



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

**City Council Meeting Agenda
Tuesday, April 24, 2018
6:00 p.m. – Work Session
7:00 p.m. – Regular Council Meeting**

Welcome! All persons addressing the Council will please use the table at the front of the Council Chambers. All testimony is electronically recorded. Public participation is encouraged. If you desire to speak on any agenda item, please raise your hand to be recognized after the Mayor calls the item. If you wish to address Council on any item not on the agenda, you may respond as the Mayor calls for "Invitation to Citizens for Public Comment."

6:00 PM – WORK SESSION – COUNCIL CHAMBERS

1. Call to Order
2. Discussion on Fire Partnership with Sheridan Fire District.
3. Adjournment

7:00 PM – REGULAR COUNCIL MEETING – COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
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 minutes per person for a total of 30 minutes. Please complete a request to speak card prior to the meeting. Speakers may not yield their time to others.*
4. PROCLAMATION
 - a. Lemonade Day
 - b. Arbor Day
5. CONSENT AGENDA
 - a. Consider the Minutes of March 13, 2018 and March 21, 2018 Work Session and Regular City Council Meetings.
 - b. Consider request for Winery OLCC License from Rose and Fern Cellars, LLC located at 2515 NE Orchard Avenue #3.
 - c. Consider request for Winery OLCC License from Kendrick LLC, DBA Domaine Glennon located at 925 NE 7th Street.
 - d. Consider request for Full On-Premises, Commercial OLCC License from Blue Moon located at 310 NE 3rd Street.
 - e. Consider **Resolution No. 2018-18**: A Resolution supporting the City of McMinnville's ongoing participation as a member of the Yamhill County

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. For TTY services, please dial 711.

Affordable Housing Corporation's (YCAHC) regional Housing Rehabilitation Collaborative and the board of directors, and to appoint the Planning Director Heather Richards as the successor to the previous board member Ron Pomeroy.

6. ORDINANCES

- a. Consider second reading of **Ordinance No. 5050**: An Ordinance relating to the definition of plastic bags; Amending McMinnville Municipal Code Chapter 5.36.
- b. Consider first reading with possible second reading of **Ordinance No. 5051**: An Ordinance relating to Special Use Permits for City parks; revising the fine schedule for violation of park rules; and, amending McMinnville Municipal Code (MMC) Chapter 12.36.
- c. Consider first reading with possible second reading of **Ordinance No. 5052**: An Ordinance amending Title 17 (zoning) of the McMinnville City Code, specific to Chapter 17.06 and Chapter 17.62, to update definitions and the regulation of nonconforming signs

7. ADVICE/ INFORMATION ITEMS

- a. Reports from Councilors on Committee & Board Assignments
- b. Department Head Reports

8. EXECUTIVE SESSION: EXECUTIVE SESSION UNDER ORS 192.660(2)(d) TO CONDUCT DELIBERATIONS WITH PERSONS DESIGNATED TO CARRY OUT LABOR NEGOTIATIONS.

9. RETURN FROM EXECUTIVE SESSION TO TAKE ACTION.

- a. **Resolution No. 2017-19**: A Resolution ratifying a collective bargaining agreement between the City of McMinnville and the McMinnville Police Association (MPA) for Health Care only for the period starting July 1, 2018.

10. ADJOURNMENT

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PROCLAMATION

Whereas, Lemonade Day is a fun, free experiential learning program that launched in Houston, Texas in 2007, and has grown from 2,700 kids in one city to 200,000 kids in over 35 cities across America and Canada; and

Whereas, there are 200 kids in McMinnville and surrounding communities who will be learning how to be young entrepreneurs by opening and operating their own businesses – a lemonade stand; and

Whereas, the community's business leaders are supporting and encouraging these young entrepreneurs to be brave and do big things; and

Whereas, since its inception, Lemonade Day has provided access to the experience of business ownership to youth from all walks of life who learn lifelong business skills and principles while learning how to make money where they are encouraged to "spend a little, save a little, and share a little"; and

Whereas, the mission of Lemonade Day is to empower today's youth to become tomorrow's entrepreneurs;

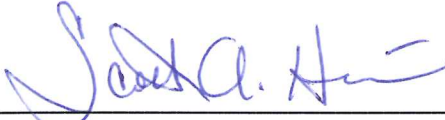
Now, therefore, I, Scott A. Hill, Mayor of the City of McMinnville, Oregon, do hereby proclaim Saturday, May 5th, 2018, as

LEMONADE DAY

in McMinnville. We urge all citizens to recognize and encourage the efforts of our kids as they learn about being young entrepreneurs while they open and operate their own businesses.

In Witness Whereof, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 24th day of April, 2018.





Scott A. Hill, Mayor



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

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: April 24, 2018
TO: Mayor and City Councilors
FROM: Chuck Darnell, Associate Planner
SUBJECT: Arbor Day Proclamation

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This is a proclamation to be read by the Mayor which will proclaim April 27, 2018 as Arbor Day in McMinnville.

Background:

Arbor Day was first celebrated in Nebraska in 1872, and since that time the Arbor Day Foundation was formed and the holiday is now celebrated nationally each year. In Oregon, the first full week of April is celebrated as Arbor Week.

Discussion:

This year, the City of McMinnville will be celebrating the 21st year that the City has been recognized by the Arbor Day Foundation as a certified Tree City USA. The Arbor Day Foundation has provided updated street signs, which are located at prominent entry points to the city, that have been updated to show that the City of McMinnville has been a certified Tree City USA for 21 years. Also, a new Tree City USA flag was provided. The new flag will be installed on the flag poles at the Fire Department, right near the corner of Baker Street and 2nd Street, and will be raised on Arbor Day (Friday, April 27, 2018).

In honor of Oregon's celebration of Arbor Day during the first full week in April, a tree planting event took place in McMinnville on March 31st, 2017. The tree planting was completed in public right-of-way along Highway 18, on the west end of the city where the Highway 18 bypass and Highway 18 merge. The tree planting event was led by the community organization Trees for McMinnville, with volunteers from the McMinnville Sunrise Rotary and their families in attendance to help plant the trees. In total, 30 new Red Maple (*Acer rubrum*) trees were planted in median areas that were largely vacant open space. These trees will grow to provide for more interest in these areas, and will add some beautification at these prominent entry points into McMinnville.

Attachments:
Arbor Day Proclamation

Photos of the planting event can be seen below:





Fiscal Impact:

None.

Alternative Courses of Action:

None.

Recommendation/Suggested Motion:

Staff recommends that the Mayor read the attached proclamation to proclaim April 27, 2018 as Arbor Day in the City of McMinnville.

CD:sjs



PROCLAMATION

Whereas, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska and is now observed throughout the nation and world; and

Whereas, trees reduce the erosion of our precious topsoil, clean the air by absorbing 48 pounds of carbon dioxide each year per tree, produce life-giving oxygen, and provide vital habitat for wildlife; and

Whereas, trees can moderate the average temperature in a city by 10 degrees and can cut individual household heating and cooling costs by up to 25%; and

Whereas, trees in our city increase property values, enhance the economic vitality of our business areas, and beautify our community; and

Whereas, the City of McMinnville is celebrating its 21st year as a certified Tree City USA as recognized by the Arbor Day Foundation; and

Whereas, in honor of Arbor Week in Oregon, 30 new Red Maple trees were planted along Highway 18 with much help from the community organizations Trees for McMinnville and the McMinnville Sunrise Rotary; and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Scott A. Hill, Mayor of the City of McMinnville, do hereby proclaim April 27, 2018 as

ARBOR DAY

in the City of McMinnville, and I urge all citizens to celebrate Arbor Day and support efforts to protect our trees and woodlands, and further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

In Witness Whereof, I have hereunto set my hand and caused the official Seal of the City of McMinnville to be affixed this 24th day of April, 2018.

Scott A. Hill, Mayor

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

Tuesday, March 13, 2018 at 5:45 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	Mayor Scott Hill
	Adam Garvin	
	Sal Peralta	
	Alan Ruden	
	Wendy Stassens	

Also present were Planning Director Heather Richards and Associate Planner Chuck Darnell.

1. Call to Order

Council President Menke called the meeting to order at 5:45 p.m.

2. Planning for Growth

Planning Director Richards explained that available land in the City is very limited. She stated that they have daily inquiries for land development. She displayed a map of McMinnville's Urban Growth Boundary (URB). It was noted that there are not a lot of opportunities for the Urban Growth Boundary.

Planning Director Richards stated that the City should do a holistic approach. She stated that planning for growth is vital for successful communities, it is a community dialogue, it's reliant upon thoughtful visioning, data gathering and financial analysis, it sets the stage for the community's future, and it is a legacy for the next generation. Planning for growth is mandated by the State.

Ms. Richards showed a chart reflecting annexation and the acres resulting from a UGB amendment since 1986. She provided a brief history of UGB work.

She noted that the current UGB is 7,552. The current county EFU acreage is 192,088 acres. McMinnville is 4% of overall county acreage.

She referred the council to Statewide Planning Goal 14 – Urbanization and OAR Chapter 660 – Division 24 (Urban Growth Boundaries). The Statewide Planning Goal 14- Urbanization requires the establishment and maintenance of UGB by local governments and it requires the UGB to accommodate long range urban population needs. OAR Chapter 660 – Division 24 (Urban Growth Boundaries) refers to the process and analysis required to carry out UGB requirements of Goal 14.

Ms. Richards shared smart growth principles including an appropriate mix of land uses:

- Compact, mixed-use, pedestrian friendly.
- Complete neighborhoods with Civic amenities, commercial centers, schools and parks within walking distance.
- Concentrated Commercial/ Mixed-use Centers.
- Integrate land uses so people can work and play near where they live.

Ms. Richards commented on the number of issues that are a part of planning: housing, schools, trails, safety, sewer, jobs, stores, landscape, water, parks, art, trees, roads, sidewalks, lights and freight. She discussed the business model for planning and stated that growth also has value choices.

Ms. Richards shared the current situation of constrained land supply which is leading to: higher land costs, lack of affordable housing opportunities, loss of economic opportunities, falsely constrained population growth, more population growth in unincorporated versus McMinnville, deficit in tax revenue to fund public levels of service, infill is happening in a vacuum, the pressure to efficiently use land without long-term consideration and paralysis to move forward.

Ms. Richards reviewed the population forecast and historic trends. She displayed charts of commercial, residential, and industrial permits since 1990. She also displayed the age structure of the population.

Ms. Richards stated that the City can grow up, grow out, or could do something in between.

Ms. Richards stated that McMinnville is forecasted to grow to 44,122 by 2035 highlighting that is an increase of 29%.

She stated that there are four ways for growth planning: urban reserve area (50 year land supply, standard urban growth boundary (20 year land supply), simplified urban growth boundary (14 year land supply) or incremental amendments.

Ms. Richards shared that a buildable land inventory is currently being conducted that will identify vacant, partially vacant, undevelopable and developed land with existing UGB. The result is a determination of buildable acreage by plan designation (zoning district).

Ms. Richards discussed the process for a UGB expansion. She reviewed the differences between the Standard UGB process and the Simplified UGB process.

Ms. Richards recommended that the City initiate a discussion about growth immediately, pursue a substantial UGB amendment, an Urban Reserve Area analysis and establish standard UGB amendment process and a minimum of five years.

Discussion ensued regard island annexation and reevaluating the land currently in the UGB and rezoning.

Discussion ensued regarding population forecasting, the cost and timeline for a UGB expansion.

Ms. Richards stated that there could be another work session to discuss and determine how to move forward. Discussion ensued regarding the standard UGB process. She stated that the City has begun Step 1: buildable lands inventory for housing and employment lands.

3. Adjournment

Council President Menke adjourned the Work Session at 6:55 p.m.

Melissa Grace, City Recorder

CITY OF McMinnville
MINUTES OF REGULAR MEETING
of the McMinnville City Council
Held at the Kent L. Taylor Civic Hall on Gormley Plaza
McMinnville, Oregon

Tuesday, March 13, 2018 at 7:00 p.m.

Presiding: Kellie Menke, Council President

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Remy Drabkin	Mayor Scott Hill
	Adam Garvin	
	Sal Peralta	
	Alan Ruden	
	Wendy Stassens	

Also present were City Manager, Jeff Towery, Planning Director Heather Richards, Associate Planner Chuck Darnell, Parks and Recreation Director Susan Muir, Police Chief Matt Scales, Library Director Jenny Berg, and Tom Henderson of the *News Register*.

1. CALL TO ORDER

Council President Menke called the meeting to order at 7:03 p.m.

2. PLEDGE OF ALLEGIANCE

Council Present Menke led the pledge of allegiance.

3. INVITATION TO CITIZENS FOR PUBLIC COMMENT

Council President Menke invited the public to comment.

Caroline O'Brien, 1591 SW Wright Street, reminded Council that as affordable housing was being looked at and they should consider creating a committee to look at rent control.

4. CONSENT AGENDA

- a. Consider the Minutes of February 13, 2018 Special Called (Work Session) and Regular City Council Meeting and March 2, 2018 Special Called – Strategic Planning Work Session.

Councilor Drabkin MOVED to adopt the consent agenda; SECONDED by Councilor Ruden. Motion PASSED unanimously.

5. PRESENTATION

a. Downtown Safety Task Force

Police Chief Scales stated that this was the final report and recommendations of the Downtown Safety Task Force. He thanked the Task Force members for their work. The City was responsive to the issues that were raised in the July 2017 Council meeting regarding behaviors downtown. The behaviors identified in the survey that was taken in the summer of 2017 were grouped into six categories:

harassment/panhandling/intimidation, garbage/trash/needles/graffiti, lack of communication, camping/loitering/ROW issues, drugs/alcohol/smoking, and urine/human waste.

Parks and Recreation Director Muir reviewed some of the results of the survey that had been discussed at a previous Council meeting including survey respondents, how many times people felt unsafe in downtown, and how much communication people had read, seen, or heard regarding the efforts to improve downtown issues.

Police Chief Scales stated that the overarching issues included continuing to address issues associated with overnight camping and the City owned parking garage at 5th and Evans. They recommended resurveying every year to check in with downtown merchants and employees, evaluate regularly, and adjust as needed.

The top priority of the Task Force was to dedicate a full time Law Enforcement Officer to downtown to provide connections/enforcement both short and long term. The Police Department had some capacity to dedicate Officer Heidt as an increase over the hours law enforcement patrolled downtown. Also the Park Ranger program would be moved under the Police Department budget in FY 2018-2019. Staff was currently implementing these changes.

Councilor Drabkin asked what effect there would be to the Police Department to increase patrolling downtown. Police Chief Scales explained right now Officer Heidt was responding to traffic crashes and those types of calls for service. With Officer Heidt dedicated to downtown, other officers would not have to respond to those downtown calls. Officer Heidt would be providing resources, outreach, and plugging people into services that they needed. The focus was to make relationships, not necessarily enforcement.

Parks and Recreation Director Muir stated that the Task Force also recommended adoption of ordinances to address (in priority order): panhandling, a fortified alcohol sales ban, and a smoke free downtown. The ordinances were designed to address

harassment, panhandling, intimidation, drugs, alcohol, and smoking. The Task Force reviewed information from the City of Ashland regarding a panhandling ordinance that prohibited panhandling near cash machines/ATM's and around sidewalk cafes. Also Ashland's Police Chief indicated the single most effective measure they took to improve their downtown was a smoking ban. Another recommendation was keeping a current web site and using social media to communicate about downtown (something strong, fun, informative and engaging). There were a lot of partners that could build on the work already done with the Task Force.

Police Chief Scales shared other priorities including installation of a 24/7 restroom downtown that would be kept open 365 days per year and using volunteers, work release, and/or inmates to pick up garbage. The final recommendation was installation of video cameras downtown.

Parks and Recreation Director Muir stated part of the implementation plan was to adopt ordinances to address panhandling, fortified alcohol, and a smoke free downtown. Staff recommended in the summer of 2018 to create a smoke free 3rd Street ordinance and a persistent violator/broader exclusion ordinance. Other ordinances that could be created in the fall and winter of 2018 could regulate panhandling and fortified alcohol. Some of the issues complicating these ordinances were the level of legal risk, recent legislation, coordination with state agencies (OLCC), and other analysis. The implementation plan also included unfunded items such as the 24/7 restroom, volunteer work release program, downtown cameras, and a communication plan. These items would be discussed through the Strategic Planning efforts.

Task Force members Sylla McClellan and Erika Marksbury were present. Ms. Marksbury commented on the difference between what people actually experienced and the perception of what they were experiencing. She thought the recommendations would help change the perception of safety downtown. Ms. McClellan added that having a full time officer downtown was important and might need to be funded in the future. The communication piece was also a reference tool for downtown businesses to know who to call or where to direct people to get assistance. The Task Force was committed to the process and felt that a survey should be conducted annually at the end of each summer to evaluate how to enhance or adjust what was being done.

Police Chief Scales said they were looking for direction from Council on how to proceed with the ordinances and whether or not to hold work sessions on these items.

Councilor Ruden inquired about the changes to the Parks Ranger program. Police Chief Scales stated that the Police Department would be providing training and clear direction of expectations.

Councilor Ruden said a downtown restroom had been discussed for many years, but it would take a lot of work to accomplish.

Discussion ensued regarding downtown restroom options.

Councilor Drabkin asked the Task Force if they felt the survey would look differently if it were taken this time of year. Had there already been improvements with what had taken place? Ms. McClellan responded that the issues may be seasonal but they were persistent. She noted that Officer Heidt's presence had improved the feeling of safety downtown. Ms. Marksbury said there was a decrease of these issues in the winter months, and it would be interesting to see how the changes affected the summer months. Police Chief Scales thought it had improved due to the increased police presence and exclusions by the court. He was hopeful that it would continue to get better in the spring and summer months.

Councilor Stassens asked about negative impacts to the smoking ban. Ms. McClellan said that had not been discussed with the downtown businesses.

Discussion ensued regarding a no smoking ordinance on 3rd Street and in City parks.

Councilor Peralta stated that the implementation plan seemed like the right time frames. He was in favor of expanding the smoke ban to parks. He asked about a possible stipend for volunteers, work release, and inmates to pick up garbage. Police Chief Scales said the stipend came up as a question about whether they needed to pay someone to do that work and if it was more cost effective than having staff do it.

Councilor Garvin thanked the Task Force members for their work. He noted that he would like to see a panhandling ordinance be moved up in the timeline as harassment was one of the biggest issues brought up in the public testimony. He stated that once the smoke free ordinance moved forward he would like to see it included in parks and City owned property as well.

It was the consensus of the Council to move forward with the first two recommendations of the Task Force.

6. ORDINANCES

- a. Consider first reading of Ordinance No. 5047 with possible second reading: An Ordinance amending Title 17 (Zoning) of the McMinnville City Code, specific to multiple chapters to update definitions and the regulation of short term rentals and lodging establishments in residential and commercial zones.

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

City Attorney Koch read by title only Ordinance No. 5047 amending Title 17 (Zoning) of the McMinnville City Code, specific to multiple chapters to update definitions and the regulation of short term rentals and lodging establishments in residential and commercial zones.

Associate Planner Darnell stated that the Planning Commission had four work sessions related to this topic. There was a public comment opportunity on October 19, 2017. Comments were received on impacts of Vacation Home Rentals in McMinnville neighborhoods. The following research was completed: locations of licensed VHRs in McMinnville, VHR requirements in other cities, and enforcement of VHRs operating without approval. A Planning Commission public hearing took place on February 15, 2018 and testimony was received both in favor and against the proposed amendments. The Planning Commission deliberated and made a unanimous recommendation to approve the proposed amendments. The major amendments included: the definition of “Short Term Rentals,” spacing standards for short term rentals in residential zones, operational requirements, and updates to the review and licensing process. The definition of short term rental was the use of an entire dwelling unit by any person or group of persons entitled to occupy for rent for a period of no more than 21 (twenty-one) consecutive days. Short term rentals included vacation home rentals approved under the regulations in effect through April 12, 2018. Short term rentals would be included in the following zones: all residential (R-1, R-2, R-3, and R-4), Office-Residential (O-R), Travel Commercial (C-2), and General Commercial (C-3). The definition of short term rental, resident occupied was the use of no more than two guest sleeping rooms by any person or group of persons entitled to occupy for rent for a period of no more than seven (7) consecutive days. The dwelling unit was occupied by a full-time resident at the time that the guest sleeping rooms within the dwelling unit were available for overnight rental. Resident occupied short term rentals included bed and breakfast establishments approved under the regulations in effect through April 12, 2108. These would be included in the following zones: all residential (R-1, R-2, R-3, and R-4) and Office-Residential (O-R). Lodging would be defined as a building, or group of buildings, which were designed, intended, or used for the accommodation of guests on a temporary basis for compensation. Lodging included hotels and motels and would be allowed in Travel Commercial (C-2) and General Commercial (C-3). Bed and Breakfast was defined as a structure designed and occupied as a residence in which sleeping rooms and a meal were provided on a daily or weekly basis for use by travelers for a charge or fee paid for the rental or use of the facilities. They were allowed in the Multiple Family Residential (R-4) and Office-Residential (O-R) zones as Conditional Uses and allowed outright in Travel Commercial (C-2) and General Commercial (C-3) zones. A proposed spacing standard would apply to short term rentals in residential zones. The standard was in response to concerns about impacts to the character of residential neighborhoods, conversion of a large number of single family homes to commercial-type rental uses, and the potential for a large percentage of any particular neighborhood to convert to short term rentals. The standard would not apply to commercial zones. The standard was that short term rentals would not be located within 200 feet of another short term rental. The distance was based on a general

concentration of one short term rental per block or a certain percentage of rentals in an area as discussed by the Planning Commission and the actual built environment in McMinnville. The typical length of the smallest blocks was 200 feet and these areas were located in close proximity to downtown to the northwest, south, and northeast. He showed maps of how the 200 foot spacing would be applied.

Discussion ensued regarding the spacing standards and how that would affect the number of vacation rentals in a certain area. There was further discussion regarding spacing standard comparisons to other cities, how the Planning Commission determined the 200 foot spacing was appropriate, and housing affordability.

Planning Director Richards stated that many of the vacation home rentals belonged to seasonal McMinnville residents. The Planning Commission had decided that vacation home rentals in multi-family products would impact the affordable housing supply and did not want to open that up.

Councilor Stassens inquired about the renewal requirements.

Associate Planner Darnell stated the vacation home rentals would need to be renewed annually. Existing rentals would be allowed even if they did not meet the new spacing requirement. If the existing rentals did not renew, the permit would become void and they would have to reapply and if they did not meet the spacing standards, they would not be approved again.

Councilor Garvin thought that the 200 feet spacing requirement restricted property owner rights. If there was a spacing standard it should be smaller.

Councilor Drabkin said this was creating commercial property within residential zones. One of the pressures was the limited supply of affordable housing. To her it wasn't about limiting someone's opportunity to do business, but it was about protecting residential zones and making sure neighborhoods were used as neighborhoods.

Council President Menke knew of some neighborhoods where half of the neighborhood homes were vacation rentals and it significantly impacted the residents as they did not know who was living in the neighborhood.

Councilor Peralta suggested that the maximum length of stays at bed and breakfasts and short term rentals should be the same and that the 21 days should be revised to 30 days. He agreed with the 200 foot buffer as there were some neighborhoods that had been affected by a high density of short term rentals and the Council needed to be conscientious of their testimony.

Councilor Stassens remembered the initial conversations around short term rentals. These rentals were concentrated in certain areas and she was in support of the buffer.

Associate Planner Darnell discussed the proposed operational requirements. The proposed language would be clearer on the ability to operate STRs and resident occupied STRs, and expanded opportunity. They did not allow for STRs in multiple-family dwellings. STRs and resident occupied STRs would be allowed in Accessory Dwelling Units (ADUs) and the existing VHRs would be allowed to continue as STR uses. Nonconforming uses would be grandfathered if they did not meet the spacing standard. There was also allowance for emergency contacts for STRs to reside in the 97128 zip code rather than only within the City limits. STRs and resident occupied STRs would be subject to existing review and licensing processes in the residential zones and the Office-Residential zone. STRs in the commercial zones would not be subject to land use application review or licensing. There would be an annual renewal requirement, which created an incentive for license holders to renew. If void, re-application was required and the site would be subject to the spacing standard. This requirement could slowly eliminate nonconforming STRs and eliminate properties no longer being used as STRs. Other changes included updating the Off-Street Parking and Loading Chapter and the Applications and Review Process Chapter, updating to reflect new definitions, and no proposed changes to regulations such as parking requirements and land use application review. Staff recommended adoption of Ordinance 5047 as recommended by the Planning Commission.

Sidonie Winfield, 549 NW Birch Street, thanked the Planning Commission and staff for their work on this. She was on the Planning Commission when this initial concern came forward and her neighborhood had the first vacation rental. She had noticed in other communities the impact of vacation rentals on affordable housing, the neighborhood aura, volunteers, and the impact it had on the cities in general. At that time, the Planning Commission had suggested a three block radius as the buffer to prevent a concentration of vacation rentals, but that had been considered an arbitrary number. In her neighborhood there were three permitted vacation rentals, another one that was in a commercial zone, and two additional vacation rentals that were unpermitted. There could potentially be two more as the owners were interested in the option. She encouraged the Planning Commission and staff to move forward with the recommendations. She thought the 200 foot buffer was an important piece. Having vacation rentals in a neighborhood did impact the neighborhood. When a home was used as a vacation rental it was a commercial use, not a residential use. Regarding the renewal requirement, she was concerned about it being a property right and questioned whether that right ended at the time of transition to a new owner or at the time of sale. She hoped that over time the concentration would lessen with the lack of renewal. She encouraged Council to pass the ordinance.

Discussion ensued regarding property rights. Associate Planner Darnell noted that the existing uses would be allowed to be grandfathered in. Some communities regulated these based on the current property owner and once ownership changed, the permit changed. The Planning Commission decided not to do that, but to allow existing licenses to be grandfathered in as nonconforming. The license being renewed annually was the way to transition the nonconforming uses out.

Councilor Ruden was in favor of the 21 days and 200 foot buffer. However he was concerned about taking affordable housing off the market for short term rentals. He thought that a duplex would often be included in affordable housing and making them into short term rentals would decrease the number of affordable housing units.

Associate Planner Darnell said only one of the units in the duplex would be allowed to be a short term rental and the 200 foot buffer would apply.

Councilor Peralta stated that he was open to a stricter ordinance than the Planning Commission recommended.

Councilor Drabkin felt that 21 days was too short of a time for month to month rentals, the Conditional Use should be with the owner and not stay with the property, and the 200 foot buffer was not adequate enough to alleviate the density of commercial use into residential zones. It should not be limited in commercial zones as rentals were a commercial use. Allowing the Conditional Use for the property could affect the property values in a neighborhood if one property was permitted to be used differently. The property right should end with a transfer of property.

Council President Menke was also concerned about the use of duplexes and affordable housing.

Councilor Stassens thought that instead of 21 days it should be 30 days. She could go either way on the duplex issue. She also agreed that the Conditional Use should not stay with the property. It should sunset when the property changed owners. She was uncomfortable with changing the 200 foot buffer due to the public input that had gone into the process.

Councilor Garvin agreed that duplexes should not be included due to Council's goal of affordable housing. He was impartial about changing the 21 days to 30 days. He thought only the nonconforming uses should expire with the change of ownership.

City Manager Towery asked how many short term rentals were in duplexes. Associate Planner Darnell said there was only one and it was within 200 feet of another licensed vacation home rental.

City Attorney Koch noted that state law stated that any occupancy of a room for less than 30 days was considered transient occupancy not subject to the landlord tenant act and any vacation occupancy which was less than 45 days was exempt from the landlord tenant act. He thought the change of ownership for a nonconforming use could be a trigger to eliminate the nonconforming use. He was less comfortable with the Conditional Use being eliminated at the change of ownership if the rental met the 200 foot buffer.

Discussion ensued regarding how the 200 foot buffer was derived after looking at density and impact to neighborhoods.

There was consensus to use the 200 foot buffer, eliminate duplexes as short term rentals, a change of ownership for nonconforming use would eliminate the nonconforming use, and the occupancy for a rental would be for a period of no more than 30 consecutive days. The ordinance would be brought back to the next meeting for the second reading.

- b. Consider first reading of Ordinance No. 5048 with possible second reading: An Ordinance adopting a City of McMinnville notice of nondiscrimination and grievance procedure for compliance with the Americans with Disabilities Act and appointing an ADA Coordinator.

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

City Attorney Koch read by title only Ordinance No. 5048 adopting a City of McMinnville notice of nondiscrimination and grievance procedure for compliance with the Americans with Disabilities Act and appointing an ADA Coordinator.

Planning Director Richards explained the purpose of the Americans with Disabilities Act. The Act required cities to establish an ADA program which included appointing an ADA Coordinator, providing public notice of non-discrimination, adopting a grievance procedure, conducting a self-evaluation, developing a transition plan, and creating an action plan. The ordinance started the implementation of the City's ADA Plan, appointed an ADA Coordinator which she recommended to be Building Inspector Rob Reygers, provided public notice, and adopted a grievance procedure. She explained the duties of the ADA Coordinator, the notice of nondiscrimination, and grievance procedure. The next steps included self-evaluation of all public facilities and rights-of-way, appointment of an Accessibility Advisory Committee, identification of priorities for an Action Plan, and adoption of a Transition Plan. Discussion ensued regarding the grievance procedure, which was a way for residents to complain about City facilities not being accessible.

Councilor Drabkin MOVED to pass Ordinance No. 5048 to a second reading; SECONDED by Councilor Ruden. Motion PASSED unanimously.

City Attorney Koch read by title only for a second time Ordinance No. 5048.

Councilor Garvin MOVED to approve Ordinance No. 5048 adopting a City of McMinnville notice of nondiscrimination and grievance procedure for compliance with the Americans with Disabilities Act and appointing an ADA Coordinator; SECONDED by Councilor Peralta. Ordinance No. 5048 PASSED by a unanimous roll-call vote.

- 7. ADVICE/ INFORMATION ITEMS
 - a. Reports from Councilors on Committee & Board Assignments

Councilor Garvin reported on YCOM and how they were working on their budget. There would be an increase in dues.

Councilor Drabkin stated there was a joint meeting of the Council and the Housing for Homeless Subcommittee yesterday that was well attended. They had great dialogue and it was very educational. The Affordable Housing Subcommittee met a few weeks ago. One of the items in their plan was to look into a Construction Excise Tax. The Subcommittee was going to hold a Developers Forum to have some conversation around the idea before bringing it to Council.

Council President Menke announced the Alpine Avenue celebration on April 27th. It would include lunch, a ribbon cutting, and sign unveiling.

b. Department Head Reports

Police Chief Scales noted that an ordinance on RV camping would come to Council on March 27.

Planning Director Richards stated the Economic Development Strategic Planning consultants would be doing focus group interviews tomorrow. The discussions would include the economic development strategy for the next 15 years. They were also hosting a community workshop on Thursday night to talk about what their vision was for McMinnville. The Federal Tax Act included opportunity zones which would offer significant tax savings for significant private investment projects. The states only had till the end of the month to submit 25% of their census tracts that met the criteria. McMinnville had three census tracts that qualified, the Three Mile Lane area, Industrial Park, and commercial property on Highway 218 by Linfield College.

8. ADJOURNMENT

Council President Menke adjourned the meeting at 9:15 p.m.

Melissa Grace, City Recorder

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

Wednesday, March 21, 2018 at 5:30 p.m.

Presiding: Scott Hill, Mayor

Recording Secretary: Melissa Grace

Councilors:	<u>Present</u>	<u>Excused Absence</u>
	Adam Garvin	Remy Drabkin
	Kellie Menke	Alan Ruden
	Sal Peralta	
	Wendy Stassens	

Also present were City Attorney David Koch, City Manager Jeff Towery, Planning Director Heather Richards, Fire Chief Rich Leipfert, Police Chief Matt Scales, Police Captain Tim Symons, and Finance Director Marcia Baragary.

1. CALL TO ORDER: Mayor Hill called the meeting to order at 5:37 p.m. and welcomed all in attendance.

2. PLEDGE

Mayor Hill led the Pledge of Allegiance.

3. SUBCOMMITTEE FOR HOMELESSNESS PRESENTATION

Dan Bryant, Pastor of First Christian Church in Eugene, presented on SquareOne Villages. He explained how his church had a long history of assisting “the least of these,” including a clothing ministry, interfaith family shelter, car camping program, free breakfast, and warming center. They typically had 20,000 touches during the course of a year. He stated that homelessness was the greatest injustice since the time of Martin Luther King, Jr. Homelessness was not only a problem for the homeless but it was a problem for all. The problem was not the homeless, but a lack of shelter, adequate addiction services, support for families, and income. It was everyone’s problem. In Eugene they were engaging in creative solutions. One of the programs was rest stops that were sanctioned camping areas in the City limits. They provided a sleeping platform for a tent and a shelter to keep the rain and sun off and a centralized place for cooking. There was one rest stop

specifically for veterans at the Mission. The Mission Director explained that having their own space improved the psyche of the veterans. Another program was Opportunity Village which was built over nine months with volunteers and future residents. It was a gated community where 30-35 people lived and where the average stay was between 9-15 months. There were a few individuals who had been there for three years. He shared that the residents were required to attend a weekly meeting. There were 29 units that took \$212,000 to build. It cost about \$1,200 per month to operate, which was about \$5 per night per person. The villagers paid \$35 per month to help with utility costs. They were located on city owned property that had to be approved by the Council and it had been renewed twice since it was built. The city commissioned the University of Oregon to look at the effectiveness of the village, and the survey results showed that nearly 90% of neighboring residents and businesses were in support of the program. Rest stop and Opportunity Village residents indicated that living in the communities increased their self-confidence (69%), made them feel more independent (81%), and gave them a sense of community (92%). More than 70% of residents indicated that staying at the rest stop/village was helping them transition into permanent housing. The biggest problem was finding a way to help transition people out. There was a lengthy wait time for people to get housing through the Housing Authority and Section 8. Some had been waiting five to six years, and their health had deteriorated rapidly being on the streets. He discussed an example of affordable housing in Eugene where the homes were \$169,000 per unit. There was a desperate need for more housing like this, but in this area there were 700 chronic homeless. If they tried to provide affordable housing for those individuals and stripped out all of the amenities, it would cost \$125,000 per unit and if they paired two people up per unit it would cost \$44 million to build. It took them seven years to get the \$17 million to build the affordable housing project. The reality was they were never going to see the money needed to address the need. In his county they had 10,000 to 12,000 individuals who had been homeless at some point in the year. The next project underway in Eugene was Emerald Village. It was a project of 22 tiny homes all built to code. Because they were simple designs they could maximize the use of volunteers in the construction. There would be two ADA accessible units. The property was purchased in May of 2015 and construction began the summer of 2017. The residents were required to put in 50 hours of sweat equity. The project was about 80% complete and cost about \$1.7 million, which meant about \$75,000 to \$77,000 per home. The in-kind donations had been \$1.2 million. The first residents had moved in before Christmas. The only public contribution was the city covering \$120,000 in SDC waivers. A similar model was going to be built in Cottage Grove. They received a grant to purchase the property there and they were working on getting the remaining funds to build the project. His website, SquareOnevillages.org, included a tiny house village toolbox that was a roadmap for how to build a village. The goal was to enable citizens with minimal incomes to live affordably with

pride in their own homes. They wanted to give residents the pride, responsibility, and benefit of their own home. They were not renters, but were members of a co-op that leased the facility from a non-profit. Their membership had a \$1,500 value that they were paying off at \$50 per month. The rent was \$250 to \$350 per month which included membership, and after the membership was paid off, their rent would go down. They wanted to provide safe, affordable, attractive, and efficient housing for all of the members of the community.

Councilor Stassens asked about the application process for the residents.

Mr. Bryant explained that there was a vetting committee of community members that was supervised by a volunteer, and they did background checks. All of the residents were required to put in 10 hours a week of service in the transitional housing and 10 hours a month in the permanent housing. Applicants also had to show that they understood the community concept and could be a good member of the community. They also had to show that they had adequate income to pay the rent.

Councilor Stassens asked how they determined the location for these projects.

Mr. Bryant stated they looked at access to public transportation and shopping. The property needed to be fairly contained to create a community environment and it had to be affordable.

Councilor Stassens asked about additional resources to help residents get on their feet.

Mr. Bryant explained that there was a support committee that worked to support the villagers and there were mentors that worked with villagers one on one. All villagers had a transition plan and an intern assisted them with that plan. There was a 12 hour per week staff person in the village. Otherwise it was self-governed. They also worked with villagers to improve their income and money management. They did not have addiction services or mental health services as the vetting process prevented people with severe issues to get into this program.

Councilor Peralta asked how these programs helped reach the large number of homeless.

Mr. Bryant said the warming centers addressed about 250-300 people, which was open about 30 nights this year. The interfaith family shelter served 10-12 families at a time, so about 40-50 families during the course of the school year. The car camping program helped about 60 people, and the rest stop program served about 72 people. The transitional shelter served 30-35 people

and the permanent housing served 22 households. Some of these people were chronically homeless, particularly those who used the warming center, rest stop, and car camping programs. A significant number were being served, but if they were not in a shelter with heat and plumbing they were still considered as being unsheltered.

Council President Menke asked what it would take for McMinnville to start these types of programs.

Mr. Bryant explained how Eugene created a task force who developed recommendations to the city. The first was to create a legal place for people to be. Meanwhile his group was developing the concept of a sanctioned camp and proposed to the city how to do that. It was a combination of organizations getting together to figure out a way to address the need. They also needed to determine what the community would accept and support.

Mayor Hill stated that it started by finding partners that had a similar vision. The City had been looking at intermediate and long term affordable housing, which included tiny homes. It would take time to get where they needed to go. He thought it would be beneficial to look at how Mr. Bryant had structured his programs. They also needed to look into the community block grants that had been helpful in Eugene as well as other financial avenues. McMinnville had a heart that they would not just look the other way, but they would need partners to help. He noted that the City could be a partner but it could not drive the process. There needed to be entities that drove the process and the City and County could partner with them. It was a learning process.

4.

PRESENTATION ON VACATION HOME RENTALS

Finance Director Baragary explained that this would be a presentation on improving vacation home rental tax compliance. The project was developed with City Manager Towery, Planning Director Richards, Engineering Department, Finance Department, and PSU student Elizabeth Gray.

Elizabeth Gray, Portland State University MPA student, shared that the purpose of this work was to examine the current state of lodging tax collection in McMinnville, specifically tax collection from Airbnb's and VRBO's. They also wanted to understand best practices in tax recovery by talking with other communities. She compared the differences between hotel/motel/B&Bs, which had traditional regulations for signage, fire code, and certain zones, and sharing platforms which facilitated communication and payment between the host and guest and were typically in a residential zone. Why was this important to investigate? Knowing the locations of all vacation home rentals supported: visitor health and safety, broader planning efforts, neighborhood livability, and timely and accurate TLT collection. There were informational challenges such as where these were located,

especially with duplication across multiple platforms. She stated the goal of the project was to produce a point-in-time list of publicly advertised vacation rentals that might not be compliant with the City's permitting and tax requirements and to provide a comparative analysis relevant to Oregon jurisdictions. To find the properties she identified properties in the City limits, cross-checked permitted vacation home rentals, looked for easier identification such as home photos, assessor records, and Google maps, and if the address was still unclear, asked the host. She then logged the information for the Finance Department.

She noted that she found 19 properties that were actively operating as vacation home rentals and were not remitting tax to the City. She noted that the process she took was replicable, but was slow and tedious. She reached out to other communities with lodging tax, who were in the news for this type of work, used compliance software, had Airbnb collection agreements, or were of similar size and had a similar Airbnb and VRBO population. She spoke with Deschutes County, Tillamook County, Corvallis, Sisters, Gearhart, Hood River, and Bend. Hood River and Gearhart were using compliance software. The communities that had Airbnb collection agreements were Bend and Tillamook County. She noted that all of her discussions with these communities and their recommendations were listed in the report.

Ms. Gray reviewed State legislation related to lodging tax including HB 3180 which allowed the option for information sharing agreements between state and local governments, HB 2400 which allowed the option for an IGA with the Department of Revenue to collect local TLT, and HB 4120 which filled in the loopholes of HB 2656 by requiring any business facilitating retail sale of lodging to collect, file, and pay state and local TLT. She shared that HB 4120 would require all platforms (Airbnb, VRBO, and Vacasa, etc.) to collect, file, and pay Transient Lodging Tax. They would be required to collect the tax at the point of payment.

Ms. Gray provided four suggestions: contract with a short-term rental software solution, require by ordinance vacation home rentals/short-term rentals to list their permit/tax IDs in their advertisements, collaborate with the County on an educational campaign for likely second homes with property taxes, and subscribe to AirDNA for market data. She did not recommend a voluntary collection agreement with Airbnb's or other platforms, a County tax warehouse, or sharing code enforcement across the County to deal with this issue. She shared her reflections noting that everyone she contacted and worked with through the project was extremely helpful.

Mayor Hill noted that the money being collected through the TLT was going back out to help the community and to give businesses a level playing field.

Councilor Stassens asked about the different platforms and how they collected and remitted taxes to the City.

Discussion ensued regarding the options for how Transient Lodging Tax would be collected and remitted.

Councilor Garvin asked about those rentals that were not licensed, were they aware that they needed a license or were they deliberately avoiding the system.

Ms. Gray had not asked them that question. Planning Director Richards stated that of the 19 that were not permitted, 5 were in commercial zones and did not require a permit, 12 were Airbnb's and the Planning Department would reach out to them, and 1 was a vacation home rental that also needed to be contacted.

Councilor Garvin asked if there would be litigation on the implementation of the tax for Airbnb's and VRBO's.

Ms. Gray stated Airbnb's did not state they planned to sue over this issue, but had requested a year to figure out how to collect the tax. The legislature did not give them that year.

The Council thanked Ms. Gray for her work.

5.

DISCUSSION ON SPECIALTY BUSINESS LICENSES

Planning Director Richards stated that there had been discussion with the Stable Table, MDA, Chamber, and MEDP about developing a business licensing program. The types of business licenses included general business licenses, regulatory business licenses, and specialty licenses. Currently the Business License Code provided authority for business licenses to be renewed every year on January 1 and to focus on regulatory businesses. She displayed a list of current code requirements for licenses some dating back to the 1920s and described the types of businesses that needed a license. The proposal was to revamp the business license code by adding general business licenses, updating regulatory licenses, and adding specialty licenses. The reasons for the update were to improve public safety as it created a contact list and allowed for inspections related to life and safety issues, to create a business database that could be used to understand the business community, and to fund economic development/business support. There were 1,596 businesses in McMinnville, 976 businesses (62%) had less than four employees and four businesses had over 250-499 employees (0.25%). There were 14,951 employees in McMinnville. Of that number, there were 38.20% (5,712) that worked in services, 22.68% (3,391) that worked in retail, 11.64% (1,741) that worked in manufacturing, and 9.08% (1,358) that worked in

public administration. She shared that having a database allowed for the City to conduct an annual survey to gather useful data. She shared the results of the annual survey that was sent out with the business license renewals. The questions asked included the size of the business and staff found out many people worked from their homes. The survey also asked what type of business they owned or operated. Funding business support would include consumer data and workforce strategies. Staff recommended updating the regulatory licenses to better reflect today's businesses.

Fire Chief Leipfert explained that there were many instances where businesses came to the City and did not go through the business license process and were not in a building that was designed to code for that type of business. The Fire Department came around and did an inspection and business owners had to stop work and spend a lot of money so they could get up to code. If they had the touchpoint initially with Planning staff, that conflict would not have happened.

Fire Chief Leipfert discussed specialty business licenses. These licenses would be used for certain businesses generating the need for additional city services that would be subject to fees in addition to those imposed for a general business license. It would add care facilities and retain ambulance patient drug fees. Care facilities created a significant impact on the City ambulance service. The term care facility included independent living. There were currently 17 licensed care facilities in the City of McMinnville with space for 1,093 residents. This was 3% of the City's population and created 37% of the EMS call volume within McMinnville. Care facilities calls were 1,741 of the total 4,646 calls per year. The impact to the Police Department was \$1.1 million after medical insurance reimbursement. It consumed one full time ambulance and reduced 911 ambulance availability for other citizens. He shared the various options for cost recovery. For full recovery, it would cost \$1,002 per bed per year in the licensing fee to the care homes. A 116 bed facility would be charged \$116,317 annually. For partial recovery, it would cost \$300 per bed per year in the licensing fee. For a 116 bed facility, that would be an annual charge of \$34,800. The total funds recaptured would be \$329,100. A service charge would recover the full cost per call recovery and would be charged to the facility. Last year it cost \$1,155 per call. There were an estimated 400 calls per year to care facilities for someone who fell, felt sick, or had an altered level of consciousness, which he thought could be reduced after education and implementing the service charge.

Fire Chief Leipfert recommended using a partial cost recovery and a service charge when services were used inappropriately. He met with eight care facilities regarding these changes. The care facilities recognized the impacts they had on service and four liked the per bed fee. It was noted that 16 out of the 17 care facilities were owned by out of state corporations. That made it difficult to educate them on Oregon regulations and what services the care

facilities were supposed to provide. He asked Council for direction on these changes.

Council President Menke asked about cost recovery and if there would be additional costs to administer the program.

Planning Director Richards stated full cost recovery would be the \$1,002 per bed per year fee. She explained how the business license program could be implemented. The Building Department was transitioning to a new program called Accela which had a free business license module. It would centralize the permitting services in the Community Development Center, would continue to be an annual renewal process, and be cost neutral for administration. The next steps included: public notice and dialogue, bringing an Ordinance forward for Code Amendments to be effective July 1, 2018, and developing a fee schedule.

Councilor Garvin asked about the service calls to these facilities.

Fire Chief Leipfert said the majority were trip and fall calls. They were also called out for wound care, catheter work, and sickness. The state has stringent guidelines for what care facilities are supposed to be providing. They are supposed to be able to evaluate their patients for medical issues and injuries. He was recommending that if the Fire Department arrived and identified that the evaluation did not occur or there was no need for them to be there, they would send a bill for that call to the facility. The use of cost recovery for general services was normal, but it had not been used for care facilities before.

Councilor Peralta noted in looking at the numbers that they were getting \$400 per call and were \$600 short.

Fire Chief Leipfert explained it cost \$1,800 for the call, but they ended up billing \$440 due to the limitations from Medicare and Medicaid. Medicare/Medicaid paid 80 percent of that and the patient was responsible for the remainder.

Councilor Peralta thought the closer they could get to full cost recovery the better.

Council President Menke agreed with Councilor Peralta.

It was noted that the fees would be charged to the business, not the patient.

Councilor Garvin would like to see at least a 50 percent cost recovery on the bed fee and to try to change behavior through a service charge.

Mayor Hill noted that they were using General Fund money for these calls for service, and there was a high proportion of care facilities in McMinnville. Most other cities were collecting these fees and it would provide for better knowledge of the businesses in the City. It would be important to have open dialogue with the care facilities about these changes.

Planning Director Richards highlighted the public safety aspect of the business licenses as well.

Councilor Stassens stated that she was for full cost recovery and to have a dialogue with the care facilities.

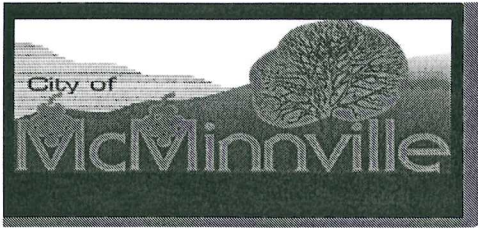
City Manager Towery stated that businesses wanted certainty and this would help businesses know the requirements at the beginning so they would be aware of what their costs and issues would be.

6.

ADJOURNMENT

Mayor Hill adjourned the meeting at 7:42 pm.

Melissa Grace, City Recorder



City Recorder Use	
Final Action:	_____
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Disapproved

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Rose and Fern Cellars LLC.
 BUSINESS LOCATION ADDRESS: 2515 NE Orchard Ave #3 McMinnville, OR
 LIQUOR LICENSE TYPE: Winery (new outlet)

Is the business at this location currently licensed by OLCC

Yes No

If yes, what is the name of the existing business:

Hours of operation: N/A
 Entertainment: N/A
 Hours of Music: N/A
 Seating Count: N/A

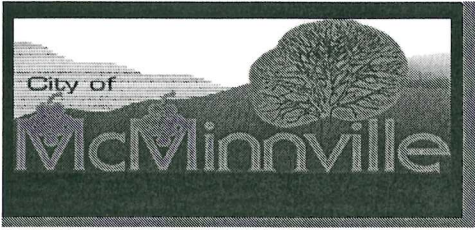
EXEMPTIONS:
 (list any exemptions)

Tritech Records Management System Check: Yes No
 Criminal Records Check: Yes No
 Recommended Action: Approve Disapprove



 Chief of Police / Designee

 City Manager / Designee



City Recorder Use	
Final Action: _____	
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Disapproved

Liquor License Recommendation

BUSINESS NAME / INDIVIDUAL: Kendrick LLC_DBA Domaine Glennon
 BUSINESS LOCATION ADDRESS: 925 NE 7th Street McMinnville
 LIQUOR LICENSE TYPE: Winery

Is the business at this location currently licensed by OLCC

Yes No

If yes, what is the name of the existing business:

Hours of operation: N/A
 Entertainment: N/A
 Hours of Music: N/A
 Seating Count: N/A

EXEMPTIONS:
 (list any exemptions)

Tritech Records Management System Check: Yes No
 Criminal Records Check: Yes No
 Recommended Action: Approve Disapprove



 Chief of Police / Designee

 City Manager / Designee

RESOLUTION No. 2018-18

A Resolution supporting the City of McMinnville's ongoing participation as a member of the Yamhill County Affordable Housing Corporation's (YCAHC) regional Housing Rehabilitation Collaborative and the board of directors, and to appoint the Planning Director Heather Richards as the successor to the previous board member Ron Pomeroy.

RECITALS:

The Yamhill County Housing Rehabilitation program and the resulting county wide revolving regional collaborative began in 1980 with its first Housing Rehabilitation Community Development Block Grant (CDBG) award.

The City of McMinnville has participated in the YCAHC Board since 1991 when the City received its first Housing Rehabilitation CDBG award.

The program continues to assist homeowner's county wide with the revolving loan fund that has resulted from past CDBG awards. This revolving fund currently has almost over \$3,800,000.00 in receivables that are loaned back out to families for Housing Rehabilitation or other programs specifically focused on sustaining affordable housing in our region.

The YCAHC Board makes all final decisions regarding the expenditures and use of these revolving loan funds.

Planning Director Heather Richards has volunteered to sit on the board and formal appointment of the YCAHC board member by the City Council is required.

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

1. The City of McMinnville continues to support efforts to achieve affordable housing solutions for all of its residents.
2. The City of McMinnville supports the efforts of the YCAHC programs and wishes to continue participating in the regional collaborative.
3. The City Council hereby appoints Planning Director Heather Richards to succeed former board member Ron Pomeroy as the new member of the YCAHC Board of Directors representing the City of McMinnville.

EFFECTIVE DATE

The effective date of this Resolution shall be April 24, 2018.

Approved by the Common Council of the City of McMinnville at a regular meeting held the 24th day of April 2018 by the following votes:

Ayes: _____

Nays: _____

MAYOR

Approved as to form:

CITY ATTORNEY



City of McMinnville
City Attorney's Office
230 NE Second Street
McMinnville, OR 97128
(503) 434-7303

www.mcminnvilleoregon.gov

MEMORANDUM

DATE: April 24, 2018
TO: Jeff Towery, City Manager
FROM: David Koch, City Attorney
SUBJECT: ORD 5050 - Revisions to Bag-It-Better Ordinance (MMC Ch. 5.36)

On February 14, 2017, the City Council adopted Ordinance 5018, prohibiting the use of single-use plastic bags at retail establishments and other designated locations within the City. The program was brought forward by Zero Waste McMinnville, and supported unanimously by the Council following a several months long period of community dialogue and discussion. The prohibition was phased in over a 12-month period, with the restrictions applied to retail establishments larger than 10,000 sq. ft., effective September 1, 2017, and all other establishments effective March 1, 2018.

While compliance with the ordinance has been strong, there has been one consistent area of confusion related to the definition of "Reusable Bag", and the issue of whether thicker plastic bags (2.25 or 4.0 mils) were intended to fall within the definition of "reusable bags".

On April 10, 2018, the Council considered Ordinance 5050, which would clarify the Council's intention to allow woven synthetic fiber bags but prohibit "thick" plastic bags (i.e. 2.25 or 4.0 mils). During the Council's discussion regarding the proposed ordinance, concerns were expressed by several Councilors regarding the current requirement that larger retail establishments charge \$0.05 for providing recyclable paper bags. As a result of that conversation, staff was directed to draft further amendments to MMC Chapter 5.36 that would make the charge for recyclable paper bags optional at the discretion of the retailer.

The proposed changes would convert the required charge of at least \$0.05 per paper bag to an optional charge of not more than \$0.10 per paper bag. It would also delete other provisions that are no longer needed after the conversion of the charge from mandatory to option, or that are moot following full implementation of the program on March 1, 2018.

Attachments:

Ordinance 5050

Recommendation:

Adopt Ordinance 5050

ORDINANCE NO. 5050

An Ordinance relating to the definition of plastic bags; Amending McMinnville Municipal Code Ch. 5.36.

RECITALS

On February 14, 2017, the City Council adopted Ordinance 5018, reducing the negative impacts caused by single use plastic bags and encouraging the use of sustainable reusable products.

The intent of the Council was to reduce the proliferation of single-use plastic bags, including thicker plastic bags (i.e. 2.25 mils or 4.0 mils thick plastic bags), and to encourage the use of cloth fiber and other sustainable products, such as woven synthetic fiber bags.

Since the effective date of the Ordinance 5018, some retail establishments subject to the ban have attempted to interpret the ordinance language that was intended to allow alternative products such as woven synthetic fiber bags as allowing thicker plastic bags that were intended by the Council to be prohibited.

On April 10, 2018, the City Council held a work session to consider updates to the program to address the confusion related to thicker plastic bags. During the course of that discussion, Council members also expressed a desire to convert the mandatory charge for recyclable paper bags to an optional charge for retail establishments.

NOW, THEREFORE, THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. The attached language in Exhibit 1 is incorporated into this Ordinance by reference.
2. This ordinance will take effect 30 days from the date of approval.

Passed by the Council April 24, 2018, by the following votes:

AYES: _____

NAYS: _____

Approved April 24, 2018.

MAYOR

Approved as to Form:

Attest:

CITY ATTORNEY

CITY RECORDER

**ORDINANCE 5050
EXHIBIT 1**

Section 1. MMC Section 5.36.020 will be amended as follows:

11. Reusable bag. A bag made of machine washable cloth, woven synthetic fiber or other non-plastic material with handles that is specifically designed and manufactured for long-term multiple reuses.

12. Single-use plastic carryout bag. Any plastic carryout bag made predominately of plastic, either petroleum or biologically based, and made available by a retail establishment to a customer at the point of sale. It includes compostable bags, and biodegradable bags, and thicker plastic bags (i.e. 2.25 mils or 4.0 mils), but does not include reusable bags, recyclable paper bags, or ~~product or produce bags~~ exempted from the definition of Carryout bag.

Section 2. MMC Section 5.36.040 will be amended as follows:

5.36.040 Cost Pass-Through.

When a retail establishment ~~with more than 10 full-time equivalent employees~~ makes a recyclable paper bag available to a customer at the point of sale, the retail establishment may charge the customer a reasonable pass-through cost of not more ~~less~~ than 10 ~~5~~ cents per recyclable paper bag provided to the customer. ~~will:~~

- ~~1. Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag provided to the customer; and not rebate or otherwise reimburse any customer any portion of the pass-through cost; and~~
- ~~2. Except for the exemptions in 5.36.050(1) and (5), indicate on the customer's transaction receipts the total amount of the recyclable paper bag pass-through charge.~~

Section 3. MMC Section 5.36.050 will be amended as follows:

5.36.050 Exemptions.

Notwithstanding Sections 5.36.030 and 5.36.040 of this Chapter:

- ~~1. Retail establishments with 10 or fewer full-time equivalent employees may charge for provided paper bags but are not required to do so. If such establishments do charge for paper bags, they are exempt from the requirement to note the cost on receipts.~~
2. Single-use plastic carryout bags may be distributed to customers by food providers for the purpose of safeguarding public health and safety during the transportation of prepared take-out foods and prepared liquids intended for consumption away from the food provider's premises.
3. Retail establishments may distribute product bags and make reusable bags available to customers whether through sale or otherwise.
4. A retail establishment may provide a reusable bag or a recyclable paper bag at no cost at the point of sale upon the request of a customer who uses:
 - a. A voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 413.500; or

- ~~b. An Electronic Benefits Transfer (EBT) card, such as an Oregon Trail Card, to access Supplemental Nutrition Assistance Program (SNAP) benefits.~~
- ~~5. Vendors at retail fairs such as a farmers' market or holiday fair are not subject to indicating on the customer's transaction receipt the total amount of the recyclable paper bag pass-through charge required in section 5.36.040 of this Chapter.~~
- ~~6. The provisions of this Chapter shall be effective:
 - ~~a. September 1, 2017, for retail establishments or food providers with greater than 10,000 square feet in specific store size; and~~
 - ~~b. March 1, 2018, for all other retail establishments or food providers.~~~~
- ~~7. The City Manager or their designee may exempt a retail establishment from the implementation deadline set forth in subsection 6 of this Section for a period of not more than six months upon the retail establishment showing, in writing, that this Chapter would create an undue hardship or practical difficulty not generally applicable to other persons in similar circumstances. The decision to grant or deny an exemption will be in writing, and the City Manager's or designee's decision will be final.~~



April 17, 2018

Dear Mayor Hill,

On behalf of the Surfrider Foundation and our members in the greater McMinnville area, we'd like to offer you the below comments on Ordinance 5050 and amendments to Ordinance 5018, relating to the plastic bag ban, definitions and paper bag fees. The Surfrider Foundation is a grassroots environmental organization dedicated to the protection and enjoyment of the world's oceans, waves, and beaches for all people, representing over 4,000 supporters, activists, and members in Oregon. We commend McMinnville's leadership on being the sixth city in Oregon to ban plastic bags and your high rate of compliance!

We support Ordinance 5050 (an Ordinance relating to the definition of plastic bags; Amending McMinnville Municipal Code Chapter 5.36) as proposed in the Memorandum from City Attorney David Koch dated April 10, 2018; however, we are opposed to the proposed amendment to Ordinance 5018 (an Ordinance restricting the distribution of single use plastic bags). What began as an effort to clarify existing definitions resulted in proposed substantial changes to the original plastic bag ordinance with no notice to the public.

The April 10th edits originally proposed by the City Attorney to the definitions of reusable bag and single-use plastic carryout bags (Ordinance 5050) will provide clarity for businesses and citizens. Furthermore, the revised definitions would exclude the use of petroleum and biologically based plastic bags from being used, eliminating confusion from consumers on what constitutes a reusable bag and the perception that a business is not complying with Ordinance 5018.

However, we are strongly opposed to the proposed amendment to Ordinance 5018 (plastic bag ban). At the April 10, 2018 City Council meeting, at the request of Councilor Adam Garvin, City Attorney David Koch was advised to amend [Ordinance 5018, Chapter 5.36.040](#) to read "...the retail establishment *may*: Charge the customer a reasonable pass-through cost of not less than 5 cents per recyclable paper bag..." thereby making the fee for a recyclable bag optional.

In Ordinance 5018, the Council cited sustainability, "...to encourage the reduction of single use items that negatively impact the local environment" as one reason for passing such an Ordinance. Maintaining a required fee on recycled bags will ensure one single use item (plastic bags) is not replaced by another

single use item (recyclable bags), allowing the City of McMinnville to reach its sustainability goal of reducing single use items.

Perhaps the most pressing reason to keep the mandatory fee is concerns for costs to businesses and consumers alike. Even for small businesses, the cost of paper bags will be passed on to the consumer whether it is explicit in the purchase of the bag or whether it is built into the cost of goods. Eliminating a fee, while maintaining a ban on plastic bags, will not affect the overall cost to the business. It will however inequitably distribute that cost to all consumers, whether they choose to use a plastic bag or not.

According to a published report following the City of Portland's first year of plastic bag ban implementation, where no fee was applied, **paper bag use increased 491%**¹. The McMinnville City Council should be prepared that businesses could likely experience such an increase in paper bag use – and the associated cost – in the absence of a fee. The burden of that costs falling on the business will ultimately be passed on to consumers – whether or not they use a paper bag.

I respectfully request this letter be included in the packet for the April 24, 2018 City Council Meeting as public comment regarding the second reading of Ordinance 5050. Any amendment to Ordinance 5018 should follow due process for public engagement and appropriate hearings.

Thank you for your consideration.

Respectfully,



Briana Goodwin
Oregon Field Manager
Surfrider Foundation



Charlie Plybon
Oregon Policy Manager
Surfrider Foundation

CC: Councilor Sal Peralta
Councilor Wendy Stassens
Councilor Kellie Menke
Councilor Alan Ruden
Councilor Remy Drabkin
Councilor Adam Garvin
Jeff Towery, City Manager
David Koch, City Attorney

¹ <https://www.portlandoregon.gov/bps/article/419700>

TO: Mayor Rick Olson
Councilor Alan Ruden
Councilor Scott Hill
Councilor Kellie Menke
Councilor Kevin Jeffries
Councilor Remy Drabkin
Councilor Larry Yoder

FR: Amanda Dalton
Northwest Grocery Association
Amanda@daltonadvocacy.com

RE: Proposed Plastic Bag Ban

April 6, 2016

Mayor Olson and Members of Council,

On behalf of the Northwest Grocery Association (NWGA) and our member grocery stores in your community, I offer the below brief comments on the proposed plastic bag ban under consideration. As you are likely aware, other cities in Oregon have adopted similar bans on plastic bags and the NWGA has been a partner in the drafting of these measures. As a result of the collaboration, the ordinances reflect necessary exemptions to make plastic bag ban ordinances workable for the customer, including exemptions for package bulk, frozen foods and meat, flower wraps and pharmacy prescription bags. The ordinances also allow for a WIC bag voucher.

Another key component in the recently adopted proposals is the inclusion of a reasonable pass-through cost of not less than 5 cents per Recycled Paper Bag, which provides an incentive for the consumer to bring a reusable bag or return with the paper bag and allows the retailer to recoup the costs as the consumer transitions away from the inexpensive plastic to the more expensive paper bag.

Is the five-cent pass-through cost for recycled paper bags necessary?

Yes. The overall objective of a ban on single-use plastic bags is to eliminate single-use bag consumption and overall litter in your community. The five-cent pass-through charge for a recyclable bag helps achieve this goal in the following ways:

- The 5 cent pass-through charge is avoidable and not a tax or fee for government.
- The 5 cent pass-through charge allows a retailer to provide an inexpensive, environmentally friendly bag when a customer does not have a reusable bag with them.
- The 5 cent pass-through charge is a gentle reminder to the consumer to remember

- their reusable bags without being punitive.
- The 5 cent pass-through charge protects the retailer and the consumer that uses reusable bags from the cost shift of going from plastic to paper bags.
 - There is no 5 cent pass-through charge when the consumer re-uses a recycled paper bag or brings their own bag to the grocery store.

Making the recyclable paper bag available provides consumers a choice or back-up at checkout. However, the pass-through charge on paper bags encourages the consumer to use a reusable bag or recycle a bag they already have, including a previously used paper bag. Examples of where a financial disincentive has been implemented to encourage reusable bag usage show positive results in the change of consumer behavior. In Washington DC, city officials were surprised at the high number of consumers who changed their habits, bringing reusable bags versus purchasing bags, after a five-cent fee was placed on paper and plastic bags. City officials estimated that before the fee residents used about 270 million bags a year at grocery and convenience stores. For 2010, that number dropped dramatically to around 55 million bags.

Merely banning plastic and allowing paper bags, however, increases grocery costs by a minimum of \$60,000 per store. Paper bags are simply more expensive and if there is no pass-through charge for consumer use, customers who bring reusable bags will pay more for their groceries to subsidize those who want “free” paper bags. The bottom line is that not providing an incentive to move to reusable bags will raise retailer’s bag costs by at least 40%, costing real jobs and simply shifting the problem from one disposable bag to another. Corvallis and Eugene modeled their ordinances on this premise and adopted a \$.05 fee on paper bags and just last year the City of Ashland adopted a \$.10 fee on paper bags, all allowing vouchers/no-cost paper for WIC customers.

I have attached a model ordinance for your consideration. If you should decide to advance the plastic bag ban concept, we look forward to working with you to address the above concerns and move forward drafting ordinance that continues to sets an example for the rest of the State.

Respectfully,



Amanda Dalton
Legislative Director
Northwest Grocery Association

Model Plastic Bag Ordinance

Section 2. Short Title.

This Ordinance shall be entitled “Encourage Reusable Bags and Ban Single-Use Plastic Carryout Bags.”

Section 3. Definitions.

For purposes of this chapter, the following terms shall have the following meanings:

- (a) "ASTM Standard" means the current American Society for Testing and Materials (ASTM)'s International current D-6400.
- (b) "Carryout Bag" means any bag that is provided by a Retail Establishment at the point of sale to a Customer for use to transport or carry away purchases, such as merchandise, goods or food, from the Retail Establishment. “Carryout Bag” does not include:
 - (1) Bags used by consumers inside retail establishments to:
 - (A) package bulk items, such as fruit, vegetables, nuts, grains, candy or small hardware items;
 - (B) contain or wrap frozen foods, meat, fish, whether packaged or not;
 - (C) contain or wrap flowers, potted plants, or other items where dampness may be a problem;
 - (D) contain unwrapped prepared foods or bakery goods; or
 - (E) Pharmacy prescription bags;
 - (2) Newspaper bags, door-hanger bags, laundry-dry cleaning bags, or bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
 - (3) Product Bags.
- (c) "City Sponsored Event" means any event organized or sponsored by the City or any Department of the City.
- (d) "Customer" means any person obtaining goods from a Retail Establishment or a Vendor.
- (e) "Food Provider" means any person in the City that provides prepared food for public consumption on or off its premises and includes, without limitation, any retail establishment, shop, sales outlet, restaurant, Grocery Store, delicatessen, or catering truck or vehicle.
- (f) "Grocery Store" means any Retail Establishment that sells groceries, fresh, packaged, canned, dry, prepared or frozen food or beverage products and similar items and includes supermarkets, convenience stores, and gasoline stations.
- (g) "Pharmacy" means a retail use where the profession of pharmacy by a pharmacist licensed by the State of Oregon in accordance with the Business and Professions Code is practiced and where prescription medications are offered for sale.
- (h) "Product Bag" means any bag provided to a Customer for use within a Retail Establishment to assist in the collection or transport of products to the point of sale within the Retail Establishment. A Product Bag is not a Carryout Bag.
- (i) "Recyclable Paper Bag" means a paper bag that meets all of the following requirements:
 - (1) is 100% recyclable and contains a minimum of 40% postconsumer recycled content;

(2) is capable of composting consistent with the timeline and specifications of the ASTM Standard as defined in this section.

(j) "Retail Establishment" means any store or Vendor located within or doing business within the geographical limits of the City that sells or offers for sale goods at retail.

(k) "Reusable Bag" means a bag made of cloth or other material with handles that is specifically designed and manufactured for long term multiple reuse and meets all of the following requirements:

(1) if cloth, is machine washable; or

(2) if plastic, has a minimum plastic thickness of 2.25 mils.

(l) "Vendor" means any retail establishment, shop, restaurant, sales outlet or other commercial establishment located within or doing business within the geographical limits of the City, which provides perishable or nonperishable goods for sale to the public. A Vendor is a Retail Establishment.

(m) "Single-Use Plastic Carryout Bag" means any plastic Carryout Bag made available by a Retail Establishment to a Customer at the point of sale. It does not include Reusable Bags, Recycled Paper Bags, or Product Bags.

Section 4. Regulations.

Except as exempted in Section 6,

(a) No Retail Establishment shall provide or make available to a Customer a Single-Use Plastic Carryout Bag;

(b) No person shall distribute a Single-Use Plastic Carryout Bag at any City Facility, City managed concession, City sponsored event, or City permitted event.

Section 5. Cost Pass-Through.

When a Retail Establishment makes a Recycled Paper Bag available to a Customer at the point of sale pursuant to Section 4(b), the Retail Establishment shall:

(a) Charge the Customer a reasonable pass-through cost of not less than 5 cents per Recycled Paper Bag provided to the Customer; and

(b) Indicate on the Customer's transaction receipts the total amount of the Paper Bag Pass-Through charge.

Section 6. Exemptions.

Notwithstanding the regulations contained in Sections 4 & 5:

(a) Single-Use Plastic Carryout Bags may be distributed to Customers by Food Providers for the purpose of safeguarding public health and safety during the transportation of hot prepared take-out foods and prepared liquids intended for consumption away from the Food Provider's premises.

(b) Retail Establishments may distribute Product Bags and may make Reusable Bags available to Customers whether through sale or otherwise.

(c) Notwithstanding the requirements contained in Section 4: A retail establishment shall provide a Customer participating in any one of the following programs with a Reusable Bag or a Recycled Paper bag at no cost upon request of the Customer at the point of sale:

(1) Customers who use a voucher issued under the Women, Infants and Children Program established in the Oregon Health Authority under ORS 409.600;

(d) Vendors at farmers' markets are not subject to indicating on the Customer's transaction receipt the total amount of the Paper Bag Pass-Through charge required in section 5(b) of this ordinance.

Section 7 Remedies.

(a) The City Manager is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this Chapter.

(b) Any person violating this Chapter shall be punishable by a fine equal to the cost of enforcement. For the purposes of this section, "cost of enforcement" shall mean the number of hours expended by City personnel in investigating and prosecuting the violation, rounded up to the nearest tenth of an hour, multiplied by \$75 per hour.

(c) The City Attorney may also seek legal, injunctive, or other equitable relief to enforce this Chapter.

(d) Administrative enforcement of this ordinance shall proceed pursuant to City Municipal Code with the fines to be graduated for repeat violations in amounts set forth by City Council resolution.

(e) Each violation of this Chapter shall be considered a separate offense.

(f) The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this Chapter shall preclude any person from pursuing any other remedies provided by law.

(g) Notwithstanding any other provision of this Ordinance, commencing on the date the Ordinance becomes effective, this Ordinance may be enforced through any remedy as provided for in this Section. This Ordinance shall be enforced one year from the date of its enactment. (h) All fines collected pursuant to this Section shall be deposited into the City's general fund; provided, however that the City may designate up to one-half of the fines collected to be spent by the City on community outreach and educational programs which focus on sustainable practices and/or policies.

Section 8. The City shall establish a website containing information on this Ordinance. The website must include the following information:

(a) Who is affected by the Ordinance;

(b) What the Ordinance requires;

(c) How the Ordinance is implemented and enforced;

(d) When the Ordinance becomes effective and enforceable;

(e) Why the Ordinance is being implemented by the City.

Section 9. Any provision of the City Municipal Code or appendices that is inconsistent with the provisions of this Ordinance is hereby repealed or modified, but only to the extent necessary to effect the provisions of this Ordinance.

Section 10. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or

unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 11. Any provision of this Ordinance that is inconsistent with any applicable requirements of the Oregon Revised Statutes or the Oregon Administrative Rules is hereby repealed or modified, but only to the extent necessary to make this Ordinance consistent with that other state law or regulation. If any provision of this Ordinance is more strict than any applicable requirement of the Oregon Revised Statutes or the Oregon Administrative Rules, then the provisions of this Ordinance shall apply.

Section 12. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days of adoption.

Section 13. EFFECTIVE DATE. This ordinance shall become effective immediately after enactment.



City of McMinnville
Parks and Recreation
600 NE Evans
McMinnville, OR 97128
(503) 434-7310

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: April 16, 2018
TO: Jeff Towery, City Manager
FROM: Susan Muir, Parks and Recreation Director
SUBJECT: Amendments to parks ordinance related to large events

Report in Brief:

On February 20, 2018 City Council was briefed on the interest to lift the alcohol ban at City Park and formalize a process for large events to occur in community parks. Council gave staff direction to bring back an ordinance proposal amending the original parks ordinance 4698 that would:

1. Allow events with alcohol in City Park under certain conditions, and;
2. Delegate authority to create a permitting process for large events in community city parks.

Through additional research, staff has also concluded that the City Council should:

3. Amend the parks ordinance to allow for the collection of fees for large events in parks, and;
4. Update the fines in the park ordinance to reflect changes to court fines.

At the meeting on February 20, 2018 the City Council also discussed the potential of allowing any noise ordinance waivers associated with permitted large events in parks to be processed administratively along with the large event permits and declined to move that procedural change forward. The proposed ordinance does not make any changes to the noise variance procedure.

Background:

Ordinance 4698 was adopted in May, 1999 and established basic park rules. Under the 'General Prohibitions' §6.7(8), the ordinance prohibits use or possession of alcohol in any city park. Some other provisions of the ordinance are waivable by the Parks and Recreation Director, however the prohibition on alcohol is not administratively waivable.

There are several events across the City where alcohol is permitted or allowed on city property including:

- Wine tasting at the farmer's market on a city street
- Event rentals at the Community Center, Senior Center and Library

- Beer garden type events on city streets for events such as the UFO festival, concerts, events associated with a private business, etc.

A proposed rewrite of Ordinance 4698 (attached) highlights the amended sections and includes the addition of Sections 4 through 7.

Attachments

Ordinance No. 5051

Recommendation:

Adopt Ordinance No. 5051.

ORDINANCE NO. 5051

An Ordinance relating to Special Use Permits for City parks; revising the fine schedule for violation of park rules; and, amending McMinnville Municipal Code (MMC) Chapter 12.36.

RECITALS:

Ordinance 4698, adopted in 1999, prohibited alcohol in all city parks.

The City of McMinnville has been approached by community organizations to allow, under certain conditions, alcohol in City Park.

The City of McMinnville regularly rents other city properties and venues that do allow alcohol to be consumed or served on site under certain conditions.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. The provisions set forth in the attached Exhibit 1, which are incorporated by this reference, are hereby adopted.
2. This ordinance will take effect 30 days after its passage by the Council.

Passed by the Council on _____, 20____, by the following votes:

Ayes: _____

Nays: _____

Approved on _____, 20_____.

MAYOR

Approved as to form:

Attest:

CITY ATTORNEY

CITY RECORDER

ORD 5051

Exhibit 1

Section 1. Amend MMC Section 12.36.040 as follows:

12.36.040 Establishment of Rules for Use of Park Areas.

A. Upon recommendation of the City Manager or upon its own motion, the City Council may **adopt fees or** promulgate rules and regulations pertaining to the administration and enforcement of this ordinance and to carry out its purposes. Any rules existing at the time of adoption of this ordinance shall remain in effect until specifically repealed.

B. Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular intervals (daily or otherwise) and either entirely or merely to certain uses and/or users, as the Director finds reasonably necessary to ensure the health, safety, and enjoyment of all park users. (Ord. 4698 §5, 1999).

C. Upon recommendation of the Director, the City Manager may promulgate rules and regulations pertaining to the issuance of permits for activities in designated parks, pursuant to Sections 12.36.200 to 12.36.230 of this Chapter.

Section 2. Amend MMC Section 12.36.050 as follows:

12.36.050 Prohibitions.

G. General prohibitions.

1. Unless otherwise approved by the Director, no person within a park area shall use or operate any noise producing machine, device, or instrument in a manner that, in the judgment of an authorized City employee, can be heard beyond 50 feet and/or substantially diminishes the ability of other park area visitors to enjoy the park or subjects persons occupying residences adjacent to or near the park in inconvenience, annoyance, or alarm. (Class C Park Violation).

2. No person within a park area shall possess, discharge, or cause to be discharge any firecrackers, explosives, torpedoes, rockets, fireworks, or other substances within a park area without the written permission of the Director. (Class D Park Violation).

3. Except as authorized by the Director no person within a park areas shall use a public address system or other device to mechanically or electronically amplify sound. (Class D Park Violation).

4. No person within a park shall commit an act of disorderly conduct. Disorderly conduct is defined as follows:

A person commits disorderly conduct when, with the intent to cause public alarm, nuisance, jeopardy or violence, or knowingly or recklessly creating a risk thereof, such person commits any of the following prohibited acts:

a. Engages in fighting or threatening, or in violent behavior.

b. Uses language, an utterance, or gesture, or engages in a display or act which is physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

c. Makes noise that is unreasonable or unnecessary, considering the nature and purpose of the actor's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances.

- d. Creates or maintains a hazardous or physically offensive condition.
- 5. No person within a park area shall enter an area posted as “Closed to the Public,” violate animal control, skateboard, or smoking prohibitions within a park or park area specifically designated as limiting or prohibiting such activity, or abet the use of any area in violation of posted notices. (Class D Park Violation).
- 6. No person within a park area shall block, obstruct, or interfere with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway, or common area. (Class D Park Violation).
- 7. **Except as authorized by the Director, no** person within a park areas shall occupy or interfere with access to any structure, office, lavatory, or other facility in a manner which impairs the intended use of the structure or facility by park users. (Class D Park Violation).
- 8. **Except as authorized by the Director for City Park, no** person shall use alcohol or possess an open container of alcohol in any city park. (Class D Park Violation).
- 9. Except as authorized by the Director, no person shall display, sell, offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services within any park area. (Class D Park Violation).
- 10. Except as authorized by the Director, no person shall operate a concession either fixed or mobile within any park. (Class D Park Violation).
- 11. No person shall erect any permanent signs or temporary signs of any type within a park, except by special permit from the Director. (Class D Park Violation).
- 12. No person within a city park shall hit golf balls in areas not designated for such use. (Class D Park Violation).
- 13. The use of tobacco products, including the use of e-cigarettes, is prohibited throughout all City Park property, all Library property, and all Aquatic Center property, all entries, plazas, and parking areas associated with City Park property, Library property, and Aquatic Center property, and Park Drive (all City properties west of Adams Street, north of Second Street, and adjacent to Star Mill and Wallace Streets).
- 14. The use of skateboards, scooters, and bicycles is prohibited in the Library plaza, the Library parking lots, the Third Street park entry and Soper Fountain plaza, the Aquatic Center plaza, along Aquatic Center covered walkways and adjacent to other buildings and structure which are located west of Adams Street, north of Second Street, and adjacent to Star Mill and Wallace Streets. This restriction does not include bicycles or other non-motorized vehicles that are operating within established vehicle lanes and in compliance with established state statutes and municipal ordinances for those vehicles. (Ord. 4982, §1 and §2, 2014; Ord. 4698 §6, 1999).

Section 3. Amend MMC Section 12.36.090 as follows:

12.36.090 Penalties, Bail Schedule; Distribution of Proceeds.

A. Penalties. Violation of this ordinance shall be punishable, upon conviction by a **maximum fine** ~~penalty~~ in accordance with the following schedule:

- 1. Class A Park Violation: \$500 ~~2,000~~
- 2. Class B Park Violation: \$250 ~~1,000~~
- 3. Class C Park Violation \$150 ~~500~~
- 4. Class D Park Violation: \$100 ~~250~~

B. Bail Schedule. Bail on each offense listed in this ordinance shall be not less than fifty percent of the maximum possible fine. (Ord. 4698 §10, 1999).

Section 4. Add MMC Section 12.36.200 as follows:

12.36.200 – Permits Required for Park Uses.

A. It is unlawful for any person to conduct or participate in any activity in a Park, for which a permit is required, unless the Director or Authorized City Staff has issued a permit for the activity. (Class A Park Violation).

B. A permit is required for any activity in a Park under any one or more of the following circumstances:

1. The activity is intended to involve, is reasonably likely to involve, or actually involves, as participants and/or spectators, at any one time, 75 or more persons;

2. The activity includes the placement of any temporary or permanent structure, including but not limited to any table, bench, stage, fence, tent or other facility in a Park. No permit is required under this Subsection for the placement of any temporary facility in an area of a Park which the Director has designated for such use without a permit;

3. The activity requires, or is reasonably likely to require, City services additional to those already provided to the public as a matter of course in the Park, including but not limited to: increased police or fire protection; the turning on or off of water; provision of utilities, such as gas, electricity or sewer; placing, removing, opening or closing bollards, gates or fences; or the special preparation of fields or other facilities;

4. The person or persons engaged in the activity seek to exclude, or to have the right to exclude, any member of the public from the activity or from any Park or from any area of any Park;

5. The activity includes using the Park or Park area in a manner inconsistent with uses designated by the Director for that Park or Park area, or includes conduct that otherwise is prohibited in a Park, including, but not limited to, conducting business, charging admission or otherwise receiving payment for goods or services related to the activity, or possessing, serving or consuming alcoholic beverages.

C. An activity requiring a permit may only occur in the following parks:

1. City Park

2. Discovery Meadows Park

3. Joe Dancer Park

4. Wortman Park

D. Nothing in this section shall be construed as prohibiting the City Manager from authorizing the lawful use of any City park by the McMinnville School District, or the District's duly authorized officers, agents and employees for the purpose of conducting educational activities or organized sporting events pursuant to the terms of an Intergovernmental Agreement.

Section 5. Add MMC Section 12.36.210 as follows:

12.36.210 – Applications; Director to Promulgate Rules and Procedures.

A. Any person desiring a permit under Section 12.36.200 shall apply with the Director or Authorized City Staff. The Director, subject to the City Manager's approval, shall establish written policies and procedures, including but not limited to fees and standard conditions, for applications and for permits. The written policies and procedures shall be available for public inspection. Every application shall state the purpose for which the Park would be used, the date and time of the

proposed use, the name of the Park, and the area thereof that would be used, the anticipated number of persons who would be present and such other information relating to the contemplated use as the Parks and Recreation Department may require.

B. The Director or Authorized City Staff shall issue the requested permit if a complete application complying with all adopted policies and procedures is filed and all of the following conditions are met:

1. The proposed activity is consistent with the size of the Park and any specialized purpose for which it is normally used, or for which specialized facilities have been provided;

2. The proposed activity will not have an unreasonably adverse impact, from noise, litter or traffic, on the Park or on the surrounding neighborhood;

3. The proposed activity does not pose an unreasonable risk to public health or safety or to the physical integrity of the Park;

4. The applicant pays all required fees and agrees to comply with all conditions of the permit;

5. The proposed use is otherwise lawful, but nothing in this Chapter shall require the issuance of a permit for an activity otherwise prohibited by this Title;

6. The proposed activity does not conflict with an activity already scheduled for the Park or for which a different permit already has been applied for or issued for the Park;

7. The applicant, including any person, firm or corporation affiliated with the applicant and with the activity, has not failed to comply with conditions of any permit previously issued by the Parks and Recreation Department;

8. The proposed activity does not require city services beyond what the city can reasonably provide.

C. If the requested use otherwise meets the criteria of Subsection B of this Section, the Director or Authorized person may issue a permit:

1. To use a Park during hours when the Park is closed;

2. To broadcast programs of music, news, speeches or general entertainment between the hours of 9 a.m. to 11 p.m., notwithstanding the provisions of Sections 8.16.150 or 9.32.040 of this Code; or

3. To engage in otherwise prohibited activities within the authority set forth in Sections 12.36.050 or 12.36.060 of this Chapter.

D. If the requested use does not meet the criteria of Subsection B of this Section, the Director or Authorized City Staff may deny the application or may impose restrictions or conditions upon the permit or issue a permit for a different date, time, Park, or Park area so as to meet such criteria.

E. Any person whose application is denied or who is issued a permit other than as applied for or who objects to restrictions or conditions included in the permit may appeal the matter to the City Manager by filing within five days after denial or inclusion of restrictions a written notice of appeal with the City Recorder. Upon receiving such a notice the City Recorder shall within 14 days schedule the appeal on the City Manager's Calendar for hearing. At the hearing, the City Manager may affirm or modify the decision of Director or Authorized City Staff, as the City Manager may deem necessary, to meet the criteria of Subsection B of this Section.

F. In determining whether the criteria of Subsection B of this Section are met, no consideration shall be given to the content of any constitutionally-protected expression connected with the planned activity. No permit shall be required under this Chapter, nor any condition imposed on any permit, if requiring a permit or imposing the condition would violate rights protected by the Constitution of the United States or by the Constitution of the State of Oregon. No permit shall be

required under this Chapter in order for any person to participate in any activity programmed by or sponsored by the City of McMinnville.

G. If any portion or provision of this Section is held by a court of competent jurisdiction to be invalid, such portion or provision shall, so far as possible, be held severable, and shall not affect the remainder, which shall continue in full force and effect.

Section 6. Add MMC Section 12.36.220 as follows:

12.36.220 – Special Provisions for all Permits

A. Any person claiming to have a permit issued under this Chapter shall produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same. (Class D Park Violation).

B. All permits issued under this Chapter shall be subject to the City ordinances and the rules and regulations of the Parks. The persons to whom such permits are issued shall be bound by said rules, regulations, and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage, or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued, as well as for any breach of such rules, regulations, and ordinances, to the person or persons so suffering damages or injury, and shall indemnify, defend and hold harmless the City and its officers, employees and agents from any and all claims, demands, actions and suits (including all attorney fees and costs, through trial and on appeal) arising from the permittee's use of the Park under the permit.

C. Any permit issued under this Title shall be personal to the permittee, and shall be void if transferred or assigned in any manner, except with the written consent of the Director or Authorized City Staff.

Section 7. Add MMC Section 12.36.230 as follows:

12.36.230 – Prohibited Conduct at Permitted Events

A. In addition to any other applicable provision of law, it is unlawful for any person to engage in any of the following conduct at any event for which a permit has been issued in any Park:

1. Any conduct that substantially prevents any other person from viewing, hearing or meaningfully participating in the event. (Class B Park Violation).

2. Any conduct that substantially interferes with the free passage of event participants or attendees by creating an insurmountable obstacle at any entrance, aisle, walkway, stairwell, ramp, esplanade, vendor booth, ride or other area commonly used for public access, egress or ingress. (Class B Park Violation).

3. Using any facility, structure, fixture, improvement or other thing within the area covered by the permit in a manner contrary to or inconsistent with its intended, designated or safe use. This Subsection does not apply to any person engaged in any constitutionally protected expression, unless, and then only to the extent that, in connection with the expression, the person engages in conduct that amounts to misuses of things as proscribed by this Subsection. (Class C Park Violation).

4. Except as expressly provided for under the terms of the permit, lighting any fire. This prohibition does not apply to smoking devices designed for and used for smoking tobacco, in areas where such smoking is permitted. (Class A Park Violation).

5. Any sexual conduct, as defined under ORS 167.060, including but not limited to any physical manipulation or touching of a person's sexual organs through, over or under a person's clothing in an act of apparent sexual stimulation or gratification, regardless of the person's subjective intent. (Class A Park Violation).

6. Operating any bicycle, in-line skates, roller blades or other human-powered form of accelerated propulsion, except in such places as the permittee may provide or allow for such activities. (Class C Park Violation).

7. Entry into the area subject to the permit without consenting to an inspection of personal belongings for the purpose of preventing the introduction of prohibited items into the event. For purposes of this Subsection, "personal belongings" includes backpacks, duffel bags, sleeping bags, purses, coolers, bulky apparel items and other personal items large enough to conceal or contain prohibited items. (Class B Park Violation).

8. Bringing into or possessing within the area covered by the permit any prohibited item. For purposes of this Section, "prohibited item" includes any fireworks, laser light, laser pointer, animals of any kind (except for service animals while performing their qualifying services), sound producing or reproducing or audio or video recording equipment (except as authorized by the permittee), glass bottles or containers, alcoholic beverages (except as provided by the permittee in accordance with the permit), furniture or fixtures (except as authorized by the permittee), any thing specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another (except for concealed handguns lawfully carried by persons in accordance with valid concealed handgun permits), and any item whose possession violates any other applicable provision of law. (Class B Park Violation).

9. Entry into or remaining in any area covered by any permit for any event that is not open to the public without the consent of the permittee, or entry into or remaining in any area covered by any permit for any event that is open to the public only upon the payment of an entry fee or charge, without first paying the applicable entry fee or charge. (Class A Park Violation).

B. The prohibitions contained in this Section do not apply to conduct by any City Employee in the performance of duty, or by any person authorized to engage in that conduct in connection with the event in accordance with the permit.



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

www.mcminnvilleoregon.gov

STAFF REPORT

DATE: April 24, 2018
TO: Mayor and City Councilors
FROM: Chuck Darnell, Associate Planner
SUBJECT: **Ordinance No. 5052 - G 2-18:** Zoning Text Amendment to amend Chapter 17.06 and Chapter 17.62 of the McMinnville City Code related to Nonconforming Signs

Council Goal:

Promote Sustainable Growth and Development

Report in Brief:

This action is the consideration of Ordinance No. 5052, an ordinance amending Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance.

The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

The McMinnville Planning Commission voted to recommend the proposed text amendments to the City Council on March 15, 2018.

Background:

In November 2008, the McMinnville City Council adopted a sign ordinance (Ordinance 4900). This ordinance included an amortization process which required that certain types of nonconforming signs (free-standing, roof, and animated signs) come into compliance with the updated sign standards. The original deadline for nonconforming signs to be brought into compliance was eight (8) years from the adoption of the ordinance, which was December 2016, with the thought that the eight year time period allowed business owners to amortize the costs of the sign compliance into their business model.

Ordinance 4900 also required that notice of sign noncompliance be “mailed to affected property owners following the adoption of the ordinance and again no later than one year prior to the end of the amortization period”. Due to limited staffing and resources at the time, the Planning Department did not

Attachments:

Ordinance No. 5052 including:

Exhibit A: G 2-18 Decision Document

Exhibit B & C: Amendments to Chapter 17.06 and Chapter 17.62

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Written Testimony Received Prior and After Planning Commission Public Hearing

send out notification of the December 2016 deadline to impacted property and business owners in a timely manner. The deadline was extended by the City Council in October 2016 (Ordinance 5013) to December 31, 2017 to provide Planning Department staff with adequate time to inventory the city and notify property owners with signs that would be subject to the amortization process 6 months prior to the deadline to come into compliance.

Planning Department staff inventoried all of the free-standing, roof, and animated signs in the community that were impacted by the sign ordinance, and in June 2017, notices of potential sign noncompliance were provided to 140 property owners throughout the city. Some businesses/property owners brought their signs into compliance, others worked with the city to show how they were compliant, and others applied for a sign exception. However, there are still over 100 signs that are noncompliant.

The city received three letters from legal representatives of businesses/property owners questioning the legality of the city forcing businesses to change out their signs without a land-use process triggering the requirement. At the same time, representatives from McMinnville Industrial Promotions approached the City Council about the financial burden for some businesses/property owners to bring their signs into compliance.

With a legal challenge and a local challenge, the City of McMinnville again amended the sign code in November 2017 (Ordinance 5044) to extend the deadline for compliance to December 31, 2018, in order to research and assess the legal risk to the city with moving forward with the enforcement of the amortization program.

Discussion:

Based on the legal and local challenges received, Planning Department staff and the City Attorney reviewed the existing zoning language related to nonconforming signs to assess the legal risk to the city in moving forward with the enforcement of the amortization program. The City Attorney's findings were discussed with the City Council, and the Council provided direction to staff to remove the amortization program and to introduce alternative enforcement methods for existing nonconforming signs.

With this direction, staff prepared zoning text amendments that would remove the existing amortization process and introduce other triggers or enforcement methods that would still address the City's desire to bring nonconforming signs into compliance with the sign standards adopted by the City in November 2008 (Ordinance 4900).

The other triggers and enforcement methods that are being proposed are related to changes in the use of the property that the nonconforming sign is located upon. The requirement to bring nonconforming land uses into compliance with code at the time of certain events or actions related to the use or development of the property in question is a standard practice in land use planning and development. The City Attorney has confirmed that the alternative triggers and enforcement methods being proposed are more clearly established under applicable laws and carry less risk of being challenged.

Specifically, the proposed amendments would require that a nonconforming sign be brought into compliance with the standards in the Signs Chapter (Chapter 17.62) when any of the following actions occur:

1. Any alteration of a nonconforming sign that requires a building permit;

Attachments:

Ordinance No. 5052 including:

Exhibit A: G 2-18 Decision Document

Exhibit B & C: Amendments to Chapter 17.06 and Chapter 17.62

Planning Commission Draft Meeting Minutes – March 15, 2018 Regular Meeting

Written Testimony Received Prior and After Planning Commission Public Hearing

2. Any alteration of a structure or building on the property that requires a building permit and a certificate of occupancy;
3. Additions or expansions of 25 percent or more of the overall square footage of a structure or building on the property;
4. Any change to a property that requires a building permit of which the value of the building permit improvements is 25 percent or more of the real market value of the buildings on the property within a 24 month period, as determined by the Yamhill County Assessor's Office in the most recent tax year;
5. Abandonment of a nonconforming sign.

Staff and the Planning Commission believe that the proposed amendments still provide a process through which nonconforming signs will be updated to come into compliance with the sign standards in Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The updating of the nonconforming signs protects the aesthetic appeal of McMinnville, and improves the visual qualities of McMinnville's streetscape through equitable sign standards. However, the removal of the amortization process and incorporation of other situations and triggers to bring nonconforming signs into compliance does provide for a balance with the needs of businesses in McMinnville and responds to the concerns that property/business owners had communicated related to the automatic updates that would have been required by the amortization process.

One of the alternative enforcement methods being proposed is related to the abandonment of nonconforming signs. The current definition of an "abandoned sign" contains language that is somewhat vague. Therefore, the Planning Commission is proposing to amend the definition to provide specific timeframes that can be easily interpreted when necessary during the enforcement of nonconforming signs. The proposed amendments to the definition of "abandoned sign", which is included in Section 17.06.040 of the McMinnville Zoning Ordinance, are provided below:

Abandoned Sign – A sign that advertises a business or event that has been closed for more than thirty (30) days a sign or sign structure where either: a) the sign is no longer used by the property or sign owner; Discontinuance of sign use may be shown by cessation of use of the property where the sign is located; or b) the a sign **that** has been damaged, and repairs and restoration are not started within **sixty days (60)** forty-five (45) days of the date the sign was damaged, or are not **completed within 180 days** diligently pursued, once started.

Fiscal Impact:

The removal of the amortization process would likely result in the City avoiding the defense of multiple legal challenges. Defending a single legal challenge would be expected to cost the City \$100,000 - \$400,000 depending upon the complexity of the challenge and how the City chooses to defend the action.

Alternative Courses of Action:

1. **ADOPT** Ordinance No. 5052, approving G 2-18 and adopting the Decision, Findings of Fact and Conclusionary Findings.
2. **ELECT TO HOLD A PUBLIC HEARING** date specific to a future City Council meeting.
3. **DO NOT ADOPT** Ordinance No. 5052.

Attachments:

Ordinance No. 5052 including:

Exhibit A: G 2-18 Decision Document

Exhibit B & C: Amendments to Chapter 17.06 and Chapter 17.62

Planning Commission Draft Meeting Minutes – March 15, 2018 Regular Meeting

Written Testimony Received Prior and After Planning Commission Public Hearing

Recommendation/Suggested Motion:

Staff recommends that the Council adopt Ordinance No. 5052 which would approve the zoning text amendment as recommended by the Planning Commission.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, I MOVE TO ADOPT ORDINANCE NO. 5052”

CD:sjs

Attachments:

Ordinance No. 5052 including:

Exhibit A: G 2-18 Decision Document

Exhibit B & C: Amendments to Chapter 17.06 and Chapter 17.62

Planning Commission Draft Meeting Minutes – March 15, 2018 Regular Meeting

Written Testimony Received Prior and After Planning Commission Public Hearing

ORDINANCE NO. 5052

AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE MCMINNVILLE CITY CODE, SPECIFIC TO CHAPTER 17.06 AND CHAPTER 17.62, TO UPDATE DEFINITIONS AND THE REGULATION OF NONCONFORMING SIGNS

RECITALS:

The McMinnville City Council adopted Ordinance 4900 on November 5, 2008 creating Chapter 17.62 of the McMinnville zoning ordinance, that, in part, established an amortization process to bring nonconforming signs into compliance by December 5, 2016; and

The McMinnville City Council adopted Ordinance 5013 on November 8, 2016 and Ordinance 5044 on November 28, 2017 that, in part, extended the deadline for bringing nonconforming signs into compliance to allow for a thorough examination of the existing nonconforming signs in the city and to research the existing amortization process for nonconforming signs; and

Planning Department staff and the City Attorney reviewed the amortization process and then drafted amendments and prepared an application (G 2-18) for zoning text amendments to amend Chapter 17.06 and Chapter 17.62 of the McMinnville City Code to remove the amortization process and incorporate other requirements for updating nonconforming signs; and

A public hearing was held before the McMinnville Planning Commission on March 15, 2018, after due notice had been provided in the local newspaper on March 6, 2018. At the March 15, 2018, Planning Commission public meeting, after the application materials and a staff report were presented and testimony was received, the Commission closed the public hearing. After deliberation, the Planning Commission voted to recommend approval of G 2-18 to the McMinnville City Council; and

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

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 2-18; and
2. That Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance are amended as provided in Exhibits B - C. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font.
3. That this Ordinance shall take effect 30 days after its passage by the City Council:
Passed by the Council this 24th day of April 2018, 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**

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DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.06 (DEFINITIONS) AND 17.62 (SIGNS) OF THE MCMINNVILLE ZONING ORDINANCE TO UPDATE THE REQUIREMENTS FOR NONCONFORMING SIGNS.

DOCKET: G 2-18

REQUEST: The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Chuck Darnell, Associate Planner

DATE DEEMED COMPLETE: February 21, 2018

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: March 15, 2018. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY: McMinnville City Council

DATE & TIME: April 24, 2018. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

COMMENTS: This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development, McMinnville Fire Department, Police Department, Engineering Department, Building Department,

Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. Their comments are provided in this decision document.

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 2-18) to the McMinnville City Council.

////////////////////////////////////
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: _____

APPLICATION SUMMARY:

The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

ATTACHMENTS:

1. Amendments to Chapter 17.06 (Definitions)
2. Amendments to Chapter 17.62 (Signs)

COMMENTS:

This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development, McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. The following comments have been received:

None Received To Date

Additional Testimony

No notice was provided to property owners for this application. As of the date this report was written, no public testimony has been received by the Planning Department.

FINDINGS OF FACT

1. The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.
2. This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development, McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. No comments in opposition have been provided.

3. Public notification of the public hearing held by the Planning Commission was published in the March 6, 2018 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.

CONCLUSIONARY FINDINGS:

McMinnville's Comprehensive Plan:

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

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

Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville's City Code:

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

Chapter 17.03 – General Provisions:

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.

Finding: Section 17.03.020 is satisfied by the legislative amendments in that the proposed amendments incorporate requirements for the updating of nonconforming signs at times when improvements or investments are being made to the property in question. The amendments remove the amortization process that required the automatic updating of nonconforming signs by a certain date in the future. The amortization process applied to all properties with nonconforming signs regardless of whether any changes or investments were being made to the property. The amendments incorporate new situations or triggers that would require nonconforming signs to come into compliance, which still protects the general welfare of the city and provides for workable relationships between land uses and the

transportation system. The amendments are also consistent with the purpose of the Signs Chapter (Chapter 17.62), which is described in more detail below.

Chapter 17.62 – Signs:

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville’s unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate amortization and incentive policies.

Finding: Section 17.62.010 is satisfied in that the proposed amendments still provide a process through which nonconforming signs will be updated to come into compliance with the sign standards in Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The updating of the nonconforming signs protects the aesthetic appeal of McMinnville, and improves the visual qualities of McMinnville’s streetscape through equitable sign standards. The removal of the amortization process and incorporation of other situations and triggers to bring nonconforming signs into compliance provides for a balance with the needs of businesses in McMinnville. The proposed amendments would not require an automatic update of nonconforming signs by a certain date in the future, but would rather require that nonconforming signs be updated when improvements or investments are being made to the property in question.

CD:sjs

Chapter 17.06

DEFINITIONS

(as adopted by Ord. 4952, March 13, 2012)

Sections:

- 17.06.010 Generally.
- 17.06.015 General Definitions.
- 17.06.020 Special Definitions.
- 17.06.025 Airport Overlay Zone Regulated Definitions.
- 17.06.030 Flood Area Zone Related Definitions.
- 17.06.035 Landscaping Related Definitions.
- 17.06.036 Marijuana Activity Related Definitions.
- 17.06.040 Sign Related Definitions.
- 17.06.045 Tree Related Definitions.
- 17.06.050 Wireless Communication Facilities Related Definitions.
- 17.06.060 Historic Preservation Related Definitions

[...]

17.06.040 Sign Related Definitions. For the purpose of Signs (Chapter 17.62), the following definitions shall apply.

Abandoned Sign – **A sign that advertises a business or event that has been closed for more than thirty (30) days** ~~a sign or sign structure where either: a) the sign is no longer used by the property or sign owner; Discontinuance of sign use may be shown by cessation of use of the property where the sign is located; or b) the a sign that has been damaged, and repairs and restoration are not started within sixty days (60) forty five (45) days of the date the sign was damaged, or are not completed within 180 days diligently pursued, once started.~~

[...]

Chapter 17.62

SIGNS

(as adopted by Ord. 4900, Nov. 5, 2008)

Sections:

- 17.62.010 Purpose
- 17.62.020 Scope
- 17.62.030 Definitions
- 17.62.040 Exempted Signs
- 17.62.050 Prohibited Signs
- 17.62.060 Temporary Signs
- 17.62.070 Permanent Signs
- 17.62.080 Sign Permits
- 17.62.090 Landmark and Abandoned Signs
- 17.62.100 Construction and Maintenance Standards
- 17.62.110 Nonconforming Signs
- 17.62.120 Exceptions
- 17.62.130 Enforcement

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville’s unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate amortization and incentive policies.

[...]

17.62.110 Nonconforming Signs.

- A. The following ~~provision~~ **actions** will require that a nonconforming sign be brought into compliance with this chapter: ~~physical modification of a nonconforming sign or any action on a nonconforming sign that requires a building permit. This does~~

not include replacement of a sign face without modification of the frame or general sign maintenance and repair.

- 1. Any alteration of a nonconforming sign that requires a building permit;**
- 2. Any alteration of a structure or building on the property that requires a building permit and a certificate of occupancy;**
- 3. Additions or expansions of 25 percent or more of the overall square footage of a structure or building on the property;**
- 4. Any change to a property that requires a building permit of which the value of the building permit improvements is 25 percent or more of the real market value of the buildings on the property within a 24 month period, as determined by the Yamhill County Assessor's Office in the most recent tax year;**
- 5. Abandonment of a nonconforming sign.**

- B. All temporary or portable signs not in compliance with the provisions of this code ~~chapter~~ shall be removed or made compliant immediately following adoption of this ordinance.
- C. Amortization. ~~Any freestanding, roof, or animated sign which was lawfully established before January 1, 2009, but which does not conform with the provisions of this ordinance, shall be removed or brought into conformance with this ordinance by no later than December 31, 2018, or at the time of occurrence of any of the actions outlined in provision 'A' above.~~
- D. Notice of Sign Noncompliance. ~~Notice of sign noncompliance will be mailed to affected property owners prior to taking enforcement action pursuant to Section 17.62.130 of this chapter. For those signs impacted by 17.62.110(C) of this chapter, notice of noncompliance will be mailed to affected property owners no later than six months prior to the end of the amortization period, and again prior to taking enforcement action pursuant to Section 17.62.130 of this chapter.~~
- E. ~~Appealing a Notice of Noncompliance. Any owner of property on which a nonconforming sign is located may appeal a Notice of Sign Noncompliance issued pursuant to Section 17.62.110(D) within 60 days of the mailing date of such Notice by:~~
- ~~1. Submitting evidence of sign compliance to the Planning Department. The Planning Director shall determine whether the evidence submitted proves sign compliance, and the Director has the authority to dismiss a Notice of Sign Noncompliance. All decisions made by the Director may be appealed to the Planning Commission; or~~
 - ~~2. Submitting an application for an Exception pursuant to Section 17.62.120 to the Planning Director; or~~
 - ~~3. Submitting an application for an administrative variance pursuant to Section 17.72.020 to the Planning Director; or~~
 - ~~4. Submitting an application for a variance pursuant to Section 17.72.020 to the Planning Department.~~
- F. ~~The failure to appeal a Notice of Noncompliance pursuant to the provisions of this Section, shall preclude the owner from raising any issue addressed by Section 17.62.120(B) or (C) as a defense to the enforcement of this ordinance. (Ord. 5044 §2, 2017; Ord. 5013 §1, 2016)~~

[...]



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

www.mcminnvilleoregon.gov

MINUTES

March 15, 2018
Planning Commission
Regular Meeting

6:30 pm
McMinnville Civic Hall, 200 NE 2nd Street
McMinnville, Oregon

Members Present: Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Erin Butler, Martin Chroust-Masin, Susan Dirks, Gary Langenwalter, Roger Lizut, and Lori Schanche, and Erica Thomas

Members Absent: None

Staff Present: David Koch – City Attorney, Chuck Darnell – Associate Planner, and Heather Richards – Planning Director

1. Call to Order

Chair Hall called the meeting to order at 6:30 p.m.

2. Citizen Comments

None

3. Approval of Minutes

A. October 19, 2017 Work Session

B. October 19, 2017

C. November 16, 2017

Chair Hall called for action on the Planning Commission minutes from the October work session and regular meeting and November regular meeting. Commissioner Chroust-Masin MOVED to APPROVE the minutes as presented; SECONDED by Commissioner Dirks. Motion PASSED 9-0.

4. Public Hearing (Quasi-Judicial)

A. Zoning Text Amendment (G 2-18)

Request: Approval to amend Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all

nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

Applicant: City of McMinnville

Chair Hall opened the public hearing and read the hearing statement. He asked if there was any objection to the Commission's jurisdiction to hear this matter. There was none.

Chair Hall asked if any Commissioner had any disclosures or would abstain from participating or voting on the application. There was none.

Associate Planner Darnell presented the staff report. This was a proposed zoning text amendment to the nonconforming sign section of the code. In 2008 the City adopted an ordinance that adopted sign standards which included an amortization program where nonconforming signs would be brought into compliance by December 31, 2017. Staff had sent out notices of sign noncompliance to properties with nonconforming signs. As a result, 140 properties received those notices. There was business community and legal opposition, and that led to further discussion with staff and the deadline was extended to the end of 2018. There was a legal analysis and assessment of risk associated with the amortization process that was presented to the City Council. Council directed staff to look into other processes to bring the signs into compliance. That led to the proposed amendments before the Planning Commission tonight. The amendments would remove the amortization process and would introduce other triggers and methods for nonconforming signs. Most of the triggers were related to changes being made to the property or when investments were being made on the property. Specifically the triggers were: any alteration of a nonconforming sign that required a building permit, any alternation to a structure or building on the property that required a building permit and certificate of occupancy, additions or expansions of 25% or more of the overall square footage to a structure or building on the property, any change to the property that required a building permit when the building permit improvements were valued at 25% or more of the real market value of the building on the property, and abandonment of a nonconforming sign. One minor change to what was included in the packet was clarification of the abandonment language. Public testimony had been received in opposition to the triggers related to building permits and supported the removal of the amortization process. Staff recommended the Commission recommend approval of the amendments to the City Council.

Commissioner Chroust-Masin suggested adding change of ownership as a trigger.

City Attorney Koch said it was not something staff was recommending, and he had some concerns about it.

Planning Director Richards said adding change of ownership as a trigger was higher risk and a lower chance of being successful. The City did not regulate the content of the signs, but they regulated the sign infrastructure.

There was discussion regarding how 30 days was the timeframe for a sign to be deemed abandoned. They would know a sign was abandoned through Code Enforcement and the list of nonconforming signs. It was clarified if someone changed the paint color or the wording on the sign, those would not be triggers for compliance. If the structure, frame, or pole was changed such that it required a building permit, that would be the trigger.

There was further discussion regarding the push back in the written testimony that had been received and sign exemptions. There was a concern that someone might say they were repairing a sign, but not complete it, and not have to bring the sign into compliance. It was suggested to include that repair work had to be completed by a certain time.

Commissioner Dirks suggested reducing the percentage in the triggers to 5% or 10%, so that a small renovation would prompt conformance.

City Attorney Koch said they had to make reasonable regulations that would stand up to a court challenge. He cautioned making the required action to bring the sign into compliance cost more than the renovation that was being considered. He thought it was less risky and was more proportional to use the 25% than 5% or 10%.

Planning Director Richards clarified there was opposition from the business community to the amortization process at the time the code was adopted. This had not been an easy dialogue from the beginning.

Commissioner Dirks said they wanted to clean up 99W and this was one thing that would help. She asked if any incentives could be offered to bring the signs into compliance.

Planning Director Richards said they could look into financial resources for an incentive program. What was before the Commission was a legislative action to change the code. It was not an unusual tool to get conformance. She did not know how long it would take for the signs to come into compliance.

Commissioner Butler asked what the financial impact would be on businesses. Associate Planner Darnell said they heard testimony from various businesses, and it depended on the size of the sign. They heard anywhere from a few thousand dollars up to a hundred thousand dollars.

Commissioner Chroust-Masin asked about temporary signs. Planning Director Richards said there were other signs that were not compliant with the code and were creating sign clutter. They were a separate issue, however. Associate Planner Darnell said there already was code language for nonconforming temporary signs that said they had to come into conformance immediately. They could be enforced with the language that was already in the code.

Commissioner Langenwalter asked after sending the notices, how many signs were still out of compliance. Associate Planner Darnell said there were still about 115 signs that were out of compliance.

Proponents: Doug Hurl was representing McMinnville Industrial Promotions who had a nonconforming sign. The sign had been out on Lafayette Avenue since 1979. He thought the amortization process was unfair as it was expensive for small business owners to replace their signs just because the City wanted the signs to look a little different. He thought the proposed amendments were acceptable.

Opponents: Mark Davis, McMinnville resident, was frustrated that this issue was being brought back again. They went through a community process and the amortization came about through the business community asking for more time. Now that was being eliminated and they were coming up with other triggers. It seemed like they wasted ten years trying to work together. He was concerned about the 25% also and was in favor of lowering it. He agreed that they were at risk for legal action if they proceeded with the amortization and in general he supported the amendments. He thought the nonconforming signs should be viewed as a public safety issue

as anyone looking at the signs on 99W could be distracted and they could get into accidents. The City had a responsibility to create safe highways, and those signs existed to attract attention. If this was recast as a public safety issue, they could ask the nonconforming signs to be taken down as safety hazards.

Shawn Rollins, McMinnville business owner, spoke against this when it was first introduced because he knew the City would be sued over it. He thought that small signs caused accidents, not large ones. He thought people would come up with ways to get around the rules. Sometimes it took over a year to replace a sign. They had no idea what they were asking or what the market was for signs. He thought the Commission should be more educated before making this decision. The look on 99W had been the same for a long time. He thought they were trying to change his town and were telling people they did not want business here. They were making it harder for businesses.

Gary Edwards, owner of Chuck Colvin Auto Center, said he was against this because it cost him \$120,000 for a new sign. He received the notice letter in June and he had known it was coming. In an effort to comply, he signed the contracts for a new sign and made requests for approval from Nissan and Ford. Nissan had said that he would have to remodel the showroom to their new franchise qualifications, which cost \$1.5 million. After working with Nissan, he was given a one-time chance to change the sign without the remodel and he did not have time to wait and see how the Council might change the requirements. Now he found out he could have just left the signs as they were as he would never hit one of the triggers. He felt like he was forced to do something that he did not have to do. He thought there should be some form of compensation for the businesses who had complied, such as a property tax break.

Sidonie Winfield, McMinnville resident, was angry that the amount of time the City and citizens put into this code was being diminished because people were not being held accountable to the amortization process. Triggers had been discussed at that time, including parking lot paving. She would like to see smaller triggers than what was proposed, but ones that did not put the City at risk. They had to work together to improve the community. Regarding smaller signs versus larger signs, there was not that much of a difference when it came to safety. Her response to the owners who were fighting against coming into compliance because they thought smaller signs were detrimental to customers, she thought customers would find them, regardless of the sign size. She asked how many nonconforming signs had been installed during the amortization period. Those should be held to a different standard.

Planning Director Richards said once the code was adopted, there should not have been any noncompliant signs installed.

Chair Hall closed the public hearing.

Commissioner Lizut wished that those businesses who were opposed would work with the City instead of trying to road block the process.

Commissioner Schanche was concerned that the testimony said the businesses would find a way around the regulations. She asked if there were any other ideas to address that.

Planning Director Richards said they could put in language to try to address it.

There was discussion regarding enforcement of the code, and Planning Director Richards clarified staff did their due diligence and pursued red flags. The City also relied on community engagement to let the City know when something was going on that was not in compliance.

Chair Hall said some of the comments placed the business community in opposition to the City when it should be a joint endeavor. He would like the business community to take a lead in this to help the City move forward.

Commissioner Langenwaller said as a business owner and member of the Chamber of Commerce, he agreed with what Chair Hall stated.

Based on the findings of fact, the conclusionary findings for approval, and the materials submitted by the City of McMinnville, Commissioner Langenwaller MOVED to recommend that the City Council approve Zoning Text Amendment G 2-18 as recommended by staff and the amendments suggested by staff during this meeting. Those amendments included amending the language to the definition of an abandoned sign and an amendment to trigger number four adding "within a 24 month period." SECONDED by Commissioner Butler.

There was discussion regarding timing for a damaged sign to be repaired. City Attorney Koch suggested starting within 60 days of the day the sign was damaged and repairs to be completed in 180 days.

Commissioners Langenwaller and Butler were in favor of adding that amendment to the motion.

The motion PASSED 8-1 with Commissioner Geary opposed.

Planning Director Richards said these amendments would come before Council on April 24.

5. Discussion Items

- **Update on Work Plan**

Planning Director Richards said the City received a Transportation Growth Management Grant for the Three Mile Lane project. An RFP was out for consultants' response. A consultant would be selected by the end of April, and the project would launch in June. The buildable lands inventory, housing needs analysis, and housing strategy was also out for RFP as well. A consultant would be selected by the end of April and that project would be underway in May. The Historic Preservation Plan planning effort was currently underway. A public workshop on the plan would be held in May.

- **Thinking about the Future Now**

Planning Director Richards had attended a conference regarding how things were going to change in the built environment relative to artificial intelligence. She explained the differences that would occur with autonomous vehicles, and how cities needed to adjust their regulations for the new technology.

6. Old/New Business

None

7. Commissioner Comments

None

8. Staff Comments

None

9. Adjournment

Chair Hall adjourned the meeting at 7:48 p.m.

Heather Richards
Secretary



Micheal M. Reeder
mreeder@arnoldgallagher.com
541-484-0188

March 14, 2018

Via Email Only

charles.darnell@mcminnvilleoregon.gov

McMinnville Planning Commission
c/o Chuck Darnell, Associate Planner
City of McMinnville Planning Department
231 NE Fifth Street
McMinnville, Oregon 97128

**Re: Amendment to Sign Code
Zoning Text Amendment (G 8-17)
OUTFRONT Media LLC**

Dear Planning Commissioners:

This firm represents OUTFRONT Media LLC (OUTFRONT), an outdoor advertising company doing business in the City of McMinnville. Three OUTFRONT signs have been identified by the City as legal, nonconforming signs. The purpose of this letter is to provide a response to the proposed zoning text amendment application, City File No. G 8-17 which, if approved, would eliminate the amortization provision of Chapter 17.62.110(C) but add five “triggers” that would require certain nonconforming signs to come into compliance with the sign ordinance.

We have reviewed the proposed zoning text amendments to Chapter 17.62 (Signs), G 8-17 (Exhibit 4 of your packet). We applaud and support the proposed removal of the amortization program that would effectively eliminate the ability of sign companies to provide outdoor advertising services—which the City correctly recognizes provide “an important medium through which individuals and businesses may convey a variety of messages”—by requiring such signs to either be removed or reduced to such a size as to be rendered useless.

However, three of the five “alternative triggers” that are being proposed are similarly problematic and should be removed from consideration. The proposed five alternative triggers are listed on page 2 of the staff report and on the last page of the packet showing the proposed changes to Chapter 17.62 (Signs) in legislative format.

Triggers #1 and #5 are satisfactory to my client as each are within the control of my client and are similar to the current provision of Chapter 17.62(A). However, Triggers #2, #3 and #4 are unacceptable. Such triggers bear no meaningful or logical nexus to the operation of the outdoor advertising structures, and thus should not impact the status of the signs themselves. First, my client has no control over whether a property owner, from whom my client leases space to locate each sign, will seek to alter a structure or building on “the property.” The property is not defined, but it is understood that *any* building on property where my client’s three freestanding outdoor advertising signs are located could trigger the need to bring my client’s signs into “conformance.” It should be understood that the seeking of a building permit for a building unrelated to the freestanding sign is outside my client’s control and bears no relationship to my client’s sign(s) or my client’s business in the City of McMinnville.

OUTFRONT is in the outdoor advertising business. To that end, it currently leases space from three separate private property owners inside the City of McMinnville for the purpose of operating three separate freestanding signs. OUTFRONT then contracts with companies and individuals, or their agents, who wish to advertise on these signs. The revenue generated by these advertising contracts is determined, in part, by the advertising market and the location of the sign. To bring value to the advertiser and generate maximum income, freestanding signs obviously must be of sufficient size for motorists to see. Without the ability to keep the current size of the sign faces, these three signs become unmarketable, thereby wiping out OUTFRONT’s business in the City of McMinnville, the value of its investments, and a meaningful avenue for local and national businesses to advertise in the market. It also takes the future leasing income from three private property owners – Horizon Homeowners Cooperative, Linfield College and Leslie Toth.

Not only is there a severe economic impact to my client and the three local landowners, but there is a loss of free speech as well. Outdoor advertising provides a critical, high-impact outlet for free speech that is not otherwise available to certain speakers. While some reasonable time, place and manner restrictions can pass constitutional muster in certain circumstances, local governments should preserve traditional avenues of free speech and must take care to ensure that their local sign ordinances do not take private property without legal justification and without paying just compensation.

It should be well understood that OUTFRONT strenuously objects to any reduction in the size of the sign faces, let alone having such reductions imposed based on actions unrelated to the signs themselves, and therefore respectfully requests that the City amend the sign code by removing the amortization provision of Section 17.62.110(C) altogether as currently proposed by City Council but allowing currently existing, legal, nonconforming freestanding signs to continue unless the provision of current Section 17.62.110(A) is

triggered (or, alternatively, the proposed changes to Section 17.62(A) that provide for Triggers #1 and #5).

The provision of Section 17.62.110(A) (or, alternatively, the proposed changes to Section 17.62(A) that provide for Triggers #1 and #5) is sufficient to allow the City to reasonably regulate signs without the unnecessarily extreme and wasteful outcomes of requiring the removal of legal signs that no longer conform to new sign standards. Therefore, OUTFRONT supports the proposed text amendment that eliminates the amortization provision altogether but cannot support or tolerate proposed Triggers 2-4.

Thank you for your consideration on this matter.

Respectfully,

/s/Micheal M. Reeder

Micheal M. Reeder

MMR:jgh

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March 15, 2018

Via Email only

charles.darnell@mcminnvilleoregon.gov and heather.richards@mcminnvilleoregon.gov

McMinnville Planning Commission
C/O Chuck Darnell, Associate Planner
City of McMinnville Planning Department
200 NE Second St
McMinnville, OR 97128

RE: Amendment to Sign Code, G 2-18 – Nonconforming Signs – Zoning Text Amendments

Dear Planning Commissioners:

Pacific Outdoor Advertising has reviewed the proposed changes to amend chapter 17.62.110, City File No G 8-17. We are in support of an amendment to the sign code that removes the amortization program, as this correctly relieves the city from its obligation to pay just compensation for taking real property. However, the proposed “triggers” that would require nonconforming signs to come into compliance with the City sign ordinance raise the same issue as the amortization program.

Specifically, under triggers #2, #3, and #4 nonconforming Outdoor Advertising Signs (OAS), which are also taxed under separate Real Property tax accounts associated with the property, would be required to be brought into conformance despite being independent of the activity taking place on the property. We as owners/operators of the OAS have no control over any development or alteration taking place on the property by the property owner or its other tenants. The conforming sign size would render the OAS useless under current industry standards and subsequently result in the loss of the advertising medium to local business as well as the lease revenue stream to the property owners. Property owners should not be subjected to a punitive code that prohibits them from making changes to their buildings for fear of losing signage.

Pacific Outdoor Advertising is in the outdoor advertising business and clearly these OAS must be of an adequate size for us to market for the motorists, our target audience. Bringing these OAS into conformance would effectively prohibit us from doing business within the City of McMinnville. Additionally, it eliminates future income for the three property owners with whom we lease the ground space from.

715 NE Everett Street Portland, Oregon 97232



In closing, Pacific Outdoor Advertising supports and agrees it is in the City's best interest to remove the amortization provision. However, Pacific Outdoor Advertising strongly recommends that the City place a halt to its continued efforts to require signs be brought into compliance based on actions unrelated to the signs themselves, "Triggers #2, #3, and #4". Tying the two separate real property accounts together and requiring a sign be brought into conformity under such circumstances is unlawful. This will only expose the City to future legal claims by property owners and tenants. Therefore, we urge you to revise the proposed language, remove triggers 2-4 and pass an amendment that is fair to property owners and less legally volatile to the city.

Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jami G. Knutson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jami G. Knutson
Real Estate Manager
Pacific Outdoor Advertising

April 2, 2018

Heather Richards
Planning Director
City of McMinnville
231 NE Fifth Street
McMinnville, OR 97128

Via Email: Heather.Richards@mcminnvilleoregon.gov (Please forward to PC and City Council)

Dear Heather:

I am the owner of Mayfair Plaza at the intersection of Evans and Highway 99 and while I understand the need to improve signage compliance, I would ask that the Planning Commission and City Council consider modifications outlined below to provide some needed balance while not unfairly penalizing those that are investing in the community (tenants and new businesses and landlords).

Modification 1: Revising the trigger away from a Certificate of Occupancy (C of O) and towards a change of use. If a use changes (excluding first generation space which would be handled under the initial building permit to construct a building) then that would require a full triggering event and all signage would need to come up to code. If not, then the below modification would apply. I would also propose excluding work done by a tenant. Seems counter-productive to have a tenant do work to improve a space and then lose signage visibility.

Modification 2: In the event of a C of O trigger (not a change of use) I would think a good solution is to tie the signage compliance requirement to the dollars spent by the landlord (not the tenant). If we use ADA compliance as precedent, I believe a fair approach that will be less burdensome is to work with the applicant on what is deemed readily achievable and using a rule of thumb of 20-25% of the cost of the improvement work. It seems onerous to spend \$10,000 to move a tenant into a space and then have to spend up to 10 x that to upgrade signage all at one time. ADA was very similar in that there was a public demand to make changes but after several years, nothing had occurred for a variety of reasons including the lack of parity on tenant improvements and what were considered significant dollars to bring to full compliance. They established a rough guideline of dollar value and things moved forward smoothly. The proposal I am suggesting parallels with this precedence.

I have several tenants at the Property who would like to share their feelings as to how a reduction in signage and visibility will impact their business and they have asked that I include this feedback and their availability to meet in person within this letter.

I believe these modifications provide balance and with this benchmark of a % of dollars spent, the public can be assured that their needs are being met in time. This will allow for new businesses to not only move to McMinnville but to grow and thrive.

I would be happy to discuss these in person. Please advise. Thank you

Sincerely

HFT Mayfair, LLC

Michael J. Horwitz