

**CITY COUNCIL AGENDA
Wednesday, November 16, 2022****7:00 p.m.** – Special Called Executive Session (CLOSED TO THE PUBLIC)**8:00 p.m.** – City Council Work Session Meeting (*Immediately following EXECUTIVE SESSION*)**8:00 p.m.** – Special Called City Council Meeting (*Immediately following City Council work session*)**REVISED 11/16/2022**

Welcome! The public is strongly encouraged to participate remotely but there is seating at Civic Hall for those who are not able to participate remotely. However, if you are not feeling well, please stay home and take care of yourself.

PUBLIC HEARING PUBLIC COMMENT:

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. on Tuesday, November 15th** to claudia.cisneros@mcminnvilleoregon.gov
- If appearing via telephone only please sign up prior by **12 p.m. on Tuesday, November 15th** 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 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 will need to provide your First and Last name, Address, and contact information (email or phone) to the City.**

You can live broadcast the City Council Meeting on cable channels Xfinity 11 and 331,
Frontier 29 or webstream here:

mcm11.org/live

CITY COUNCIL WORK SESSION & SPECIAL CALLED CITY COUNCIL MEETING:

You may join online via Zoom Meeting:

<https://mcminnvilleoregon.zoom.us/j/83621635653?pwd=Z1VjaG1QS0pMK0phc1htcGkvSUJKQT09>

Zoom ID: 836 2163 5653

Zoom Password: 355900

Or you can call in and listen via zoom: 1-253- 215- 8782

ID: 836 2163 5653

7:00 PM – SPECIAL CALLED EXECUTIVE SESSION- VIA ZOOM AND SEATING AT CIVIC HALL (NOT OPEN TO THE PUBLIC) (TIME OF MEETING HAS CHANGED DUE TO THE CANCELATION OF THE 6PM JOINT WORK SESSION) (REVISED ON 11/16/2022)

1. CALL TO ORDER
2. **Executive Session pursuant to ORS 192.660 (2)(e):** To conduct deliberations with persons designated by the governing body to negotiate real property transactions; pursuant to **ORS 192.660 (2)(f):** To consider information or records that are exempt by law from public inspection; pursuant to **ORS 192.660 (2)(j):** To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments; AND pursuant **ORS 192.660 (2)(n)(D)(E):** To discuss information about review or approval of programs relating to the security of any of the following: Telecommunication systems, including cellular, wireless or radio systems AND Data transmissions by whatever means provided.
3. ADJOURNMENT OF EXECUTIVE SESSION

**8:00 PM – REGULAR CITY COUNCIL WORK SESSION MEETING – VIA ZOOM AND SEATING AT CIVIC HALL
(IMMEDIATELY FOLLOWING EXECUTIVE SESSION)**

1. CALL TO ORDER
2. TIME, PLACE, & MANNER REGULATIONS FOR PSILOCYBIN ACTIVITIES DISCUSSION
3. ADJOURNMENT OF CITY COUNCIL WORK SESSION

**8:00 PM – SPECIAL CALLED CITY COUNCIL MEETING – VIA ZOOM AND SEATING AT CIVIC HALL
(IMMEDIATELY FOLLOWING CITY COUNCIL WORK SESSION MEETING)**

1. CALL TO ORDER & ROLL CALL
2. INVITATION TO COMMUNITY MEMBERS 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 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.
3. PUBLIC HEARINGS
 - a. Public Hearing regarding **Ordinance No. 5127**: An Ordinance Extending the Moratorium on the Issuance of Short-Term Rental Permits from an End Date of December 29, 2022 to June 29, 2023.
4. ORDINANCE
 - a. Consider the first reading with a possible second reading of **Ordinance No. 5127**: An Ordinance Extending the Moratorium on the Issuance of Short-Term Rental Permits from an End Date of December 29, 2022 to June 29, 2023.
5. ADJOURNMENT OF SPECIAL CALLED CITY COUNCIL MEETING

STAFF REPORT

DATE: November 16, 2022
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: Work Session, TPM Regulations for Psilocybin Activities

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This is a work session to review proposed amendments to the McMinnville Municipal Code, Chapter 17.64, relative to time, manner, and place regulations for Psilocybin Activities. (Please see Attachment A – Proposed Amendments, McMinnville Municipal Code, Chapter 17.64).

Background:

At a work session on October 19, 2022, the McMinnville City Council conducted a work session with city staff on possible time, manner, and place regulations for Psilocybin Activities. (Please see Attachment B – 10.19.22 Work Session Presentation)

At that time, City Council provided direction for staff on amendments to draft for the McMinnville Municipal Code, including some amendments for Marijuana related activities.

Discussion:

In 2020, the Oregon electorate passed Measure 109, legalizing the production and facilitation of psilocybin services for adults 21 years of age or older.

Per the measure, the Oregon Health Authority would start accepting applications for psilocybin-related licenses on January 2, 2023 and would adopt rules for psilocybin activities by December 31, 2022.

Measure 109 also had a provision that local cities could vote to delay the production and facilitation of psilocybin services within their jurisdictional authority by two years. This question is currently on the McMinnville local ballot.

Not knowing the outcome of the ballot measure, the City wants to prepare for the licensing of production and facilitation of services within the city limits by January 2, 2023 and is drafting time, manner, and place regulations similar to the time, manner and place regulations of marijuana-related activities within the city limits.

The City hopes to have these amendments adopted and in place as close to January 2, 2023, as possible. And in order to do so, the McMinnville Planning Commission would need to conduct a public hearing on December 1, 2022, which has already been noticed with the Department of Land Conservation and Development.

This is a work session to inform that public hearing.

Attachments:

Attachment A: Proposed Amendments to Chapter 17.64 of the McMinnville Municipal Code
Attachment B: Copy of the October 19, 2022 City Council Work Session Presentation

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE –

New proposed language is represented by red font, deleted language is represented by ~~strike through font~~.

Chapter 17.64

MARIJUANA RELATED SPECIAL ACTIVITIES

Sections:

17.64.000	Marijuana Related Activities
17.64.010	Purpose
17.64.015	Definitions
17.64.020	Applicability
17.64.030	Locations
17.64.040	Performance Standards
17.64.050	Non-conforming Use
17.64.060	Enforcement
17.64.100	Psilocybin Related Activities
17.64.110	Purpose
17.64.120	Definitions
17.64.130	Applicability
17.64.140	Locations
17.64.150	Performance Standards
17.64.160	Enforcement

17.64.000 MARIJUANA RELATED ACTIVITIES

17.64.010 Purpose. The purpose of this Chapter is to establish zoning regulations that provide for state licensed medical marijuana and commercial recreational marijuana activities allowed under voter-approved statewide initiatives and subject to other statewide administrative rules. The requirements of this Chapter are intended to be consistent with those regulations and, in some cases, augment them as necessary to provide adequate safeguards to address potential public health, safety and welfare considerations, particularly those associated with the cultivation, processing, and production of marijuana and the detrimental effects such activities may have upon McMinnville citizens and neighborhoods.

17.64.015 Definitions For the purpose of Marijuana Related Activities the following definitions shall apply. *(Note: Relocated from 17.06)*

Cannabinoid – Any of the chemical compounds that are the active constituents of marijuana.

Cannabinoid Product – A cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers.

Canopy – The surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.

Cultivation – All phases of growth of marijuana from seed to harvest, or preparing, packaging or repackaging, labeling, or relabeling of marijuana prior to consumption, or incorporation into a recreational marijuana-infused product.

Immature Marijuana Plant - A marijuana plant that is not flowering.

Marijuana – The plant Cannabis family Cannabaceae, any part of the plant of the Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” does not include industrial hemp, as defined in ORS 571.300.

Marijuana Business – Any person or entity appropriately licensed by the Oregon Health Authority (OHA) or Oregon Liquor Control Commission (OLCC) that sells, produces, cultivates, grows, wholesales, processes or tests medical marijuana or recreational adult use marijuana within the City of McMinnville.

Marijuana Paraphernalia – Any instrument that is used in the manufacture, production, distribution, sale, or consumption of marijuana. Examples include but are not limited to certain types of smoking pipes, bong, roach clips, rolling papers, grinders, or scales.

Marijuana Processing – Preparing, compounding or conversion of marijuana into edibles, skin and hair products, cannabinoid concentrates, and cannabinoid extracts for medical or recreational purposes. “Processing” does not include packaging or labeling.

Marijuana Production – The planting, cultivation, growing, trimming, drying or harvesting of retail recreational marijuana.

Medical Marijuana Dispensary – A medical marijuana dispensary registered under ORS 475.314 or a site for which an applicant has submitted an application for registration under ORS 475.314.

Medical Marijuana Grow Site – A specific location registered by the Oregon Health Authority and used by the grower to produce marijuana for medical use by a specific patient. Medical grow sites are regulated by state law as follows: 12 mature plants are allowed per grow site in residential zones; 48 mature plants per grow site in all other zones. If all grows at the site had registered with the State of Oregon by January 2, 2015, the grow site is limited to the number of plants at the grow site as of December 31, 2015, not to exceed 24 mature plants per grow site in a residential zone and 96 mature plants per grow site in all other zones.

Production, Indoor – Producing marijuana within an enclosed building in any manner utilizing artificial lighting on mature marijuana plants, and that does not meet the definition as an outdoor production facility.

Production, Outdoor – Producing marijuana in an expanse of open or cleared ground, or in a greenhouse, hoop house or similar non-rigid structure that does not utilize artificial lighting on mature plants, including but not limited to electrical lighting sources. (Ord. 5000 §1, 2015).

17.64.020 Applicability.

- A. The requirements of this Chapter shall apply to the following state licensed uses or activities:
 - 1. Medical marijuana dispensaries;

2. Medical marijuana processing activities;
 3. Medical marijuana production activities;
 4. Commercial marijuana retail activities;
 5. Commercial marijuana wholesale activities;
 6. Commercial marijuana processing activities; and
 7. Commercial marijuana production activities.
- B. Where existing planned development provisions differ from the standards of this Chapter, the standards of the planned development ordinance shall take precedence.

17.64.030 Locations.

- A. Marijuana activities may locate in the following zones, as described below and as may be required by Section 17.64.040.
1. State licensed medical marijuana dispensary or commercial recreational marijuana retail business shall be located only on lands zoned C-1 or C-3.
 2. State licensed medical marijuana processing or production, or commercial recreational marijuana processing or production shall be located only on lands zoned M-1 or M-2.
 3. State licensed commercial marijuana wholesale use shall be located only on lands zoned L-M, M-1, or M-2.

17.64.040 Performance Standards.

- A. In addition to other requirements noted in this Chapter, medical marijuana and commercial recreational marijuana activities shall be subject to the following:
1. Medical marijuana dispensaries and commercial recreational marijuana retail businesses may operate between the hours of 9:00am and 9:00pm only.
 2. Any state licensed marijuana activity operating within the city shall be located indoors within a permanent building and may not locate in a trailer, cargo container or motor vehicle. Outdoor storage of any merchandise, plants, or other marijuana activity related materials is not allowed. Further, no drive-through facilities or temporary facilities shall be permitted.
 3. There shall be no marijuana, marijuana product, or marijuana paraphernalia visible from the exterior of the building.
 4. Medical marijuana dispensaries may not be located within 1,000 feet of another state licensed dispensary.
 5. Commercial recreational retail businesses may not be located within 1,000 feet of another state licensed commercial recreational retail business.
 6. Medical marijuana dispensaries and/or commercial recreational facilities may not be located within 1,000 feet of the following:
 - a. ~~School as defined by OAR 333-008-1110(2)~~
Public/private or parochial pre-school, elementary, middle and high school.
 - b. McMinnville public library, community center, or aquatic center.
 - c. **Recreation facility attended primarily by minors.**
 7. Commercial marijuana production shall be limited to indoor production and up to Tier II size limits (10,000 square foot maximum canopy).
 8. All sites on which a state licensed marijuana facility is located shall provide landscaping and off-street parking consistent with the requirements of Chapter 17.57 (Landscaping) and Chapter 17.60 (Off-Street Parking) of the zoning ordinance.
 9. Signs for locations on which a state licensed marijuana facility is located shall comply with the applicable provisions of Chapter 17.62 (Signs) of the zoning ordinance.

10. All other development requirements (e.g., fencing, property setbacks and buffers, solid waste disposal, lighting) shall be as required by the zone in which the marijuana activity is located or otherwise required by the zoning ordinance or applicable planned development ordinance.
11. The City Building Division will require a proof of license from the State (either OHA or OLCC, as applicable) showing the security plan, waste disposal plan, and all other required improvements prior to release of a final occupancy permit.
12. All other applicable requirements of state law regarding the operation of a state licensed marijuana activity shall apply as they now exist or may be amended.
13. The private growing or cultivation of marijuana for non-commercial personal use, as defined by state law, is not regulated by this chapter. (Ord. 5014 §1, 2016)
14. **Marijuana dispensaries or production facilities may not be located within a mixed-use development with a residential component.**

17.64.050 Non-conforming Use. A marijuana activity lawfully established prior to the adoption of this ordinance but that is not in compliance with the allowed uses or the standards for those uses as described in this Chapter shall be considered a lawful nonconforming use. The continuation of a lawful nonconforming use is subject to the applicable provisions of Chapter 17.63 (Nonconforming Uses). In addition, any dispensary that offered for sale commercial recreational marijuana as provided by SB 460 (early sales legislation) prior to the adoption of this ordinance but that is not in compliance with the allowed uses or the performance standards for such use as described in this Chapter shall not be permitted to continue such commercial recreational retail sales after December 31, 2016.

17.64.060 Enforcement. Nothing contained herein shall preclude the issuance of citations for violations of this ordinance, either prior to, concurrently with, or after action is commenced to declare a marijuana activity to be unlawful. Marijuana activities found to be in violation of the provisions of this Chapter, or other applicable provisions of this zoning ordinance, are subject to the provisions of Chapter 17.03 (General Provisions)

17.64.100 PSILOCYBIN RELATED ACTIVITIES

17.64.110 Purpose. The purpose of this section is to establish zoning regulations that provide for state licensed psilocybin activities allowed under voter-approved statewide initiatives and subject to other statewide administrative rules. The requirements of this Chapter are intended to be consistent with those regulations and, in some cases, augment them as necessary to provide adequate safeguards to address potential public health, safety and welfare considerations, particularly those associated with the cultivation and administration of psilocybin products and the potential detrimental effects such activities may have upon McMinnville citizens and neighborhoods.

17.64.120 Definitions For the purpose of Psilocybin Related Activities the following definitions shall apply.

Psilocybin Manufacturer - A building or structure, licensed under ORS 475A.290, used in whole or in part for the manufacture, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion or processing of a psilocybin product, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the psilocybin product or labeling or relabeling of its container.;

Psilocybin Testing Lab - A building or structure, licensed under ORS 475A.594, used in whole or in part for the testing of psilocybin products.;

Psilocybin Facilitators - A building or structure with offices licensed under ORS 475A.305, used in whole or in part for psilocybin facilitators.

Psilocybin Service Centers - A building or structure, licensed under ORS 475A.305, used in whole or in part for psilocybin administration sessions and at which other psilocybin services may be provided.

Psilocybin Waste. The unwanted part or parts of a psilocybin-bearing mushroom or any related elements (such as growth medium, etc.) that a producer wishes to dispose of. Psilocybin waste for the purposes of this Code does not include waste that has been treated or contaminated with solvents, or other chemicals that would be considered household hazardous waste or hazardous waste.

17.64.130 Applicability The requirements of this Chapter shall apply to the following state licensed uses or activities:

- A. Manufacturers;
- B. Testing Labs;
- C. Facilitators;
- D. Service Centers

17.64.140 Locations.

- A. Psilocybin activities may locate in the following zones, as described below and as may be required by Section 17.64.150.
 - 1. State licensed facilitator offices and service centers shall be located only on lands zoned C-1 or C-3.
 - 2. State licensed testing labs or manufacturers shall be located only on lands zoned M-1 or M-2.

17.64.150 Performance Standards.

- A. In addition to other requirements noted in this Chapter, psilocybin activities shall be subject to the following:
 - 1. Service centers may operate between the hours of 9:00am and 9:00pm only.
 - 2. Any state licensed psilocybin activity operating within the city shall be located indoors within a permanent building and may not locate in a trailer, cargo container or motor vehicle. Outdoor storage of any merchandise, plants, or other psilocybin activity related materials is not allowed. Further, no drive-through facilities or temporary facilities shall be permitted.
 - 3. There shall be no psilocybin product or paraphernalia visible from the exterior of the building.
 - 4. Service centers may not be located within 1,000 feet of another state licensed service center.
 - 5. Psilocybin service centers, testing labs or manufacturers may not be located within 1,000 feet of the following:
 - a. Public/private or parochial pre-school, elementary, middle and highschool.
 - b. McMinnville public library, community center, or aquatic center.
 - d. Recreation facility attended primarily by minors.
 - e. Public plaza and active use parks.
 - f. Licensed Daycare or Childcare Center
 - 6. Psilocybin service centers, testing labs or manufacturers may not be located on a property with a residence, including a caretaker's residence.
 - 7. All sites on which a state licensed psilocybin facility is located shall provide landscaping and off-street parking consistent with the requirements of Chapter

- 17.57 (Landscaping) and Chapter 17.60 (Off-Street Parking) of the zoning ordinance.
8. Signs for locations on which a state licensed psilocybin facility is located shall comply with the applicable provisions of Chapter 17.62 (Signs) of the zoning ordinance.
 9. Security Measures Required
 - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
 - b. Exterior lighting shall be provided and continuously maintained.
 - c. Any security bars installed on doors or windows visible from the public right-of-way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
 - d. Access to an production or testing facility shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
 10. All other development requirements (e.g., fencing, property setbacks and buffers, solid waste disposal, lighting) shall be as required by the zone in which the marijuana activity is located or otherwise required by the zoning ordinance or applicable planned development ordinance.
 11. The City Building Division will require a proof of license from the State (either OHA or OLCC, as applicable) showing the security plan, waste disposal plan, and all other required improvements prior to release of a final occupancy permit.
 12. All other applicable requirements of state law regarding the operation of a state licensed psilocybin activity shall apply as they now exist or may be amended.
 13. The private growing or cultivation of psilocybin for non-commercial personal use, as defined by state law, is not regulated by this chapter. (Ord. 5014 §1, 2016)

17.64.160 Enforcement. Nothing contained herein shall preclude the issuance of citations for violations of this ordinance, either prior to, concurrently with, or after action is commenced to declare a psilocybin activity to be unlawful. Psilocybin activities found to be in violation of the provisions of this Chapter, or other applicable provisions of this zoning ordinance, are subject to the provisions of Chapter 17.03 (General Provisions)

TIME, PLACE AND MANNER

Psilocybin Services – M109

City Council, Work Session
October 19, 2022



M109 – PSILOCYBIN SERVICES

- M109 created a license and regulatory framework for production of psilocybin and facilitation of psilocybin services for adults 21 years of age and older.**
- OHA will adopt rules – December 31, 2022**
- OHA will begin receiving applications for licensure – on January 2, 2023**

TYPES OF SERVICES

- ❖ **Manufacturer License – PRODUCTION.**
(Must be indoors)
- ❖ **Testing Lab License – TESTING.**
- ❖ **Facilitator License – SERVER.** (Cannot transfer psilocybin products to clients)
- ❖ **Service Center License – DISPENSARY.** (Provides psilocybin products to clients for use during administration session. Cannot be located within 1000 feet of a school. Must have defined boundaries.)

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Local Government Issues

Local Government Opt-Out:

- May adopt ordinances that prohibit Manufacturers and Service Centers.
- Ordinances must be referred to voters at the next general election.

Time, Manner, and Place Regulations:

- Local governments may adopt reasonable regulations on hours, location, and operation of licenses.
- Local taxes and fees are prohibited.

Land Use Compatibility Statements (LUCS):

- Applicants for Service Center and Manufacturer licenses are required to request a LUCS from their local government before submitting a license application.

TPM – IN THE LAW

475A.290. MANUFACTURERS

- ❖ Cannot be located on public land; must have defined boundaries.
- ❖ Outdoor cultivation is prohibited.
- ❖ Landlord must consent to use.

TPM – IN THE LAW

475A.305. SERVICE CENTERS

- ❖ Cannot be located within a residence.
- ❖ Cannot be located in a residential zone.
- ❖ Cannot be located within 1000 feet of a public/private/parochial elementary or secondary school, unless the OHA determines that there is a physical or geographic barrier capable of preventing children from traversing to the service center than the proximity can be reduced to 500 feet. (OHA will use GIS mapping tool for school proximity).
- ❖ Cannot be located on public land; must have defined boundaries.

TPM – WHAT THE LAW ALLOWS

475A.530 – Local time, place and manner regulations

- ❖ Reasonable limitations on the hours during which a premises for which a license has been issued under may operate.
- ❖ Reasonable requirements related to the public's access to a premises.
- ❖ Reasonable limitations on where a premise can be located.
- ❖ However, cannot invoke a separation standard greater than 1000 feet from another service center.

OPTIONS

- ❖ Adopt Time, Place and Manner regulations similar to existing TPM for marijuana facilities.
- ❖ Adopt Time, Place and Manner regulations that are different than TPM for marijuana facilities.
- ❖ Rely on State regulations for Time, Place and Manner regulations.

MCMINNVILLE'S MARIJUANA TPM

1.) Locations:

- **Dispensaries = C1 and C3 zones.**
Must be separated by 1000 feet.
- **Manufacturing = LM, M1 and M2**
- **Cannot be within 1000 feet of elementary, middle, and high school, public library, community center, and aquatic center.**

2) Hours of Operation: 9:00 AM – 9:00 PM

3) Development Standards

- **Must be in a building and not in a trailer, cargo container or motor vehicle.**
- **No outdoor storage allowed.**
- **No paraphernalia visible to the public.**
- **No drive-through facilities or temporary facilities.**

OTHER CITIES' TPM PSILOCYBIN

1) Locations:

- Cannot be located on a property with a residence, including a caretaker's residence.

2) Proximity Restrictions

- Within 1000 feet of Schools, public or private pre-school, elementary, middle or high school
- Within 1000 feet of Public plazas and active use parks
- Within 1000 feet of public library, public park, community recreation facility attended primarily by minors
- Participant sports and recreation facility attended primarily by minors
- Licensed daycare center.

3) Hours of Operation: 8:00 AM – 10:00 PM

4) Development Standards

- **Must be in a building and not in a trailer, cargo container or motor vehicle.**
- **No outdoor storage allowed.**
- **No paraphernalia visible to the public.**
- **No drive-through facilities or temporary facilities.**
- **Exterior Lighting**
- **Waste Disposal**

MCMINNVILLE'S MARIJUANA TPM

1.) Locations:

- Dispensaries (**Service Centers**) = C1 and C3 zones. Must be separated by 1000 feet.
 - Manufacturing = LM, M1 and M2
 - Cannot be within 1000 feet of **public/private/parochial** elementary, middle, and high school, public library, community center, and aquatic center.
 - **Recreation facility attended primarily by minors.**
 - **Licensed Daycare Center**
 - Cannot be located on a property with a residence, including a caretaker's residence.
- ← **pre-school**

2) Hours of Operation: 9:00 AM – 9:00 PM

3) Development Standards

- Must be in a building and not in a trailer, cargo container or motor vehicle.
- No outdoor storage allowed.
- No paraphernalia visible to the public.
- No drive-through facilities or temporary facilities.
- **Exterior Lighting**
- **Waste Disposal**

TIMING – STEPS TO ADOPT TPM CODE

1. **Draft Code Language**
2. **Notice DLCD 35 days in advance of first public hearing.**
3. **Newspaper notice 5 – 15 days in advance of public hearing**
4. **Planning Commission hosts public hearing.**
5. **Planning Commission votes on a recommendation to City Council**
6. **City Council considers Planning Commission recommendation.**
7. **City Council votes on Ordinance adopting TPM code.**
8. **Ordinance takes effect in 30 days.**

Approximately 90 days if just one public hearing at the Planning Commission level and no public hearings at the City Council level.

TIMING – STEPS TO ADOPT TPM CODE

1. Draft Code Language **(Work Session PC, November 17, 2022)**
2. Notice DLCD 35 days in advance of first public hearing.
(October 26, 2022)
3. Newspaper notice 5 – 15 days in advance of public hearing
4. Planning Commission hosts public hearing. **(December 1, 2022)**
5. Planning Commission votes on a recommendation to City Council
(December 1, 2022)
6. City Council considers Planning Commission recommendation.
(December 13, 2022)
7. City Council votes on Ordinance adopting TPM code.
(December 13, 2022)
8. Ordinance takes effect in 30 days. **(January 13, 2022)**

TIME, PLACE AND MANNER

Psilocybin Services – M109

City Council, Work Session
October 19, 2022



STAFF REPORT

DATE: November 16, 2022
TO: Mayor and City Councilors
FROM: Heather Richards, Planning Director
SUBJECT: Ordinance No. 5127 – Extension of the Moratorium on Short Term Rental Permits

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

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

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This is a public hearing and consideration of Ordinance No. 5127, extending the current moratorium on issuing permits for Short Term Rentals by six months from December 29, 2022, to June 29, 2023, to allow for more time to re-evaluate the City's short-term rental codes and permitting process.

Per ORS 197.520(4), no moratorium can be effective for more than 120 days, however, the City can pursue extensions on the moratorium in the future if it holds a public hearing on the proposed extension and adopts findings that:

- *Verify the problem giving rise to the need for a moratorium still exists;*
- *Demonstrates that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and*
- *Sets a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.*

Background:

ORS 197.520 governs how local governments can declare a moratorium. (Please see Attachment A).

On July 12, 2022, the McMinnville City Council adopted Ordinance No. 5118 establishing a moratorium on the issuance of short-term rental permits from September 1, 2022, to December 29, 2022, with the findings that short-term rentals were impacting housing supply and the quality of life in McMinnville's residential neighborhoods. The City wanted to re-evaluate its code and permitting process in order to protect the city's housing supply and the quality of residential neighborhoods in McMinnville. (See Attachment B - Ordinance No. 5118).

Lodging is represented in many forms in McMinnville. In commercial zones, lodging is an allowed outright use and does not need any permits. Any rooms for short-term stays is considered lodging.

In McMinnville's residential zones (R1, R2, R3, R4 and OR) lodging is allowed in the form of Short-Term Rentals and Resident Occupied Short-Term Rentals. Both Short-Term Rentals and Resident Occupied Short-Term Rentals are only allowed in single-dwelling units. Short Term Rentals (where the whole house is rented out as lodging (defined as less than a thirty-day stay) need to be separated by 200 feet (property line to property line).

However, even with the spacing standard, some neighborhoods, especially those within walking distance of the downtown were seeing a lot of properties that went on the market become short-term rentals, with the interest and permits doubling in quantity in one year.

Discussion:

Per ORS 197.520(4), the City can extend the moratorium by six months if it finds that the conditions which established the moratorium still exist and that the City has made reasonable progress in overcoming those conditions.

ORS 197.520(4)(a) for urban or urbanizable land, the City finds that the following conditions still exist:

- That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;

Finding: The application of existing zoning ordinance regulations for short-term rentals in residential zones (R1, R2, R3, R4, R5 and OR) are inadequate to prevent irrevocable public harm in McMinnville's neighborhoods due to the amount of increased permitting activity in McMinnville's residential neighborhood over 100% of previous years.

- That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;

Finding: The moratorium is sufficiently limited to ensure that a needed supply of affected

housing types within the City of McMinnville are not unreasonably restricted by the adoption of the moratorium as short-term rentals are not an identified needed housing type in McMinnville.

- Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;

Finding: There is potential for continued negative impacts to residential neighborhoods in McMinnville if short-term rental permits are not suspended during the review of the zoning ordinance regulations for issuing more short-term rental permits in overly saturated residential neighborhoods and for increased conflict between community members and short-term rental owners if a moratorium is not enacted.

- That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and

Finding: The public harm that could be caused by failure to impose a moratorium outweighs any possible adverse effects on the community, and that the moratorium will not result in an adverse shift in demand for housing, economic development, public facilities and services on buildable lands.

- That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

Finding: The City has sufficient resources available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of this moratorium. Evaluation of the code regulations for Short-Term Rentals will be added to the Planning Department's work plan over the next four months.

Per ORS 197.520(4)(b), the City finds that reasonable progress is being made to alleviate the problem giving rise to the moratorium by evidence of the following:

- 1) The Planning Commission has researched what ten other communities do in regards to balancing the needs of short term rentals and housing supply.
 - 2) The Planning Commission hosted work sessions on Thursday, September 15, 2022, and October 20, 2022.
 - 3) The next work session is scheduled for Thursday, December 15, 2022.
 - 4) After the Planning Commission concludes its work sessions, the City will notice and host a public hearing with the Planning Commission and then again with the City Council. This process is anticipated to take approximately 90 – 120 days.
- Staff is recommending the following exceptions to the moratorium:

Attachments:

Attachment A: ORS 197.520

Attachment B: Ordinance No. 5118

Attachment C: Ordinance No. 5127

Fiscal Impact:

There is no anticipated direct fiscal impact outside of a potential loss of transient lodging tax for the months of the moratorium on new permits. Loss of revenue would only be for new permits that would have been permitted in that timeframe.

Recommendation:

Staff recommends approval of Ordinance No. 5127 after conducting a public hearing.

I MOVE TO APPROVE ORDINANCE NO. 5127, EXTENDING THE MORATORIUM ON SHORT-TERM RENTAL PERMITS FOR SIX MONTHS FROM DECEMBER 29, 2022 TO JUNE 29, 2023.

ORS 197.520

Manner of Declaring Moratorium

- (1)** No city, county or special district may adopt a moratorium on construction or land development unless it first:

 - (a)** Provides written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;
 - (b)** Makes written findings justifying the need for the moratorium in the manner provided for in this section; and
 - (c)** Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.
- (2)** For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium. Such a demonstration shall be based upon reasonably available information, and shall include, but need not be limited to, findings:

 - (a)** Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;
 - (b)** That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and
 - (c)** That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining public facility capacity.
- (3)** A moratorium not based on a shortage of public facilities under subsection (2) of this section may be justified only by a demonstration of compelling need. Such a demonstration shall be based upon reasonably available information and shall include, but need not be limited to, findings:

 - (a)** For urban or urbanizable land:

 - (A)** That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
 - (B)** That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special

district are not unreasonably restricted by the adoption of the moratorium;

- (C)** Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- (D)** That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and
- (E)** That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

(b) For rural land:

- (A)** That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- (B)** Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- (C)** That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and
- (D)** That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

(4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

- (a)** Verify the problem giving rise to the need for a moratorium still exists;
- (b)** Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and
- (c)** Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.

(5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of the public hearing on the extension. [1980 c.2 §3; 1991 c.839 §3; 1995 c.463 §3]

ORDINANCE NO. 5118

AN ORDINANCE ESTABLISHING A MORATORIUM ON THE ISSUANCE OF SHORT-TERM RENTAL PERMITS FROM SEPTEMBER 1, 2022 TO DECEMBER 29, 2022.

RECITALS:

WHEREAS, McMinnville is experiencing severe constraints in housing land supply which is leading to a deficit in housing units being built in the community to meet housing demand. With a lack of supply and significant demand, housing prices have escalated exponentially in the past couple of years; and

WHEREAS, At the same time, tourism has increased in McMinnville exponentially as well. Increased housing prices and increased demand for tourism lodging has led to a greater than normal demand on housing to be leveraged as short-term rentals; and

WHEREAS, Residential neighborhoods are experiencing an increasing amount of short term rentals causing residents to become concerned about the quality of life, health, safety and community interaction within the neighborhoods; and

WHEREAS, McMinnville's zoning ordinance currently has a spacing separation of 200' between short term rentals. This has proven to be too much density of short-term rentals in some neighborhoods. The City would like to evaluate the impacts of short-term rentals on residential neighborhoods during the moratorium and recommend solutions for moving forward.

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

1. That a moratorium on the issuance of Short Term Rental Permits from September 1, 2022 to December 29, 2022 is necessary per the findings in Exhibit A to this Ordinance.
2. That pending complete applications provided by August 1, 2022 will be processed.
3. This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 12th day of July 2022 by the following votes:

Ayes: Geary, Menke, Chenoweth, Payne

Nays: _____

ADL

MAYOR

Approved as to form:

Walter Hewell

City Attorney

Attest:

Claudia Cisneros

City Recorder

EXHIBITS:

- A. Short Term Rental Moratorium Findings

EXHIBIT A to Ordinance No. 5118: FINDINGS FOR SHORT TERM RENTAL MORATORIUM

Per ORS 197.520, the City finds that:

- (1) No city, county or special district may adopt a moratorium on construction or land development unless it first:
 - (a) Provides written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;

FINDING - SATISFIED: Notice was provided to the Department of Land Conservation and Development on May 27, 2022 for a first evidentiary public hearing on July 12, 2022.

- (b) Makes written findings justifying the need for the moratorium in the manner provided for in this section; and

FINDING - SATISFIED: Exhibit A of Ordinance No. 5188 provides written findings.

- (c) Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.

FINDING - SATISFIED: A public hearing was conducted on July 12, 2022 and was duly noticed in the local newspaper on July 1 and July 5, 2022.

- (2) For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium. Such a demonstration shall be based upon reasonably available information, and shall include, but need not be limited to, findings:

- (a) Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;
 - (b) That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and

- (D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and

FINDING - SATISFIED: The public harm that could be caused by failure to impose a moratorium outweighs any possible adverse effects on the community, and that the moratorium will not result in an adverse shift in demand for housing, economic development, public facilities and services on buildable lands.

- (E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

FINDING - SATISFIED: The City has sufficient resources available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of this moratorium. Evaluation of the code regulations for Short-Term Rentals will be added to the Planning Department's work plan over the next four months.

- (b) For rural land:

- (A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- (B) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- (C) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and
- (D) That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

FINDING - NOT APPLICABLE

- (4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

ORDINANCE NO. 5127

AN ORDINANCE EXTENDING THE MORATORIUM ON THE ISSUANCE OF SHORT-TERM RENTAL PERMITS FROM AN END DATE OF DECEMBER 29, 2022 TO JUNE 29, 2023.

RECITALS:

WHEREAS, McMinnville is experiencing severe constraints in housing land supply which is leading to a deficit in housing units being built in the community to meet housing demand. With a lack of supply and significant demand, housing prices have escalated exponentially in the past couple of years; and

WHEREAS, At the same time, tourism has increased in McMinnville exponentially as well. Increased housing prices and increased demand for tourism lodging has led to a greater-than-normal demand on housing to be leveraged as short-term rentals; and

WHEREAS, Residential neighborhoods are experiencing an increasing amount of short-term rentals causing residents to become concerned about the quality of life, health, safety, and community interaction within the neighborhoods; and

WHEREAS, McMinnville's zoning ordinance currently has a spacing separation of 200' between short-term rentals. This has proven to be too much density of short-term rentals in some neighborhoods. The City would like to evaluate the impacts of short-term rentals on residential neighborhoods during the moratorium and recommend solutions for moving forward; and

WHEREAS, on July 12, 2022, the McMinnville City Council passed Ordinance No. 5118, establishing a moratorium on the issuance of short-term rental permits from September 1, 2022, to December 29, 2022; and

WHEREAS, McMinnville's Planning Commission has researched best practices in ten other communities and hosted work sessions on September 15, 2022, and October 20, 2022, to evaluate the McMinnville Municipal Code as it pertains to short-term rentals and their negative impact on McMinnville's housing supply and residential neighborhoods; and

WHEREAS, The McMinnville City Council finds that the issues that established the initial moratorium on the issuance of short-term rental permits still exists; and

WHEREAS, McMinnville's Planning Commission needs more time to evaluate the McMinnville Municipal Code to mitigate the negative impact of short-term rentals on McMinnville's housing supply and quality of life in McMinnville's residential neighborhoods; and

WHEREAS, per ORS 197.520(4) the City of McMinnville would like to extend the existing moratorium on the issuance of short-term rental permits for another six months;

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

1. That the moratorium on the issuance of Short-Term Rental Permits be extended from December 29, 2022 to June 29, 2023, per ORS 197.520(4) and the findings in Exhibit A to this Ordinance.
2. This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 16th day of November 2022 by the following votes:

Ayes: _____

Nays: _____

MAYOR

Approved as to form:

Attest:

City Attorney

City Recorder

EXHIBITS:

- A. Short Term Rental Moratorium Extension Findings

EXHIBIT A to Ordinance No. 5127: FINDINGS FOR EXTENDING THE SHORT-TERM RENTAL MORATORIUM

Per ORS 197.520, the City finds that:

- (4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

FINDING – SATISFIED: The initial moratorium established by Ordinance No. 5118 was effective for 120 days from September 1, 2022 – December 29, 2022. The McMinnville City Council considered the adoption of Ordinance No. 5127 extending the moratorium after holding a public hearing on the proposed extension and adopting written findings that satisfy ORS 197.520(4)(a, b and c).

- (a) Verify the problem giving rise to the need for a moratorium still exists;

FINDING – SATISFIED: The initial moratorium established by Ordinance No. 5118 was based on the following findings that still exist:

- *The application of existing zoning ordinance regulations for short-term rentals in residential zones (R1, R2, R3, R4, R5 and OR) are inadequate to prevent irrevocable public harm in McMinnville’s neighborhoods due to the amount of increased permitting activity in McMinnville’s residential neighborhood over 100% of previous years.*
- *The moratorium is sufficiently limited to ensure that a needed supply of affected housing types within the City of McMinnville are not unreasonably restricted by the adoption of the moratorium as short-term rentals are not an identified needed housing type in McMinnville.*
- *There is potential for continued negative impacts to residential neighborhoods in McMinnville if short-term rental permits are not suspended during the review of the zoning ordinance regulations for issuing more short-term rental permits in overly saturated residential neighborhoods and for increased conflict between community members and short-term rental owners if a moratorium is not enacted.*

- *The public harm that could be caused by failure to impose a moratorium outweighs any possible adverse effects on the community, and that the moratorium will not result in an adverse shift in demand for housing, economic development, public facilities and services on buildable lands.*
- *The City has sufficient resources available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of this moratorium as extended. Evaluation of the code regulations for Short-Term Rentals will be added to the Planning Department's work plan over the next four months.*

(b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and

FINDING – SATISFIED: *Reasonable progress is being made to alleviate the problem giving rise to the moratorium by evidence of the following:*

- *The McMinnville Planning Commission has researched what ten other communities do in regard to balancing the needs of short-term rentals and housing supply.*
- *The McMinnville Planning Commission hosted work sessions on Thursday, September 15, 2022, and October 20, 2022, to discuss approximately a dozen different code provisions to consider in the McMinnville Municipal Code to balance the mitigate the negative impact of short-term rentals on housing supply and the quality of McMinnville's residential neighborhoods.*
- *The next McMinnville Planning Commission work session is scheduled for Thursday, December 15, 2022.*
- *After the McMinnville Planning Commission work sessions, the City will notice and host a public hearing with the McMinnville Planning Commission to consider any recommended McMinnville Municipal Code amendments and make a recommendation to the City Council for adoption. This process is anticipated to take 90 – 120 days.*

(c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.

FINDING – SATISFIED: *Ordinance No. 5127 extends the moratorium from December 29, 2022 to June 29, 2023, a period of six months.*

(5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of

the public hearing on the extension. [1980 c.2 §3; 1991 c.839 §3; 1995 c.463 §3]

FINDING – Notice was provided to the Department of Land Conservation and Development of the public hearing on the extension.

