application expirations, extensions, and/or reinstatements.

15.02.070 Inspections

- A. It shall be the duty of the Permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the Building Official.
- B. The Building Official shall make the required inspections, or the Building Official shall have the authority to accept reports of inspection by approved agencies or individuals. The Building Official is authorized to engage such expert opinion as deemed necessary to report on unusual technical issues that arise.
- C. Special Inspections.
 - 1. When special inspection is required by the Structural Specialty Code, the owner or the owner's authorized agent, other than the contractor, shall prepare an inspection program which shall be submitted to the building official for approval prior to issuance of a building permit. The inspection program shall designate the portions of the work that require special inspection and the name or names of individuals or firms who are to perform the special inspections, and indicate the duties of the special inspectors.
 - 2. The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work. In situations where the owner is also the contractor, the building official shall have the authority to require the selection of a special inspector who is independent from the employment of the owner/contractor.
 - 3. When structural observation is required by a Structural Specialty Code, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.
 - 4. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.
- D. Failure to Obtain or Request Final Inspection or Issuance of Certificate of Occupancy.

1. Prior to occupancy of newly constructed commercial or residential buildings or altered commercial buildings a final inspection must be approved by the Building Official. For a new building, a certificate of occupancy will be issued signifying compliance with the applicable codes of the City. For remodel work, a certificate of completion may be issued.
2. Other permitted work such as mechanical installations or structures that do not involve occupancy by persons, must receive a final inspection from the Building Official within 180 days after the work has been completed.
3. Whenever any building, structure or equipment therein regulated by this Chapter is occupied or in use without a final inspection or certificate of occupancy, the Building Official is authorized to use all means authorized to compel completion of permitted work. This includes issuing an order for occupancy or use to be discontinued, and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official and make the structure, or portion thereof, comply with the requirements of the Building Code. The Building Official may cause the water service to be discontinued pending the completion of the final inspection and obtaining a Certificate of Occupancy. The Building Official shall notify the occupants of the discontinuation of water service in the notice to complete final inspection and obtain certificate of occupancy.
4. If a permit holder receives a temporary certificate of occupancy and does not complete all of the requirements of the permit in a timely manner, the Building Official may declare it a violation of this Chapter and seek remedy by all means authorized up to and including ordering the occupancy or use discontinued, and the structure vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official and make the structure, or portion thereof, comply with the requirements of the permit. The Building Official may cause the water service to be discontinued pending the completion of the final inspection and obtaining a Certificate of Occupancy. The Building Official shall notify the occupants of the discontinuation of water service in the notice to complete final inspection and obtain certificate of occupancy. And the Building Official may issue a citation for a Class 4 Code Violation each day of the occurrence of the violation.

15.02.080 Fees

- A. Fees for permits and other related services pursuant to the building inspection program will be established by resolution of the City Council and updated regularly as appropriate.
- B. Fee refunds and waivers.
 1. The Building Official may authorize refunding of any fee paid thereunder which was erroneously paid or collected.

2. The Building Official may authorize refunding of any fee refund made voluntarily in writing within 180 days of fee payment. A portion of the refund, as set in the adopted fee schedule, shall be retained.
3. The Building Official may authorize refunding of the permit fees paid as required by this code when no work has been begun under a permit issued in accordance with this code. Permit fee refunds shall not exceed the amount set forth by the fee schedule.
4. The Building Official may authorize a refund of plan review fees paid as required under this code if an application for a plan review permit is withdrawn or canceled before any plan review is conducted. Plan review fee refunds shall not exceed the amount set forth by the fee schedule.
5. The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permit holder not later than 180 days after date of fee payment.

15.02.090 Powers and Duties of Building Official

- A. The Building Official is authorized to enforce all of the provisions of this Chapter.
- B. The Building Official has the power to render written and oral interpretations of the Building Codes in Section 15.02.020 and to adopt and enforce administrative procedures in order to clarify the application of their provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of the codes, and shall not have the effect of waiving requirements specifically provided for in the codes.
- C. Liability. The Building Official, and/or any employee charged with the enforcement of the Building Codes in Section 15.02.020, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by the codes or other pertinent law or ordinance, shall not thereby be civilly or criminally rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties.
- D. Legal Defense. Any suit or criminal complaint instituted against the Building Official and/or any employee charged with the enforcement of the Building Codes in Section 15.02.030 because of an act performed by that person in the lawful discharge of duties and under the provisions of this Chapter shall be defended by legal representatives of the City until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.
- E. Delegation of Authority. The Building Official has the authority to delegate the authority necessary to carry out the provisions of this chapter to technical officers, inspectors, plan examiners and other employees of the City.

F. Right of Entry. Where it is necessary to make an inspection to enforce the provisions of this Chapter, or where the Building Official has reasonable cause to believe that there exists in a structure or on a premises a condition that is contrary to or in violation of this Chapter that makes the structure or premises unsafe, dangerous or hazardous, the Building Official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

G. Stop Work Orders.

1. Whenever any work is being done contrary to the provisions of the Building Code (or other pertinent laws or ordinances implemented through its enforcement), the Building Official may order the work stopped by written notice served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the Building Official to proceed thereafter.
2. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, is subject to the penalties of Section 15.02.100 of this code.

H. Authority to Abate Hazardous Equipment.

1. When the Building Official ascertains that equipment, or any portion thereof, regulated by the Building Code has become hazardous to life, health, or property, the Building Official may order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice must be in writing and contain a fixed time limit for compliance. Any person who uses the defective equipment after receiving the notice is subject to the penalties of Section 15.02.100 of this code.
2. When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) must be given within 24 hours to the involved utility and also the owner and/or occupant of the building, structure, or premises. When equipment is maintained in violation of the Building Code and in violation of a notice issued pursuant to the provisions of this section, the Building Official may institute such action as the Building Official deems necessary to prevent, restrain, correct or abate the violation, including, but not limited to issuing civil penalties; declaring the building, structure, or premises dangerous; and denying entry.

I. Occupancy Violations. Whenever any building, structure or equipment therein regulated by the this Chapter is used contrary to the provisions of the Building Codes, the Building Official may order such use discontinued and the structure (or portion thereof) vacated and

provide such order through written notice to the owner, occupant, and/or user of the building, structure, or equipment. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the Building Official in the notice and make the structure, or portion thereof, comply with the requirements of the Building Code. Structures that are altered, modified, or repaired without the benefit of permits, for purposes of adding rooms for tenants, shall be considered as occupancy violations and subject to the penalties of Section 15.02.100 of this code.

- J. Unsafe Buildings. When the Building Official ascertains that a building, structure, or premises, or any portion thereof, regulated by the Building Code is a public nuisance or otherwise has become hazardous to life, health, or property, the Building Official may order abatement by repair, rehabilitation, Demolition, or removal in accordance with the procedures set forth in the Building Code or such alternate procedures as may have been or as may be adopted by the City or the Building Official. As an alternative, the Building Official may institute any other appropriate action to prevent, restrain, correct or abate the violation.

15.02.095 Applicability

- A. This code shall apply to the construction, erection, alteration, moving, enlargement, demolition, repair, improvement, conversion, maintenance, and work associated with any building or structure except those located in a public way.
- B. Where, in any specific case, there is a conflict between this code and the Oregon Revised Statutes, the Oregon Revised Statutes shall govern.
- C. When conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.
- D. Where, in any specific case, different sections of this code specify different material methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- E. When conflicts occur between specific provisions of this code and administrative provisions in a technical code which is then applicable within this jurisdiction, those provisions becoming the law most recently shall prevail.

15.02.100 Violations and Penalties

- A. It is unlawful and a public nuisance within the City of McMinnville for any person in charge of a premises to permit, allow or cause to exist, any substance, condition or act on the premises that is injurious or detrimental to the public health, welfare or safety.

- B. The Building Official or designee may determine if a violation of this Chapter has occurred.
- C. If the violation is deemed to be a public nuisance, it will be noticed and abated per the process and procedures outlined in Chapter 2.50 of the McMinnville Municipal Code.
- D. If the violation is deemed to be a public nuisance, in addition to any corrective action ordered by the City, a person found to have violated the provisions of this Chapter may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 2 Code Violation.
- E. If the violation is deemed to be an immediate public safety hazard, in addition to any corrective action ordered by the City, the amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 1 violation.
- F. Notwithstanding the other remedies in this chapter, if the Building Official determines that any building under construction, mechanical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, they may order the work halted and the building or structure vacated pending further action by the City and its legal counsel.
- G. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under City ordinance or state statute.
- H. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

15.02.200 Protests and Appeals

A person aggrieved by an action of the Building Official taken pursuant to this Chapter may appeal that action per the process outlined in Chapter 2.50.510 of the McMinnville Municipal Code.

Chapter 15.04
FIRE CODES

Sections:

15.04.010	Definitions
15.04.020	Establishment of Duties.
15.04.030	Adoption of Oregon Fire Code
15.04.040	Fire Protection System Maintenance
15.04.050	Restricted Uses During Fire Season
15.04.060	City of McMinnville Modifications to the Oregon Fire Code .. .
15.04.070	Violations and Penalties
15.04.080	Protests and Appeals

15.04.010 Definitions

The following definitions govern the implementation of this chapter.

- A. "Jurisdiction," as used in the Oregon Fire Code, means the City of McMinnville ("McMinnville").
- B. "Department of Fire Prevention," as used in the Oregon Fire Code, means "Fire and Life Safety Division."
- C. "Fire Code Official," as used in the Oregon Fire Code, means the Fire Marshal or designee.
- D. "Apparatus cost" means the standardized cost, including repairs and depreciation, for the use of McMinnville Fire Department's apparatus and or equipment, as set forth in adopted regulations of the State Fire Marshal or in City resolution, and the cost for the use of apparatus or equipment of another jurisdiction which may respond to an incident pursuant to statute or intergovernmental agreement.
- E. "Direct costs" means those costs of supplies, apparatus and labor incurred by the City or another jurisdiction in responding to an incident and as may be set forth in adopted regulations of the State Fire Marshal or in City resolution.
- F. "Direct fire or rescue services" means any service provided by employees of the City (1) to a person whose person or property is injured or threatened with injury; or (2) to a person whose property has injured or threatens to injure another person or another person's property, for which a charge is not otherwise imposed under this code. "Direct fire or rescue services" includes, but is not limited to, the suppression of fires, the rescue of persons or property, the provision of medical assistance, and containment and cleanup of hazardous materials.

- G. "Indirect costs" means those costs that are set forth in adopted regulations of the State Fire Marshal or in City resolution, and which are the product of the state "average response availability rate" and the time spent responding to an incident, together with the state "average support services cost per incident," as defined by the State Fire Marshal.
- H. "General costs" means direct or indirect costs that are not attributable to any particular person who received direct fire and rescue services.
- I. "Gross negligence" means conduct with conscious indifference to or reckless disregard of the rights of others.
- J. "Labor costs" means the compensation paid by the City to its employees, including but not limited to base pay, overtime pay and fringe benefits, during the time spent responding to an incident.
- K. "Railroad right-of-way" means a right-of-way used for rail transportation.
- L. "Transportation route" means a roadway or waterway against which no taxes or assessments for fire protection are levied by the City.

15.04.020 Establishment of Duties

The Oregon Fire Code shall be enforced by the Code Official as defined by the Oregon Fire Code.

15.04.030 Adoption of Oregon Fire Code

Except as specifically excluded or modified by this chapter, the City of McMinnville adopts the Oregon Fire Code and appendices A through D, F, H, I, J, and K through N, which will be referred to in the McMinnville Municipal Code as the Oregon Fire Code ("OFC"). One (1) copy of the Oregon Fire Code and appendices shall be filed in the office of the City Recorder.

15.04.040 Fire Protection System Maintenance

Fire protection systems service providers providing inspections, tests, and maintenance required by OFC Section 901.6 and the referenced standards shall be qualified and shall provide the inspections, tests, and maintenance in accordance with the referenced standards. Failure by a company or individual service provider to follow the referenced standards is a Class 5 violation.

15.04.050 Restricted Uses During Fire Season

- A. The City of McMinnville will follow the Oregon Department of Forestry ("ODF") burn restrictions and regulations during fire season. Open flame and fire pits are prohibited at high fire index. Exemption: A seasonal permit for contractors can be obtained for use

within the City of McMinnville to allow for powered equipment use during fire season (i.e., landscape, construction, etc.). Working on or within one-eighth (1/8) of a mile of ODF-protected property requires the contractor must contact ODF and get an additional permit issued from ODF if required.

- B. The Fire Code Official or designees may issue a permit which allows a person to conduct a restricted activity as long as specified fire prevention measures are taken to reduce the potential for fire ignition. Contractors, such as those performing landscape or construction work, may obtain a seasonal permit for use within the City to allow for powered equipment used during fire season. Working on or within one-eighth (1/8) of a mile of ODF-protected property requires the contractor to contact ODF to obtain an additional permit issued by ODF if required.

15.04.060 City of McMinnville Modifications to the Oregon Fire Code

McMinnville Fire Prevention Code incorporates the Oregon Fire Code current Edition except that the following referenced OFC sections are modified as set forth below:

- A. OFC Section: Fire Records is modified by the addition of the following language:
Fire Investigation Reports for fires that are under investigation will not be released until the investigation is complete. Exception: The Fire Chief may release incomplete Fire Investigation Reports if warranted.
- B. OFC Section: Inspections is modified by the addition of the following language:
 - 1. Inspections outside of normal business hours: The Fire & Life Safety Division will make every attempt to conduct inspections during normal business hours (Monday thru Friday 8 am to 5 pm). If the applicant or business owner's agent requests an inspection outside of normal business hours, or if the Fire Code Official determines a permit inspection is required and there is no other alternative but to conduct the inspection outside of normal business hours, the Fire Code Official shall inform the applicant or business agent there will be an after-hours inspection fee. The inspection will not be performed until the required fees have been paid.
 - 2. Re-Inspection Fees. Each Fire & Life Safety inspection is provided with one additional re-inspection at no additional cost to the business. If subsequent re-inspections starting with a second re-inspection is required, a fee shall be assessed. Each additional re-inspection required shall have an increased fees assessed. Fees shall be set through a resolution of City Council.
- C. OFC Section: Permits is modified by the addition of the following language:
Required permits may include, Operational and construction permits as allowed by the Oregon Fire Code.

A schedule of permit and service fees shall be established by resolution of the City Council and periodically amended by Council resolution and kept at McMinnville Fire Department and in the City Recorder's office.

15.04.070 Violations and Penalties

- A. It is unlawful and a public nuisance for any person violating or causing violation of any of the provisions of this chapter. Such person, firm or corporation is guilty of a separate violation for each and every day during which any violation of this chapter is committed or continued by such person, firm or corporation. This violation can be retroactively applied to the first day the occupant or owner was made aware of the violation by the Fire Code Official.
- B. The Fire Code Official or designee may determine if a violation of this Chapter has occurred.
- C. If the violation is deemed to be a public nuisance, it will be noticed and abated per the process and procedures outlined in Chapter 2.50 of the McMinnville Municipal Code.
- D. If the violation is deemed to be a public nuisance, in addition to any corrective action ordered by the City, a person found to have violated the provisions of this Chapter may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 3 Code Violation.
- E. For any violations of this chapter deemed to be life-threatening, a violation can be issued immediately for each and every occurrence, including multiple occurrences in one (1) day. Life-threatening hazards include but are not limited to overcrowding, locking or obstructing doors designated to remain unlocked, and shutting off or removing designated fire protection equipment.
- F. If the violation is deemed to be an immediate public safety hazard, in addition to any corrective action ordered by the City, the amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 1 violation.
- G. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under City ordinance or state statute

15.04.080 Protests and Appeals

A person aggrieved by an action of the Building Official taken pursuant to this Chapter may appeal that action per the process outlined in Chapter 2.50.510 of the McMinnville Municipal Code.

Chapter 15.06
STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION

Sections:

- | | |
|-----------|-------------------------------|
| 15.06.010 | Adopted by Reference |
| 15.06.020 | Authority to Alter Provisions |

15.06.010 Adopted by Reference

The provisions of the current edition of the Oregon Standard Specifications for Construction, prepared by the Oregon Department of Transportation, are adopted and made a part hereof as if fully set out in this chapter, and all Public Works contracts hereafter entered into by the city, excepting the McMinnville Water and Light commission, shall include in the contract documents by reference all of the provisions of said specifications.

15.06.020 Authority to Alter Provisions

The City reserves the right to amend, enlarge or change any of the standard specifications in any construction contract hereafter entered into by and between the city and another party. .

Chapter 15.08
HOUSE MOVING REGULATIONS

Sections:

15.08.010	Purpose
15.08.020	Relocation Permit Required
15.08.030	Site and Street Occupancy Prohibited
15.08.040	Applicant’s Burden
15.08.050	Applications
15.08.060	Authority to Decide Relocation Permit
15.08.070	Permit Approval Process
15.08.080	Demonstration of Zoning Compliance
15.08.090	Approval Criteria
15.08.100	Conditions
15.08.110	Notice of Approved Relocation Permit
15.08.115	Relocation of Historic Resources
15.08.120	Violations and Penalties
15.08.130	Protests and Appeals

15.08.010 Purpose

The purpose of this section is to establish an orderly process for reviewing requests for moving structures over City streets; minimizing damage to private and public property during the course of moving a structure, securing funds for the repair or restoration of damage caused by moving structures, minimizing disruption to traffic, public utilities, and communication services, protecting public safety and welfare, and ensuring compliance with applicable provisions of the McMinnville Municipal Code.

15.08.020 Relocation Permit Required

A building permit is required prior to moving any structure, which is ordinarily attached to real property over City streets. Buildings relocated from sites not within the City of McMinnville are subject to this chapter. In such cases the Community Development Director shall determine applicable code provisions.

15.08.030 Site and Street Occupancy Prohibited

- A. Occupation of a relocated structure on any lot, tract, or other real property is prohibited without first obtaining zoning certification in accordance with this chapter, required building permits, and payment of all fees.

- B. Temporary storage of moved structures within the City of McMinnville is prohibited.

- C. Temporary placement of relocated structures within public and private streets is prohibited unless expressly authorized under an approved relocation permit.

15.08.040 Applicant's Burden

The applicant bears the burden of demonstrating compliance with all provisions of these regulations prior to issuance of a relocation permit.

15.08.050 Applications

- A. An application fee, as adopted by Resolution of the McMinnville City Council, is required at the time of application submission. Applications that are not accompanied by an application fee shall not be accepted.
- B. Applicants will be required to provide insurance as set by City Council.
- C. The applicant shall pay a refundable deposit for damages incurred within the public right of way or other city property, facilities or utilities. Deposit to be set by Resolution of the McMinnville City Council.

15.08.060 Authority to Decide Relocation Permit

The Community Development Director, or designee, shall interpret, apply, and enforce provisions of this chapter except for zoning and land-use regulations, which shall be administered by the Planning Director.

15.08.070 Permit Approval Prohibited

No building relocation permit shall be issued until all liens, charges, and billings applicable to the donor site and owed the City have been paid to the satisfaction of the Finance Director.

15.08.080 Demonstration of Zoning Compliance

- A. The applicant shall demonstrate consistency with the McMinnville Zoning Ordinance for the donor and receiving sites located within the City of McMinnville prior to issuance of a relocation permit.
- B. Zoning Certification
 - 1. The relocation permit application shall include sufficient information necessary for determination of zoning compliance for receiving sites and determination of the structure's historic preservation landmark status under the McMinnville Zoning Ordinance.
 - 2. The Planning Director shall determine whether the applicant has demonstrated compliance with the Zoning Ordinance within seven (7) workdays of a complete application being received.

15.08.090 Approval Criteria

The Community Development Director, or designee, may approve, approve with conditions, or deny relocation permit applications. Applications for a relocation permit shall be approved only when the following items have been submitted or otherwise resolved to the Community Development Director's satisfaction. The Community Development Director shall consider recommendations of the Building Official, Planning Director, Public Works Division, Police Chief, Fire Marshall, Oregon Department of Transportation, Yamhill County, Utility Providers and others as appropriate.

- A. Complete relocation permit application and deposit;
- B. Proposed route, time and date of the move;
- C. Proof of required insurance and endorsements.
- D. Certification of zoning compliance;
- E. Determination that the proposed time and route of the move is safe and minimizes disruption to traffic;
- F. Proof of approved building permits for receiving site when located in the City of McMinnville;
- G. The demolition permit for donor site showing proper disconnection and capping of site utilities;
- I. Specification of loaded height, width, and length of structure to be moved, and all escort and other vehicles;
- J. Specification of wheel weight in pounds per square inch;
- K. Identification of all obstructions within the public right-of-way and private property to be removed. Trees that must be pruned or removed are also to be identified. A tree permit may be required in accordance with Section 17.58.040 of this code; if a street tree, a private tree, or a sign must be pruned or removed to accommodate a house move and otherwise meets current clearance requirements, removal and replacement costs will be paid by the applicant.
- L. Identification of all traffic controls along the move-route;
- M. Traffic control plan;

- N. Certification from utility providers, county, and state agencies (“Agency” or “Agencies”) along the route of move certifying acceptability of the proposed move and specifying any conditions that are imposed as a condition of the certification;
 - 1. Applicant will prepare for Agency review with any request for certification a map or drawing describing the route of the move and show any above-ground utility facilities, signage, or lighting in the route.
 - 2. Applicant will pay costs, fees and charges required by an Agency for review of utility, lighting, or signage systems related to certification.
- O. Authorization by owners of the donor and receiving sites to make application for the move;
- P. Written confirmation from the Finance Director that all liens, charges, and billings applicable to the donor site have been satisfied;
- Q. A security deposit as required to secure repair of any damage to City property or Agency facilities in an amount to be determined by the Community Development Director;
- R. Additional information as may be specified to demonstrate compliance with this chapter.

15.08.100 Conditions

A relocation permit may be conditioned to specify conditions including but not limited to the following:

- A. Time of move;
- B. Route of move;
- C. Overall length, width, and height of structure to be moved;
- D. Axle weight or wheel weight in pounds per square inch of tire;
- E. Number and location of vehicle escorts;
- F. Required traffic controls;
- G. Terms for repair of damage to roadways, property, or other City or Agency facilities.

15.08.110 Notice of Approved Relocation Permit

The applicant shall post a notice of approved relocation permit on the property or structure so that it is visible from the street, giving notice of intent to relocate the structure. The notice shall be in the form prescribed by the Community Development Director and shall be posted the

same day the permit is approved. The notice must remain posted for five (5) workdays thereafter.

15.08.115 Relocation of Historic Resources

- A. Certificate of Approval Required. Prior to any exterior alteration or relocation of a historic resource on the McMinnville Historic Resources Inventory, the owner must apply for and receive a Certificate of Approval per Section 17.65.040(C) of the McMinnville Municipal Code. No alteration of the historic landmark shall occur prior to the issuance of the Historic Landmarks Committee’s decision on the Certificate of Approval for Alteration application.

- B. Fees Waived for Eligible Historic Resources. Certain municipal fees are hereby waived, subject to compliance with this chapter, in the instances where a structure which is designated as “distinctive” or “significant” on the McMinnville Historic Resources Inventory is being moved from one lot within the city to another lot in the city. The Historic Resources Inventory is on file in the city planning department.
 - 1. Fees to be Waived. The fees to be waived are the parks and wastewater system development charges imposed in Section 3.10.020 of the McMinnville Municipal Code, and any moving, foundation and plumbing permit fees imposed by this Chapter.
 - 2. Covenant Required. In return for the fee waiver the owner of the structure to be moved shall covenant with the city to guarantee that the structure shall be maintained in its historic character and that all exterior alterations, as defined in MMC 17.06.060, shall be made in compliance with the Certificate of Approval process described in MMC 17.65.060.
 - 3. Fee Waiver Rescinded. In the event that an applicant decides to proceed with alterations that were not approved by the Historic Landmarks Committee through the Certificate of Approval for Alteration process in Section 17.65.060 of the McMinnville Municipal Code, all fees waived under Section 15.08.115 of this Chapter will become due and payable. Fees to be paid will be based on the then current fee schedules.
 - 4. Certificate of Fee Waiver. Upon issuance of the certificate of occupancy for the new location of the historic resource, the city shall record a Certificate of Fee Waiver on the property documenting the date and amount of the fee waiver with the Yamhill County Recorder’s Office.

15.08.120 Violations and Penalties

In addition to any corrective action ordered by the city, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continued violation will not exceed the amount established for a Class 3 code violation.

15.08.130 Protests and Appeals

A person aggrieved by the decision on a relocation permit taken pursuant to this Chapter may appeal that action per the process outlined in Chapter 2.50.510 of the McMinnville Municipal Code.

Chapter 2.50
CODE COMPLIANCE

New proposed language is represented by **underline font**, deleted language is represented by ~~strikethrough font~~.

2.50.010 Applicability of Chapter

- A. The provisions of this chapter apply to the enforcement of civil code provisions identified in the following portions of the McMinnville Municipal Code, including all plans, permits, or licenses adopted or issued pursuant to such provisions :
1. All chapters of Title 5 (Business Taxes, Licenses and Regulations)
 2. All chapters of Title 8 (Health and Safety)
 3. **All chapters of Title 15 (Buildings and Construction)**
 4. All chapters of Title 17 (Zoning) and all ordinance adopted pursuant to Title 17 or the McMinnville Comprehensive Plan, regardless of whether such ordinance are codified in the McMinnville Municipal Code.
- B. Notwithstanding the provisions of subsection (A) of this section, the provisions of this chapter do not apply to the enforcement of any violation identified as a misdemeanor or for which the punishment may include any term of imprisonment, or to any criminal, traffic or parking laws, including the laws set forth in the following Titles of the McMinnville Municipal Code:
1. Title 9 – Public Peace, Morals and Welfare
 2. Title 10 – Vehicles and Traffic

Chapter 8.10
PUBLIC NUISANCES

New proposed language is represented by **underline font**, deleted language is represented by ~~strikethrough font~~.

Sections:

8.10.035 Storage

8.10.250 Motor Vehicles

- A. A person in charge of a premises must not permit, allow or cause to exist any discarded motor vehicle (including motor vehicles parts such as bodies, engines, transmissions and rear ends) on the premises, except that a person may store a discarded motor vehicle:
1. Within in a building that is wholly or entirely enclosed except for doors used for ingress or egress
 2. In a back yard of a residential property if the discarded motor vehicle:
 - a. Is screened by a sight-obscuring fence so that it is not visible from adjoining properties, streets and public right of ways, and or
 - b. Is covered by an approved car cover, that is maintained free of deterioration, tearing, dirt and dust accumulation; and**
 - c. Is maintained in a manner that does not attract vermin, produce an offensive odor, or otherwise become a danger to public health or safety.
 3. In connection with an authorized and permitted business dealing in junked vehicles.
- B. For the purpose of this section, "discarded motor vehicle" means any motor vehicle that:
1. Has been inoperative for a period of more than 30 days;
 2. Is wrecked;
 3. Is dismantled, in whole or part;
 4. Is junked or abandoned; or,
 5. Has a vehicle registration sticker expired for more than two (2) months.

- C. A person in charge of a premises in a residential zone must not permit, allow or cause to exist motor vehicles, RVs, boats or trailers to be parked or placed in front yards or exterior side yards of the premises, unless the area used for parking or storage consists of non-erodible surfaces such as asphalt, concrete or pavers, **or gravel with a minimum depth of four inches that consists of traffic bound or dense-grade gravel.**
- D. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas consisting of non-erodible surfaces in front or exterior side yards of the premises to use more than 40% of the yard area. For the purposes of this section, “yard area” is measured as the space between the front and side building lines to the property line of the premises.
- E. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas that are less than twenty feet in depth from the property line of the premises when the parking or storage area is perpendicular to the property line.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.305 Storage

- A. **Unless otherwise specifically allowed by state regulations or this code, a person in charge of a premises must not permit, allow or cause to exist any storage of items of personal property out-of-doors, or outside a building or structure that is not enclosed or screened from public view.**
- B. **Notwithstanding subsection (A) of this section, the following items of personal property may be stored outside of a building or structure:**
 - 1. **Firewood that is stacked and usable. “Usable” firewood has more wood than rot and is cut to lengths that will fit a lawful fireplace or wood stove on the premises;**
 - 2. **Construction material, if the construction material is temporarily stored and is stored in a manner to protect its utility and to prevent is deterioration and the construction material is to be used for construction on the premises;**
 - 3. **All other items of personal property which are of a type, condition or quantity consistent with normal and intended outside use. By way of illustration, but not limitation, as used in this section, items of personal property include barbeque grills, lawn furniture, and solid waste disposal receptacles.**

- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.



City of McMinnville
Planning Department
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STAFF REPORT

DATE: July 28, 2020
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: Ordinance No. 5094, Amending Section 17.03 of the McMinnville Municipal Code, Zoning Ordinance, General Provisions

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

Report in Brief:

This is the consideration of Ordinance No. 5094, proposed code amendments to Title 17 of the McMinnville Municipal Code, Chapter 17.03, General Provisions, relative to code enforcement of the McMinnville Zoning Ordinance. (Please see attached Ordinance No. 5094.)

Background:

Historically the City of McMinnville relied on the Municipal Court to resolve city code violations. This process was very long and labor intensive. On August 13, 2019, the McMinnville City Council adopted Ordinance No. 5078 to amend McMinnville Municipal Code creating a code compliance process that relies on a civil administrative process which is more efficient and fiscally prudent than the court system. The City has moved forward with amending many aspects of its city codes so that the enforcement of the codes could utilize this new process. (Please see Attachment – Chapter 2.50 of the McMinnville Municipal Code, Code Compliance).

The new code compliance program provides for an administrative structure for a notice of violation, abatement and collection program that saves the City time and resources in processing code enforcement cases to ensure compliance in a timely manner.

Discussion:

The proposed amendments align the enforcement of the McMinnville Zoning Ordinance with this new code compliance program.

The proposed amendments reference penalties assigned as Class Code Violations. These violations were established in 2019 with the adoption of Chapter 2.50 of the MMC and are provided below as reference. The fees associated with these Class Code Violations have been approved by resolution of the City Council as part of the McMinnville Fee Schedule.

CODE VIOLATION FEES

TYPE OF FEE	FEE
Class 1 Code Violation	\$5,000.00
Class 2 Code Violation	\$2,000.00
Class 3 Code Violation	\$1,000.00
Class 4 Code Violation	\$500.00
Class 5 Code Violation	\$250.00
Class 6 Code Violation	\$100.00
Class 7 Code Violation	\$50.00
Class 8 Code Violation	\$25.00

A public hearing was held by the Planning Commission on July 16, 2020. The public hearing was closed at the same meeting, following which the Planning Commission deliberated and then voted to recommend that the Council consider and approve the proposed code amendments as outlined in Ordinance No. 5094.

Attachments:

- Attachment 1 – Chapter 2.50 of the McMinnville Municipal Code
- Attachment 2 - Ordinance No. 5094

Fiscal Impact:

This action should save the City significant funds in court costs and staff resources.

Recommendation:

Staff recommends adoption of Ordinance No. 5094.

Chapter 2.50

CODE COMPLIANCE

Sections:

- 2.50.010** **Applicability of chapter.**
- 2.50.020** **Definitions.**
- 2.50.110** **Identification and investigation.**
- 2.50.120** **Notice of code violation.**
- 2.50.210** **Corrective action by responsible person.**
- 2.50.220** **Corrective action by compliance officer.**
- 2.50.230** **Obtaining a corrective action warrant.**
- 2.50.240** **Executing a corrective action warrant.**
- 2.50.250** **Notice and collection of corrective action costs.**
- 2.50.260** **Corrective action remedies not exclusive.**
- 2.50.310** **Notice of civil penalty.**
- 2.50.320** **Civil penalty classification levels.**
- 2.50.510** **Protests and appeals.**

2.50.010 **Applicability of chapter.**

A. The provisions of this chapter apply to the enforcement of civil code provisions identified in the following portions of the McMinnville Municipal Code, including all plans, permits, or licenses adopted or issued pursuant to such provisions:

1. All chapters of Title [5](#) of this code (Business Taxes, Licenses and Regulations);
2. All chapters of Title [8](#) of this code (Health and Safety);
3. All chapters of Title [17](#) of this code (Zoning) and all ordinances adopted pursuant to Title [17](#) of this code or the McMinnville comprehensive plan, regardless of whether such ordinances are codified in the McMinnville Municipal Code.

B. Notwithstanding the provisions of subsection [A](#) of this section, the provisions of this chapter do not apply to the enforcement of any violation identified as a misdemeanor or for which the punishment may include any term of imprisonment, or to any criminal, traffic or parking laws, including the laws set forth in the following titles of the McMinnville Municipal Code:

1. Title [9](#) of this code – Public Peace, Morals and Welfare;
2. Title [10](#) of this code – Vehicles and Traffic. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.020 Definitions.

As used in this chapter:

“Code” or “McMinnville Municipal Code” means the provisions of all ordinances adopted by the city council, regardless of whether codified into the McMinnville Municipal Code, that are subject to the provisions of this chapter, as described in Section [2.50.010](#).

“Code violation” means any substance, condition or action that violates any requirement or prohibition set forth in the McMinnville Municipal Code, including the terms and conditions of any permit, license, or other grant of authority issued or executed pursuant to the provisions of such code.

“Compliance officer” means any person designated by the city manager or designee as having responsibility for enforcing the civil provisions of the McMinnville Municipal Code.

“Corrective action” means an action that is necessary and sufficient to bring any substance, condition or action into compliance with the provisions of the McMinnville Municipal Code.

“Exigent circumstances” means any circumstances that would cause a reasonable person to believe that immediate entry on a premises or other relevant action is necessary to prevent:

1. Physical harm to persons or property;
2. Destruction of evidence; or
3. Other consequences that would improperly frustrate legitimate code compliance efforts.

“Person” means a natural person, firm, partnership, association or corporation.

“Person in charge of a premises” means an owner, agent, occupant, guest, tenant, lessee, contract purchaser, contractor, employee, squatter, or any other person having possession or control of a premises, or supervision over a construction project on a premises.

“Post” or “posting” means the action of physically placing or affixing a notice authorized or required to be posted by this chapter to any portion of the premises in a manner likely to be seen by any responsible person. In the event that the premises is occupied, posting of notice may be accomplished by personal delivery to any person in charge of the premises.

“Premises” means any publicly or privately owned building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.

“Responsible person” means any person that is responsible for permitting, allowing, or causing to exist any substance, condition or action that is prohibited by the provisions of the McMinnville Municipal Code.

“Warrant” or “administrative warrant” means a written order issued by the McMinnville municipal court judge, authorizing entry onto a premises for the purpose of carrying out any of the provisions of this chapter related to the investigation or correction of a code violation. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.110 Identification and investigation.

- A. Upon the receipt of a complaint or the proactive observance of any city employee, a compliance officer is authorized to investigate and determine whether a code violation exists by gathering and documenting evidence, as appropriate to the nature of the alleged violation.
- B. When entry on private property is necessary or desirable for the identification or investigation of the code violation, a compliance officer is authorized as follows:
1. A compliance officer is authorized to enter onto a public or private premises that is open to the public at all reasonable times to determine whether a code violation exists.
 2. A compliance officer is authorized to enter onto a private premises that is not open to the public at reasonable times to determine whether a code violation exists when the compliance officer:
 - a. Has received permission from any person in charge of the premises;
 - b. An administrative warrant has been issued pursuant to the provisions of this chapter authorizing entry for inspection of the premises;
 - c. Determines that an emergency or other exigent circumstances exist requiring immediate entry.
- C. An administrative search warrant may be issued by the municipal court judge upon the oath and application of a compliance officer, which must include a sworn affidavit showing probable cause for the entry and inspection by stating the purpose and extent of the proposed inspection, citing the chapter(s) of the McMinnville Municipal Code that serve(s) as the basis for the inspection, and giving information concerning the code violation in question and/or the premises on which it is located.
- D. A person must not interfere with or attempt to prevent a compliance officer from entering onto any premises when such entry is authorized by the provisions of this section. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.120 Notice of code violation.

- A. If the city manager or designee is satisfied that a code violation exists, the compliance officer will cause a notice of code violation to be posted on the premises, or at the site of the code violation, directing the responsible person to correct the code violation.
- B. At the time of posting, the compliance officer must also cause a copy of the notice of code violation to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County. If the mailed notice of code violation is returned as undeliverable or is unclaimed by the property owner, it will not preclude the city from taking enforcement or corrective actions as described in this chapter.
- C. The notice of code violation must contain:

1. A description of the real property, by street address or otherwise, on which the code violation exists.
 2. A description of the code violation found to exist by the compliance officer.
 3. A determination of whether the code violation presents an immediate threat to the public health, welfare or safety.
 4. A direction to correct the code violation within 10 days from the date of notice.
 5. If the code violation is for a public nuisance described in Chapter [8.10](#), a statement that unless the code violation is corrected by the deadline, the city may correct the code violation and assess the full cost of corrective action, including administrative charges, against all responsible persons and that such corrective action costs will become a lien on the property if not paid in full within 30 days of invoicing.
 6. A statement that failure to correct a code violation may warrant imposition of a civil penalty upon all persons responsible for the code violation.
 7. A statement that the owner or any responsible person may protest the notice of code violation by giving written notice to the city manager within 10 days from the date of the notice, together with a written statement as to why a code violation does not exist.
- D. Upon completion of the posting and mailing of the notice of code violation, the compliance officer must execute and place on file with the city manager or designee a certificate stating the date and place of the mailing and posting.
- E. If the compliance officer meets all requirements for posting and mailing the notice of code violation set forth in this section, then the failure of any person to receive actual notice will not void any code compliance process set forth in this chapter.
- F. If the owner or other responsible person fails to appeal the notice of code violation in compliance with the procedures set forth at Section [2.50.510\(A\)](#), then the violation will be deemed proved and no further appeal of the notice of code violation will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.210 Corrective action by responsible person.

- A. All responsible persons must correct all violations described in the notice of code violation not later than the date set forth in the notice, or the date set forth in any final order or judgment issued on appeal.
- B. If a responsible person admits responsibility for the violation, they may submit a voluntary compliance plan for correcting the violation to the compliance officer within 10 days after posting and mailing of the notice of violation. The compliance plan must contain the following:
1. The responsible person's name, mailing address, telephone number and email address;
 2. A written admission of responsibility for the violation;

3. A detailed plan for correction of the violation(s) over a reasonable period of time;
 4. Written consent for the compliance officer or their designee to enter the premises for the purpose of:
 - a. Verifying compliance with the terms of the compliance plan; or
 - b. Taking actions to correct the violation upon determining that the terms of the compliance plan have not been met.
- C. The compliance officer will review the voluntary compliance plan and may approve the plan as presented, approve a modified plan, or reject the plan, at their discretion. The decision of a compliance officer regarding whether to accept, reject or modify a voluntary compliance plan is final and not subject to appeal. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.220 Corrective action by compliance officer.

- A. The city may enter a premises as provided in this section, and may take all necessary actions to correct code violation, whenever a responsible person fails to take corrective action as described in Section [2.50.210\(A\)](#), or upon the determination by a compliance officer that a person has failed to comply with the terms of a voluntary compliance plan approved pursuant to Section [2.50.210\(C\)](#). Except when the compliance officer has received consent from a responsible person or as provided in subsection [B](#) of this section, a corrective action warrant is required before a compliance officer may enter the premises.
- B. If the violation for which a notice of code violation has been issued is determined to be an immediate threat to the public health, welfare or safety, and is not corrected within the specified time frame, the city manager may order the code violation to be corrected without a warrant. The following nonexclusive list of code violations may be corrected by the city without a warrant:
1. Any structural element that has been significantly compromised as determined by the city building official or designee, and not governed by any other section of this code.
 2. Any fire hazard as determined by the fire marshal or designee, and not governed by any other section of this code.
 3. Any public nuisance violation identified Chapter [8.10](#), as determined by a compliance officer to present an immediate threat to the public health, welfare or safety, including but not limited to violations involving rat harborage and weed abatement.
- C. The McMinnville municipal court is authorized to issue a corrective action warrant authorizing any compliance officer to make searches and seizures reasonably necessary to enforce any provision of the McMinnville City Code pertaining to code violations. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.230 Obtaining a corrective action warrant.

A. Every warrant authorized by this section must be supported by affidavit or sworn testimony establishing probable cause to believe that a code violation has occurred, describing:

1. The applicant's status in applying for the warrant;
2. The premises to be entered;
3. A statement of the violation to be corrected;
4. The ordinance or regulation requiring or authorizing the corrective action;
5. The basis for taking the corrective action;
6. A statement that consent to enter onto the property to correct the violation has been unsuccessfully sought from a responsible person or other facts and circumstances that reasonably justify the failure to seek or inability to obtain such consent.

B. Probable cause to issue a warrant will be found when:

1. There is reasonable belief that a code violation exists with respect to the premises;
2. The city has complied with the notice requirements set forth in Section [2.50.120](#); and
3. The time period for the owner or other responsible person to correct the violation has passed.

C. The court may, before issuing a corrective action warrant, examine the applicant and any other witness under oath and must be satisfied of the existence of grounds for granting such application. If the court is satisfied that cause for correcting the violation(s) exists and that the other requirements for granting the application are satisfied, the court must issue the corrective action warrant, particularly describing the person or persons authorized to execute the warrant, the premises to be entered, and a statement of the general corrective actions that may be taken.

D. In issuing a corrective action warrant, the court may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described premises to remove any person or obstacle and to assist a compliance officer in any way necessary to enter the premises to correct the violation. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.240 Executing a corrective action warrant.

A. *Occupied Property.* In executing a corrective action warrant, the person authorized to execute the warrant must, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant must be left with the occupant or the person in possession. The warrant is not required to be read aloud.

- B. *Unoccupied Property.* In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person. In such case a copy of the warrant must be conspicuously posted on the property.
- C. *Return.* A warrant must be executed within 30 days of its issue and returned to the court by whom it was issued within 30 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.
- D. A person must not interfere with or attempt to prevent a compliance officer from entering onto any premises when such entry is authorized by the provisions of this section.
- E. The city manager has the final authority to decide whether or not to enter onto a premises to correct or abate a code violation in each particular case. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.250 Notice and collection of corrective action costs.

- A. The owner, all persons in charge of the premises, and all other responsible persons are jointly and severally liable for all costs associated with corrective actions taken by the city, including administrative costs, warrant costs, and attorney fees.
- B. The city manager or designee must keep an accurate record of the full cost recovery expense incurred by the city for all corrective actions.
- C. After the code violations have been determined by the city to be corrected, the city manager or designee must cause a notice of corrective action costs to be posted on the premises, or at the site of the code violation.
- D. At the time of posting, the city manager or designee must also cause a copy of the notice of corrective action costs to be forwarded by certified mail, postage prepaid, to any person in charge of the premises and to the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- E. The notice of corrective action costs must contain:
1. A copy of the notice of code violation and any final orders issued in the matter;
 2. The total costs of corrective actions due and payable within 30 days of the notice of corrective action costs;
 3. Notification that the costs of corrective actions will become a lien against the premises if not paid when due; and
 4. Notification that if any owner or other responsible person objects to the notice of corrective action costs, a written protest must be filed with the city manager within 10 days from the date of the notice.
- F. *Collection and Abatement Costs.*

1. The costs listed in the notice of corrective action costs will become delinquent if not paid within 30 days of the date of the notice or within 10 days of the date set forth in any final order or judgment issued on appeal of the cost notice, whichever comes later.
 2. Assessment of the delinquent correction action costs must be made by city council resolution to be entered in the docket of city liens. When the entry is made, it will constitute a lien on all real property on which the corrective action occurred.
 3. The lien will be enforced in the same manner as liens for street improvements, as described in Chapter [3.12](#), and will bear interest at the rate of nine percent per year, accruing from the date of the entry of the lien into the lien docket.
- G. If the compliance officer meets all requirements for posting and mailing the notice of corrective action costs set forth in this section, then the failure of any person to receive actual notice will not void the assessment of any corrective action costs.
- H. If the owner or other responsible person fails to appeal the notice of corrective action costs in compliance with the procedures set forth at Section [2.50.510\(A\)](#), then the cost assessment shall be deemed proved and no further appeal of the notice of corrective action costs will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.260 Corrective action remedies not exclusive.

- A. The correction of code violations and the assessment of any costs associated with corrective actions are not penalties, but are additional remedies.
- B. The imposition of a civil penalty does not relieve a person of the duty to correct a code violation or pay all corrective action costs assessed by the city.
- C. The correction of a code violation within 10 days of the date of the notice of code violation or the final order issued upon any appeal of the notice, will relieve a responsible person from the imposition of any civil penalty under this chapter. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.310 Notice of civil penalty.

- A. Upon finding that a code violation exists and has not been voluntarily corrected within 10 days of the date of the notice of code violation or the final order issued upon appeal of the notice, the city manager or designee may impose a civil penalty.
- B. Each day that a code violation continues to exist will constitute a separate violation and a new civil penalty may be assessed for each consecutive day the violation continues without correction.

- C. The compliance officer shall cause the notice of civil penalty to be posted on the premises and forwarded by certified mail, postage prepaid, to any person in charge of the premises and the owner of the premises (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Yamhill County.
- D. If the certified notice of civil penalty is returned as undeliverable or is unclaimed by any person, it will not preclude the city from imposing a civil penalty as described in this chapter.
- E. The notice of civil penalty must contain the following:
1. A description of the real property, by street address or otherwise, on which the code violation exists.
 2. A description of the code violation found to exist by the compliance officer.
 3. A copy of the notice of code violation and any final orders issued in the matter.
 4. A statement indicating whether the code violation has been corrected or is considered a continuing violation subject to the imposition of a daily civil penalty.
 5. A calculation of the total amount of the civil penalty or, in the case of a continuing violation, the amount of civil penalty that has accrued as of the date of the notice.
 6. A statement that the amount of the civil penalty may become a lien on the premises if not paid in full within 30 days of invoicing.
 7. A statement that the owner or any responsible person may protest the notice of civil penalty by giving written notice to the city manager within 10 days from the date of the notice, together with a written statement as to why the civil penalty should be modified or not assessed.
- F. If the compliance officer meets all requirements for posting and mailing the notice of civil penalty set forth in this section, then the failure of any person to receive actual notice will not void the assessment of any civil penalty.
- G. If the owner or other responsible person fails to appeal the notice of civil penalty in compliance with the procedures set forth at Section [2.50.510\(A\)](#), the amount of the civil penalty will be deemed final and no further appeal of the notice of civil penalty will be allowed. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.320 Civil penalty classification levels.

- A. The penalty for committing a code violation that is subject to the provisions of this chapter is a civil penalty. The amount of the civil penalty will be established by city council resolution.
- B. Code violations are classified for the purpose of assessing a civil penalty into the following categories:
1. Class 1 code violations;
 2. Class 2 code violations;
 3. Class 3 code violations;

4. Class 4 code violations;
5. Class 5 code violations;
6. Class 6 code violations;
7. Class 7 code violations;
8. Class 8 code violations;
9. Unclassified code violations as described in subsection [C](#) of this section; and
10. Specific fine code violations, as described in subsection [D](#) of this section.

C. The violation of any code provision that is subject to this chapter and that does not specify the classification of the code violation is an unclassified code violation. An unclassified code violation may be assessed a civil penalty in lieu of a fine as a Class 3 code violation, except that when a code violation is classified in accordance with ORS [153.012](#), then:

1. A Class A violation may be assessed a civil penalty as a Class 3 code violation;
2. A Class B violation may be assessed a civil penalty as a Class 4 code violation;
3. A Class C violation may be assessed a civil penalty as a Class 5 code violation; and
4. A Class D violation may be assessed a civil penalty as a Class 6 code violation.

D. The violation of any code provision that is subject to this chapter, and that specifies a specific fine amount or maximum fine amount, may be assessed a civil penalty in lieu of the fine, in a daily amount not to exceed the specific fine. (Ord. 5078 §1 (Exh. 1 (part)), 2019).

2.50.510 Protests and appeals.

A. *Protest to the City Manager.*

1. An owner or other responsible person of a premises may protest a notice of code violation issued pursuant to Section [2.50.120](#), a notice of corrective action costs issued pursuant to Section [2.50.250](#), or a notice of civil penalty issued pursuant to Section [2.50.310](#) by submitting a written protest to the city manager within 10 days of the date of the notice.
2. The written protest must, at a minimum, contain the following information:
 - a. The name, mailing address, telephone number and email address of the person submitting the protest;
 - b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;

c. A written statement, and all supporting evidence, specifying the basis for the protest.

3. The city manager will review the notice and the protest, together with all supporting evidence in the record, and will issue a final order that either upholds, amends, or dismisses the findings and determination set forth in the notice.

4. If the city manager issues a final order that upholds or amends the Notice, the owner or responsible person must comply with the terms of the order within 10 days from the date of the order.

B. *Appeal to the Hearings Officer.*

1. An owner or other responsible person of a premises may dispute a final order issued by the city manager pursuant to subsection [A](#) of this section by submitting a written appeal to the city recorder within 10 days of the date of the final order. A hearings officer will preside over the appeal hearing.

2. The written appeal must, at a minimum, contain the following information:

a. The name, mailing address, telephone number and email address of the person submitting the protest;

b. A description of the real property, by street address or otherwise, on which the code violation is alleged to exist;

c. A written statement, and all supporting evidence, specifying the basis for appealing the city manager's final order.

3. Subject to the requirements of this code section, the McMinnville hearings officer may adopt additional procedures for the conduct of any hearings before them, but at a minimum, must allow:

a. Each party to introduce evidence, including rebuttal evidence, that is relevant to prove or refute any matter raised in the underlying notice or city manager's final order; and

b. An opportunity for each party to cross-examine all witnesses who testify.

4. Following the close of the record, the McMinnville hearings officer will issue a decision within 10 days that either upholds, amends, or dismisses the city manager's final order.

5. If the hearings officer decision upholds or amends the city manager's final order, then the hearings officer's final order must include:

a. A brief statement of the findings of fact;

b. The amount of any assessed corrective action costs, civil penalties, and associated administrative costs;

c. The date by which any costs and assessments must be paid; and

d. An order directing the responsible person to correct the code violation, pay the assessed corrective action costs or pay the assessed civil penalty, as appropriate to the nature of the appeal;

6. If the hearings officer decision dismisses the city manager's final order, then the hearings officer's final order must include:

- a. An order that any incurred fees be refunded; and
- b. An order that all costs of the abatement will be dismissed or refunded.

C. *Appeal of Hearings Officer's Final Order.* Any party to the appeal may obtain review of the hearings officer's final order by writ of review pursuant to ORS Chapter [34](#). (Ord. 5078 §1 (Exh. 1 (part)), 2019).

This website is for demonstration or proofing purposes only. It is not necessarily endorsed by City of McMinnville and should not be relied upon for the content of any document.

The McMinnville Municipal Code is current through Ordinance 5092, passed April 14, 2020.

Disclaimer: The city recorder's office has the official version of the McMinnville Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

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[Code Publishing Company](#)

ORDINANCE NO. 5094

AN ORDINANCE AMENDING SECTION 17.03 OF THE MCMINNVILLE MUNICIPAL CODE, ZONING ORDINANCE, GENERAL PROVISIONS.

RECITALS:

WHEREAS, in order to preserve the health, welfare and safety of the community, the City has adopted various civil code provisions that govern the conduct of business and personal activities within the City, which are codified in the McMinnville Municipal Code.

WHEREAS, the city desires to ensure compliance with these non-criminal provisions of the code by establishing a fair, transparent and efficient process for identifying and enforcing civil code violations, separate from the process currently used to enforce criminal code violations.

WHEREAS, on August 13, 2019, the McMinnville City Council adopted Ordinance No. 5078, developing a new code compliance program for the City of McMinnville in section 2.50 of the McMinnville Municipal Code; and

WHEREAS, the City would like to coordinate the enforcement of its Zoning Ordinance (Title 17 of the McMinnville Municipal Code) with this new code compliance program; and

WHEREAS, Section 17.03 of Title 17 of the McMinnville Municipal Code governs general provisions, including code enforcement of the city's Zoning Ordinance; and

WHEREAS, a public hearing was held before the McMinnville Planning Commission on July 16, 2020, after due notice had been provided in the local newspaper on July 7, 2020. At the July 16, 2020 Planning Commission public meeting, after the application materials and a staff report were presented and testimony was received, the Planning Commission closed the public hearing. After deliberation, the Planning Commission voted to recommend approval of G 5-20, to the McMinnville City Council; and

WHEREAS, the City Council, being fully informed about said request, found that the Comprehensive Plan Text Amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the McMinnville Zoning Ordinance, based on the material submitted by the McMinnville Planning Department and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

WHEREAS, the City Council having received the Planning Commission recommendation and staff report, and having deliberated;

**NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE
ORDAINS AS FOLLOWS:**

1. That the Council adopts the Decision, Findings of Fact, and Conclusionary Findings, as documented in Exhibit A for G 5-20; and
2. That Section 17.03 of the McMinnville Municipal Code, Zoning Ordinance, General Provisions is amended as provided in Exhibit B; and
3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 28th day of July, 2020, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

City Recorder

City Attorney



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE CITY CODE, TITLE 17, CHAPTER 17.03, GENERAL PROVISIONS.

DOCKET: G 5-20

REQUEST: The City of McMinnville is proposing to amend Title 17, Chapter 17.03 of the McMinnville Municipal Code, General Provisions, to align the enforcement of Title 17 with the city's new code compliance program.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Heather Richards, Planning Director

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: July 16, 2020. Meeting held virtually via Zoom meeting software, Zoom Online Meeting ID 942 3599 8716.

DECISION-MAKING BODY: McMinnville City Council

DATE & TIME: July 28, 2020. Meeting held virtually via Zoom meeting software.

PROCEDURE: The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.

CRITERIA: Amendments to the McMinnville Zoning Ordinance must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan and the Purpose of the Zoning Ordinance.

APPEAL: The Planning Commission will make a recommendation to the City Council. The City Council's decision on a legislative amendment may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code.

DECISION

Based on the findings and conclusions, the McMinnville City Council **APPROVES** the legislative zoning text amendments (G 5-20).

////////////////////////////////////
DECISION: APPROVAL
////////////////////////////////////

City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

Planning Commission: _____
Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

I. Application Summary:

The City of McMinnville is proposing to amend Title 17, Chapter 17.03 of the McMinnville Municipal Code (MMC), General Provisions, to align the enforcement of Title 17 with the city’s new code compliance program.

II. CONDITIONS OF APPROVAL

None.

III. FINDINGS OF FACT – PROCEDURAL FINDINGS

- 1. Notice of the application and the July 16, 2020 Planning Commission public hearing was published in the News Register on Tuesday, July 7, 2020, in accordance with Section 17.72.120 of the Zoning Ordinance.
- 2. On July 16, 2020, the Planning Commission held a duly noticed public hearing to consider the request.

IV. FINDINGS OF FACT – GENERAL FINDINGS

- 3. Title 17 of the MMC provides the code provisions for zoning and development regulations for the City of McMinnville.
- 4. Chapter 17.03, entitled, General Provisions, provides the methodology for enforcing the provisions of Title 17.
- 5. Historically, the City of McMinnville has used a municipal court process for code compliance and enforcement, however on August 13, 2019, the McMinnville City Council adopted Ordinance no. 5078, amending the McMinnville Municipal Code to establish a civil code enforcement process that is more efficient.

V. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application.

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

Citizen Involvement

GOAL X 1 TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Finding: Goals X 1 is satisfied by this proposal in that the proposed modifications were reviewed at a public hearing by the McMinnville Planning Commission on July 16, 2020.

EXHIBIT B



CITY OF MCMINNVILLE
PLANNING DEPARTMENT
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

503-434-7311
www.mcminnvilleoregon.gov

**PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE –
Chapter 17.03, General Provisions**

New proposed language is represented by **bold font**, deleted language is represented by ~~strikethrough font~~.

Chapter 17.03

GENERAL PROVISIONS

- 17.03.010 Title.
- 17.03.020 Purpose.
- 17.03.025 Consistency with Plan and Laws**
- 17.03.030 Severability.
- 17.03.040 ~~Interpretation—More restrictive provisions govern.~~
Provisions of this Code Declared to Be Minimum Requirements
- 17.03.050 Compliance with provisions required.
- 17.03.055 Conditions of Approval**
- 17.03.060 ~~Enforcement.~~
Revocation – Conditions Violated.
- 17.03.070 Inspection and Right-of-Entry.
- 17.03.080 ~~Violation—Procedure—Penalty.~~
Enforcement
- 17.03.090 ~~Legal Proceedings as Alternative Remedy.~~
Violations.
- 17.03.100 **Legal Proceedings as Alternative Remedy**

17.03.010 Title. The ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title shall be known as “The McMinnville Zoning Ordinance of 1981.” (Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential,

commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare. (Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.025 Consistency with Plan and Laws. Each development and use application and other procedure initiated under this title shall be consistent with the adopted Comprehensive Plan of the City of McMinnville, the provisions of this title, and all other applicable local ordinance, State laws and regulations.

17.03.030 Severability. Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, that judgment shall affect only that part held invalid and shall not impair the validity of the remainder of these regulations. (Ord. 4920, §2, 2010).

17.03.040 Provisions of this Code Declared to Be Minimum Requirements.

A. Minimum Requirements Intended. The provisions of this title are minimum requirements adopted for the protection of the public health, safety and general welfare.

B. Most Restrictive Requirements Apply. Where the conditions and requirements imposed by any provision of this Title are less restrictive, vary from or conflict with other provisions of this title or f any other ordinance, resolution or regulation, the provisions which are most restrictive or the highest standard shall govern. When requirements of this title vary from or conflict with other provisions of the McMinnville Municipal Code, the more specific provision shall prevail over a more general provision.

~~17.03.040 Interpretation—More restrictive provisions govern. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other provisions of this title or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern. (Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).~~

17.03.050 Compliance with provisions required. A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits. **Construction, alteration, maintenance or use of any building or structure or land division or transfer in violation of this codes is prohibited. Except to the extent that this code provides decision-making authority to others, City planning staff shall administer this code and shall apply the standards and criteria in this to all applications for approval required or authorized by this code. Any use of land in violation of this code is declared to be a nuisance.**(Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.055 Conditions of Approval. The Planning Director, Planning Commission, the City Council or the Hearings Officer when acting as the hearing authority, may impost conditions of approval on any planning action to modify that planning action

to comply with the criteria of approval or to comply with other applicable City ordinances. Such conditions shall be binding on the approved planning action, and a violation of a condition imposed by the hearing authority shall be a violation of this ordinance, and subject to all the penalties thereof.

17.03.060 Revocation – Conditions Violated. Any zoning permit or planning action granted in accordance with the terms of this title may be revoked if any of the conditions or terms of such permit or action are violated or if any law or ordinance is violated in connection therewith.

17.03.070 Inspection and Right-of-Entry. Whenever **the Planning Director or their designee** they shall have cause to suspect a violation of any provision of this ordinance, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed in this ordinance, officials responsible for enforcement or administration of this ordinance, or their duly authorized representatives, may enter onto any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless a warrant authorizing entry and inspection for a zoning violation is first obtained from the court. A warrant shall not be issued unless good and sufficient grounds based upon reliable evidence is shown by the officials responsible for enforcement and administration of this ordinance. (A secured building means a building having doors and windows capable of locking, fully enclosed, and occupied.) No owner or occupant or agent thereof shall, after reasonable notice and opportunity to comply, refuse to permit such entry. (Ord. 4920, §2, 2010)

17.03.080 Enforcement. The Planning Director **or their designee**, ~~or in his absence the Building Official,~~ shall have the power and duty to enforce the provisions of this ordinance. **A person aggrieved by an enforcement action of the Planning Director or their designee may appeal that action per the process outlined in Chapter 2.50.510 of the McMinnville Municipal Code.** ~~An appeal from a ruling by him regarding the requirements of this ordinance may be made only to the Planning Commission. (Ord. 4920, §2, 2010)~~

17.03.090 Violations.

- A. Any use of land in violation of this title shall be and hereby is declared to be unlawful and a public nuisance, including but not limited to the following:
 - 1. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this title.
 - 2. Any use of land, building or premise established, conducted, operated or maintained contrary to the provisions of this title.
 - 3. Offering for public view any use of land, building, or premise established, conducted, operated without a valid land use approval or otherwise maintained contrary to the provisions of this tile.
- B. All violations that are public nuisances will be noticed and abated per the process and procedures outlined in Chapter 2.50 of the McMinnville Municipal Code.
- C. If the violation is deemed to be a public nuisance, in addition to any corrective action ordered by the City, a person found to have violated the

provisions of this Chapter may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 2 Code Violation.

- D. If the violation is deemed to be an immediate public safety hazard, in addition to any corrective action ordered by the City, the amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 1 violation.
- E. Notwithstanding the other remedies in this chapter, if the Building Official determines that any building under construction, mechanical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, they may order the work halted and the building or structure vacated pending further action by the City and its legal counsel.
- F. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under City ordinance or state statutes.
- G. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to this code shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

~~17.03.080 — Violation Procedure — Penalty.~~

- ~~A. A uniform complaint, or citation to appear, may be issued to the owner or occupier of property being used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the zoning ordinance;~~
- ~~B. A trial shall be heard before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence;~~
- ~~C. A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than five hundred dollars for each day that the violation continues;~~
- ~~D. A violation of this title shall be considered a separate offense for each day that the violation continues;~~
- ~~E. In the event the owner/occupier fails to pay any fine imposed upon conviction of a violation, the court may issue a Show Cause Order to the individual so charged and require his presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the court may request the City Council to adopt an ordinance making the amount a lien against the property. (Ord. 4920, §2, 2010)~~

~~17.03.100~~17.03.100 ~~Legal Proceedings as Alternative Remedy.~~ In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or land is, or is proposed to be, used in violation of this title, the building or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally

available for enforcing this title, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration, or use. (Ord. 4920, §2, 2010)