

ORDINANCE NO. 5060

AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE MCMINNVILLE CITY CODE, SPECIFIC TO MULTIPLE CHAPTERS TO UPDATE DEFINITIONS AND THE REGULATION OF SMALL-SCALE MIXED-USE AND UPPER-STORY RESIDENTIAL USE IN THE C-3 GENERAL COMMERCIAL ZONE

RECITALS:

The McMinnville Planning Department has received requests to develop desirable small-scale mixed use development in the C-3 zone, with one or two upper-story residential units above other permitted uses, which is not currently permitted in the C-3 zone; and

On September 20, 2018, the Planning Department held a work session with the Planning Commission to review and discuss potential amendments to the McMinnville Zoning Ordinance to incorporate updated regulations and definitions for small-scale mixed-use and upper-story residential use in the C-3 General Commercial zone. The Planning Commission directed staff to initiate the proposed amendments; and

A public hearing was held before the McMinnville Planning Commission on November 15, 2018, after due notice had been provided in the local newspaper on November 6, 2018. At the November 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 3-18 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;

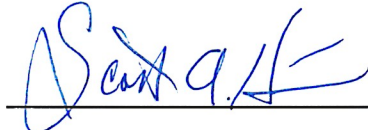
NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That the Council adopts the Decision, Findings of Fact and Conclusionary Findings, as documented in Exhibit A for G 3-18; and
2. That Chapter 17.06 (Definitions), Chapter 17.33 (C-3 General Commercial Zone), and Chapter 17.60 (Off-Street Parking and Loading) of the McMinnville Zoning Ordinance are amended as provided in Exhibits B - D. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font; and
3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the Council this 11th day of December 2018, by the following votes:

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

Nays: _____



MAYOR

Attest:

Approved as to form:



CITY RECORDER



CITY ATTORNEY



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

503-434-7311

www.mcminnvilleoregon.gov

DECISION, FINDINGS OF FACT, AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE ZONING ORDINANCE PERTAINING TO SMALL-SCALE MIXED-USE AND UPPER-STORY RESIDENTIAL USE IN THE C-3 GENERAL COMMERCIAL ZONE

DOCKET: G 3-18

REQUEST: The City of McMinnville is proposing to amend Chapters 17.06 (Definitions) and 17.33 (C-3 General Commercial Zone) of the McMinnville Zoning Ordinance. The proposal is related to residential use in the C-3 General Commercial zone. Currently, multi-family residential use (3 or more residential units) is permitted in the C-3 zone, whether as a separate use or as part of a mixed-use development. However, mixed-use development which includes only 1 or 2 upper-story residential units isn't currently permitted in the C-3 zone. The proposed amendment would permit this use in the C-3 zone, and would include an additional change related to ground-floor use.

The final proposal also includes an amendment to Chapter 17.60 (Off-Street Parking and Loading) to authorize associated parking to be located within 200 feet of the smaller-scale upper-story residential use.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Tom Schauer, Senior Planner

DATE DEEMED COMPLETE: October 15, 2018

HEARINGS BODY: McMinnville Planning Commission (recommendation to City Council)

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

HEARINGS BODY: McMinnville City Council (final decision)

DATE & LOCATION: Tuesday, December 11, 2018
Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon

APPLICATION SUMMARY:

The City of McMinnville is proposing to amend Chapters 17.06 (Definitions) and 17.33 (C-3 General Commercial Zone) of the McMinnville Zoning Ordinance. The proposal is related to residential use in the C-3 General Commercial zone. Currently, multi-family residential use (3 or more residential units) is permitted in the C-3 zone, whether as a separate use or as part of a mixed-use development. However, mixed-use development which includes only 1 or 2 upper-story residential units isn't currently permitted in the C-3 zone. The proposed amendment would permit this use in the C-3 zone, and would include an additional change related to ground-floor use.

The final proposal also includes an amendment to Chapter 17.60 to authorize associated parking to be located within 200 feet of the site with the upper-story residential use. Otherwise, current requirements specify that off-street parking for residential development must be located on the same site as the use. This could preclude conversion and reuse of upper-story portions of some existing buildings that don't have off-street parking.

ATTACHMENTS:

None.

COMMENTS:

Agency Comments

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering and Building Departments, City Manager, and City Attorney, McMinnville School District No. 40, McMinnville Water and Light, Yamhill County Public Works, Yamhill County Planning Department, Frontier Communications, Comcast, Northwest Natural Gas. The following comments had been received:

- The Engineering Department responded with no comments. The Building Department responded with a formatting suggestion regarding the definitions.

Public Comments

- Comments were received from Patty O'Leary via e-mail. Editing suggestions regarding the definitions were addressed and incorporated into the proposal as recommended by the Planning Commission.

FINDINGS OF FACT

1. The City of McMinnville has received requests to build or convert space in buildings to include one or two residential units above other permitted uses, such as commercial uses, in the C-3 General Commercial Zone. The C-3 zone currently permits multi-family development, defined as 3 or more units, but precludes 1- and 2-family residential structures, without differentiating between them as stand-alone detached uses or as part of mixed-use development.
2. A work session was held with the Planning Commission on September 20, 2018 to review the proposed concept to address this issue and authorize small-scale mixed-use development in the C-3 zone. The Planning Commission concurred the proposed amendment should be initiated and scheduled for hearing.

3. The City of McMinnville is proposing to amend Chapters 17.06 (Definitions), 17.33 (C-3 General Commercial Zone), and 17.60 (Off-Street Parking) of the McMinnville Zoning Ordinance. The proposal is related to residential use in the C-3 General Commercial zone. Currently, multi-family residential use (3 or more residential units) is permitted in the C-3 zone, whether as a separate use or as part of a mixed-use development. However, mixed-use development which includes only 1 or 2 upper-story residential units isn't currently permitted in the C-3 zone. The proposed amendment would permit this use in the C-3 zone, and would include an additional change related to ground-floor use.
4. Public notification of the proposal and the November 15, 2018 Planning Commission public hearing was published in the November 6, 2018 edition of the News Register.
5. The final draft includes an amendment to Chapter 17.60 to authorize associated parking to be located within 200 feet of the site with the upper-story residential use.

CONCLUSIONARY FINDINGS:

As addressed below, ***the applicable criteria are satisfied.*** The proposed amendments are consistent with the applicable Goals and Policies of the Comprehensive Plan and the applicable provisions of the Zoning Ordinance which comprise the approval criteria for the proposed amendments to the Zoning Ordinance.

McMinnville's Comprehensive Plan:

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

CHAPTER IV. ECONOMY OF MCMINNVILLE

GOAL IV 3: TO ENSURE COMMERCIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USE THROUGH UTILIZATION OF EXISTING COMMERCIALY DESIGNATED LANDS, THROUGH APPROPRIATELY LOCATING FUTURE COMMERCIAL LANDS, AND DISCOURAGING STRIP DEVELOPMENT.

General Policies:

22.00 The maximum and most efficient use of existing commercially designated lands will be encouraged as will the revitalization and reuse of existing commercial properties.

Finding: Satisfied. The proposal provides for efficient use of commercially designated lands through utilization of existing commercially designated land by creating additional opportunities for small-scale mixed use.

GOAL IV 4: TO PROMOTE THE DOWNTOWN AS A CULTURAL, ADMINISTRATIVE, SERVICE, AND RETAIL CENTER OF MCMINNVILLE.

Downtown Development Policies:

36.00 The City of McMinnville shall encourage a land use pattern that:

1. *Integrates residential, commercial, and governmental activities in and around the core of the city;*

2. *Provides expansion room for commercial establishments and allows dense residential development;*
3. *Provides efficient use of land for adequate parking areas;*
4. *Encourages vertical mixed commercial and residential uses; and,*
5. *Provides for a safe and convenient auto-pedestrian traffic circulation pattern. (Ord.4796, October 14, 2003)*

Finding: Satisfied. The proposal provides additional opportunities for integrated mixed-use in the C-3 zone, which includes the downtown area.

38.00 The City of McMinnville shall encourage the renovation and rehabilitation of buildings in the downtown area, especially those of historical significance or unique design.

Finding: Satisfied. The proposal provides an opportunity for a viable economic use of upper-story portions of existing buildings in the downtown area, through smaller-scale mixed use, which may be viable in existing buildings that aren't large enough for larger-scale mixed use.

CHAPTER V. HOUSING AND RESIDENTIAL DEVELOPMENT

GOAL V 1: TO PROMOTE DEVELOPMENT OF AFFORDABLE, QUALITY HOUSING FOR ALL CITY RESIDENTS.

General Housing Policies:

58.00 City land development ordinances shall provide opportunities for development of a variety of housing types and densities.

Finding: Satisfied. The proposal provides additional opportunities for more variety of housing types in proximity to commercial uses and services, including opportunities for mixed-use in desirable walkable, mixed-use settings.

GOAL V 2: TO PROMOTE A RESIDENTIAL DEVELOPMENT PATTERN THAT IS LAND INTENSIVE AND ENERGY-EFFICIENT, THAT PROVIDES FOR AN URBAN LEVEL OF PUBLIC AND PRIVATE SERVICES, AND THAT ALLOWS UNIQUE AND INNOVATIVE DEVELOPMENT TECHNIQUES TO BE EMPLOYED IN RESIDENTIAL DESIGNS.

Policies:

68.00 The City of McMinnville shall encourage a compact form of urban development by directing residential growth close to the city center and to those areas where urban services are already available before committing alternate areas to residential use.

Finding: Satisfied. The proposal provides opportunities for a compact form through additional opportunities for small-scale mixed-use and infill without additional land consumption.

69.00 The City of McMinnville shall explore the utilization of innovative land use regulatory ordinances which seek to integrate the functions of housing, commercial, and industrial developments into a compatible framework within the city.

Finding: Satisfied. The proposal provides opportunities for integrated mixed-use development in a manner that provides for compatibility of uses.

70.00 *The City of McMinnville shall continue to update zoning and subdivision ordinances to include innovative land development techniques and incentives that provide for a variety of housing types, densities, and price ranges that will adequately meet the present and future needs of the community.*

Finding: Satisfied. The proposal provides additional opportunities for a variety of housing types, densities, and price ranges.

CHAPTER VI. TRANSPORTATION SYSTEM

GOAL VI 1: TO ENCOURAGE DEVELOPMENT OF A TRANSPORTATION SYSTEM THAT PROVIDES FOR THE COORDINATED MOVEMENT OF PEOPLE AND FREIGHT IN A SAFE AND EFFICIENT MANNER.

PARKING

Policies:

126.00 *The City of McMinnville shall continue to require adequate off-street parking and loading facilities for future developments and land use changes.*

Finding: Satisfied. This proposal would not change the current provisions for required off-street parking. However, with the potential for reutilization of existing upper-story spaces in pedestrian-oriented districts, the proposal provides the same flexibility for 1- or 2- upper story residential units that is available for non-residential uses to locate parking spaces within 200-feet of the property rather than on the property. In core downtown areas, the Zoning Ordinance provides a public parking strategy for commercial uses with certain areas that have no off-street parking requirement or a reduced parking requirement. However, this public parking strategy only applies to commercial uses. This proposal doesn't change the current strategy as it now applies to required parking for residential uses. It only provides flexibility for siting of required parking within 200 feet.

127.00 *The City of McMinnville shall encourage the provision of off-street parking where possible, to better utilize existing and future roadways and rights-of-way as transportation routes.*

Finding: Satisfied. The proposal maintains the current parking requirements for number of required parking spaces for residential use, providing flexibility for location in proximity to the use.

128.00 *The City of McMinnville shall continue to assist in the provision of parking spaces for the downtown area.*

Finding: Satisfied. This current public parking strategy for the downtown area will continue to apply for commercial development. The proposal doesn't change requirements for the number of off-street parking spaces required for residential use and development in the downtown area.

CHAPTER VIII. ENERGY

ENERGY CONSERVATION

GOAL VIII 2: TO CONSERVE ALL FORMS OF ENERGY THROUGH UTILIZATION OF LAND USE PLANNING TOOLS.

Policies:

178.00 *The City of McMinnville shall encourage a compact urban development pattern to provide for conservation of all forms of energy.*

Finding: Satisfied. The proposed amendment provides additional opportunities for small-scale mixed-use of existing buildings and infill development that provides opportunities for energy conserving construction and proximity of uses on-site, as well as additional opportunities for residential use in proximity to nearby commercial uses, including walkable and bikeable areas.

McMinnville's City Code:

The McMinnville Zoning Ordinance is Title 17 of the McMinnville City Code. The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

Purpose Statements:

1. **Section 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: Satisfied. The proposed amendments encourage appropriate and orderly physical development by providing opportunities for small-scale residential use as part of mixed-use in the C-3 commercial zone, which already allows larger scale residential development and mixed-use. The proposed amendments ensure that commercial lands designated and intended for commercial, mixed use and specified residential uses aren't used for exclusively 1- and 2-family detached developments, which are provided for in residential zones.

The proposed amendment defines the residential use and relationship between the residential and commercial uses in a manner designed to provide for compatibility of use, efficient operation in mutually beneficial relationships, with opportunities for shared services, with suitable population densities, and with workable relationships between land uses and the transportation system. The proposal also provides assurance of opportunities for effective utilization of land resources. This amendment will address the existing "gap" that allows for larger scale multi-family use and larger scale residential/commercial mixed use in the C-3 zone, but precludes smaller-scale mixed use. This amendment will allow for smaller scale-mixed use, which was a common historic occurrence, with smaller commercial buildings having ground floor commercial use with one or two upper story residential units.

2. Chapter 17.06. Definitions.

Finding: Not Applicable. There is no separate purpose statement for Chapter 17.06.

3. Chapter 17.33. C-3 General Commercial Zone.

Finding: Not Applicable. There is no separate purpose statement for Chapter 17.33.

4. Chapter 17.60. Off-Street Parking and Loading.

Finding: Not Applicable. There is no separate purposed statement for Chapter 17.60.

Chapter 17.06

DEFINITIONS

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

Sections:

- 17.06.010 Generally.
- 17.06.015 General Definitions.

[...]

Ground Floor Dwelling (Accessory Use to Business) – A ground floor dwelling unit in the same building as a business that is incidental and subordinate to the business use of the building.

[...]

Upper-Story Residential Use – One or more dwelling units located in one or more stories above, and in the same building as, a permitted use on the ground floor, whether the residential unit/s are attached or detached from one another or from buildings on abutting lots or parcels.

[...]

Chapter 17.33

C-3 GENERAL COMMERCIAL ZONESections:

- 17.33.010 Permitted uses.
- 17.33.020 Conditional uses.
- 17.33.030 Yard requirements.
- 17.33.040 Building height.
- 17.33.050 Use limitations.

17.33.010 Permitted uses. In a C-3 zone, the following uses and their accessory uses are permitted:

1. All uses and conditional uses permitted in the C-1 and C-2 zones, except those listed in Section 17.33.020;
2. Condominiums subject to the provisions of the R-4 zone;
3. Multiple-family dwelling subject to the provisions of the R-4 zone;
4. Upper-story residential use;
- 4.5. Owner-occupied residence in the same building as a business; One ground floor dwelling (accessory use to business) per business building;
- 5.6. Auction house;
- 6.7. Auditorium exhibition hall, or other public assembly room;
- 7.8. Automobile, boat, trailer, or truck rental, sales, or service;
- 8.9. Automobile repair garage;
- 9.10. Bank or similar financial institution;
- 10.11. Bicycle sales or repair shop;
- 11.12. Book or stationary store, retail;
- 12.13. Building materials supply store, retail;
- 13.14. Business and trade school or college not objectionable due to noise, odor, dust, smoke, vibration, or other reasons;
- 14.15. Church;
- 15.16. Clothing store, retail;
- 16.17. Club, lodge, hall, or fraternal organization;
- 17.18. Cocktail lounge;
- 18.19. Community building;
- 19.20. Custom manufacturing of goods only for retail sale on the premises;
- 20.21. Department store, retail;
- 21.22. Dressmaking, millinery, or tailor shop;
- 22.23. Dry goods or notions store, retail;
- 23.24. Electric appliance or equipment, sales and service;
- 24.25. Farming or logging, implement or machinery, sales or service;
- 25.26. Floor covering sales and service;
- 26.27. Frozen food locker, retail;
- 27.28. Furniture store, retail;
- 28.29. Garden supply store, nursery, or green house, retail;

- ~~29-30.~~ Government building including armory, maintenance, repair, or storage facility;
- ~~30-31.~~ Hardware and paint store, retail;
- ~~31-32.~~ Hospital and clinic;
- ~~32-33.~~ Household, business, or recreational equipment sales or rental;
- ~~33-34.~~ Ice dispenser, retail;
- ~~34-35.~~ Interior decorating shop;
- ~~35-36.~~ Jewelry store, retail;
- ~~36-37.~~ Laundry cleaning establishment;
- ~~37-38.~~ Library or museum;
- ~~38-39.~~ Locksmith;
- ~~39-40.~~ Lumber or building material sales, retail;
- ~~40-41.~~ Medical or dental laboratory;
- ~~41-42.~~ Monument sales, retail;
- ~~42-43.~~ Mortuary or funeral home, including crematorium;
- ~~43-44.~~ Music or musical instrument store, retail;
- ~~44-45.~~ Nursing/convalescent home;
- ~~45-46.~~ Office;
- ~~46-47.~~ Paint or glass store, retail;
- ~~47-48.~~ Parking structure or lot;
- ~~48-49.~~ Pawnshop or second-hand goods store provided all merchandise is stored in a building;
- ~~49-50.~~ Pet store, retail;
- ~~50-51.~~ Photographic shop, blueprinting, photostating, or other reproduction process;
- ~~51-52.~~ Plumbing and heating store;
- ~~52-53.~~ Printing or publishing plant;
- ~~53-54.~~ Public utility building and facility;
- ~~54-55.~~ Recreational vehicle park;
- ~~55-56.~~ Retail or wholesale stores or businesses not involving manufacturing, processing, or compounding of products other than that which is clearly incidental to the business conducted on the premises and provided that not more than fifty percent of the floor area of the building is used in the manufacturing, processing, or compounding of products, and such operations or products are not objectionable due to noise, odor, dust, smoke, vibration, or other similar causes;
- ~~56-57.~~ Rubber stamp manufacture, provided all products are sold on the premises;
- ~~57-58.~~ Scientific or professional instrument sales or service;
- ~~58-59.~~ Sewage pump station;
- ~~59-60.~~ Shoe store, retail;
- ~~60-61.~~ Sign painting shop;
- ~~61-62.~~ Storage garage or mini-storage buildings;
- ~~62-63.~~ Studio, including music, dancing, art, photography, or health;
- ~~63-64.~~ Tavern;
- ~~64-65.~~ Taxi stand;
- ~~65-66.~~ Taxidermy shop;
- ~~66-67.~~ Theater;
- ~~67-68.~~ Toy or hobby store, retail;

- ~~68-69.~~ Upholstery or furniture repair shop;
- ~~69-70.~~ Variety store, retail;
- ~~70-71.~~ Veterinary office or animal hospital, provided there are no runs or pens and no noise is audible beyond the property line;
- ~~71-72.~~ Wholesale office or showroom with merchandise on the premises limited to small parts and samples;
- ~~72-73.~~ Social relief facility, under the following provisions:
- a. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein; and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 - b. Five or fewer people unrelated to the operator reside at the home at any one time.
 - c. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met. (Ord. 4900 §2, 2008; Ord. 4479A §4(part), 1991; Ord. 4279 §1(C), 1984; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[...]

Chapter 17.60

OFF—STREET PARKING AND LOADING

Sections:

- 17.60.010 Applicability of chapter.
- 17.60.020 Property owner's responsibility.
- 17.60.030 Plans required.
- 17.60.040 Spaces—Used to park automobiles only.
- 17.60.050 Spaces—Location.

[...]

17.60.050 Spaces—Location. **Except for one or two upper-story residential dwelling units above a non-residential use,** off-street parking spaces for dwellings shall be located on the same lot with the dwelling. All other required parking spaces shall be located not farther than two hundred feet from the building or use they are required to serve, measured in a straight line from the building. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

[...]