

ORDINANCE NO. 5006

An Ordinance authorizing the designation of the Downtown Exclusion Zone, establishing boundaries, procedures, charges and penalties therein, and setting a three year sunset clause.

RECITALS

The City Council has previously passed Ordinances enacting an "Enhanced Enforcement Area" in the downtown core of McMinnville. These Ordinances have since been repealed, and alternative methods of enforcement were enacted. The alternative methods of enforcement have proven to be inefficient and the City Council recognizes the need for an updated "Downtown Exclusion Zone."

The area designated as the Downtown Exclusion Zone (Zone) along the NE Third Street corridor from NE Adams Street to NE Johnson Street, is a 9-block portion of the McMinnville Downtown District that represents a unique mixed use area within the City. The Zone has been the focus of intensive efforts by the City for 30 years to improve the character of the area, and local property owners are subject to a special assessment that supports economic development, livability projects, and tourism promotion. Since 1986, the Zone has experience a reduction in its vacancy rate from 17% to 3%, which is well below the national average of 11%.

The Zone is a pedestrian focused corridor with numerous street level improvements and art displays that are designed to attract visitors and enhance livability within the City. It is host to: numerous festivals, outdoor concerts, a weekly farmers market, and other activities designed to attract visitors and enhance livability within the City; 21 historic downtown buildings, which are promoted to attract visitors to the area; several wineries and tasting rooms that support the regional viticulture industry and attract visitors to the community; and, is home to businesses, including restaurants with outdoor seating and retail shops with outdoor displays that are especially vulnerable to impacts associated with criminal anti-social behaviors, which can negatively impact customer traffic and result in loss of property.

The Zone hosts thousands of out-of-town visitors each year, which are especially vulnerable to negative impacts associated with criminal anti-social behaviors as these visitors are less familiar with their surroundings. The DEZ will benefit the community by keeping the area welcoming to businesses, citizens and tourists.

The Downtown Exclusion Zone is designed to be an effective enforcement tool for the McMinnville Police department. The tool will protect the congested commercial district from persons whose unlawful activities and/or criminal conduct poses a threat to

the public's peace, dignity, safety and welfare of the public at large by providing the ability to temporarily exclude certain repeat offenders from the Zone.

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.

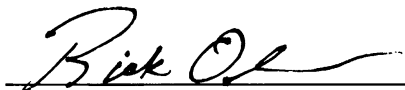
2. This Ordinance shall take affect 30 days after its passage by the Council.

Passed by the Council this 9th day of August 2016, by the following votes:

Ayes: Hill, Jeffries, Menke, Ruden, Yoder

Nays: _____

Approved this 9th day of August 2016.




MAYOR

Attest:

Approved as to form:



CITY RECORDER



CITY ATTORNEY

EXHIBIT 1

9.42 Exclusion Zones

SECTIONS:

9.42.010 Downtown Exclusion Zone

9.42.020 Exclusion

9.42.030 Term of Exclusion

9.42.040 Exclusion Enforcement

9.42.050 Exceptions to Exclusion Order

9.42.060 Sunset Clause

9.42.010 Downtown Exclusion Zone. The McMinnville Downtown Exclusion Zone (DEZ) is designated to protect the public in a congested commercial district from persons whose violation activity or criminal conduct poses a threat to the peace, dignity, safety and welfare of the public at large. The boundaries of the DEZ are described as follows:

Beginning at the northeast corner of the intersection of NE Second Street and NE Adams Street, then north along east side of NE Adams Street to the southeast corner of NE Fourth Street, then east along south side of NE Fourth Street to the southwest corner of NE Johnson Street, then south along the west side of NE Johnson Street to the northwest corner of NE Second Street, then west along the north side of NE Second Street to the point of beginning.

9.42.020 Exclusion. As a condition of probation in the Municipal Court, a person may be subject to an Exclusion Order, prohibiting such person from entering or remaining in the DEZ for the period of time described in Section 9.42.030, when that person is convicted of a violation or crime that occurred within the boundaries of the DEZ.

9.42.030 Term of Exclusion.

- A. Unless otherwise provided in the Exclusion Order, the Term of Exclusion shall take effect immediately upon conviction of a violation or crime described in MMC 9.42.020, and shall continue for the number of days described in the Exclusion Order.
- B. The Term of Exclusion shall be recommended by the City Prosecutor and determined by the Municipal Judge based on the nature of the underlying crime, the number of prior violation and criminal convictions the person has received during the 2 year period immediately preceding the date of the underlying crime, the term of probation, and other factors related to the peace, dignity, safety and welfare of the public at large.

- C. The maximum Term of Exclusion that may be imposed as a condition of probation shall be:
1. 180 days, if convicted of a Violation.
 2. 240 days, if convicted of a crime classified as a Class C Misdemeanor.
 3. 300 days, if convicted of a crime classified as a Class B Misdemeanor.
 4. 360 days, if convicted of a crime classified as a Class A Misdemeanor.
- D. If a person is convicted of more than one violation or crime related to the same incident, then the most serious violation or crime shall be used for the purpose of calculating the maximum Term of Exclusion.

9.42.040 Exclusion Enforcement. If a person excluded from the DEZ is found within the DEZ during the Term of Exclusion, that person may be cited, summoned and/or ordered into Municipal Court for a probation violation hearing. A person is not considered to be within the DEZ if the person is within a vehicle that is passing through the DEZ.

9.42.050 Exceptions to Exclusion Order.

- A. In any probation violation hearing in which the violation of an Exclusion Order issued pursuant to this Chapter is a basis for the violation, it is a defense that the person was within the DEZ for one or more of the following reasons:
1. The person owns or rents a residence within the DEZ, and resides at that residence.
 2. The person owns a business or is employed within the DEZ.
 3. The person was visiting the residence of an immediate family member that is located within the DEZ.
 4. The person was consulting with an attorney whose primary office is located within the DEZ.
 5. The person was attending religious services within the DEZ.
 6. The person was receiving social services, government services, or mental health, medical, alcohol or drug treatment services within the DEZ.
 7. The person was conducting banking, investing or other similar financial services activities within the DEZ.
 8. The person was performing court ordered community service obligations within the DEZ.
- B. For the purposes of this Section, the term "immediate family member" shall mean the spouse, parent, stepparent, grandparent, child, grandchild, sibling, stepsibling, son-in-law, or daughter-in-law of the person.

9.42.060 Sunset Clause

The provisions of this Chapter shall be automatically repealed on July 1, 2019.