



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

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

Chapter 17.03

GENERAL PROVISIONS

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

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare. (Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

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

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

17.03.040 Provisions of this Code Declared to Be Minimum Requirements.

- A. **Minimum Requirements Intended.** The provisions of this title are minimum requirements adopted for the protection of the public health, safety and general welfare.
- B. **Most Restrictive Requirements Apply.** Where the conditions and requirements imposed by any provision of this Title are less restrictive, vary from or conflict with other provisions of this title or of any other ordinance, resolution or regulation, the provisions which are most restrictive or the highest standard shall govern. When requirements of this title vary from or conflict with other provisions of the McMinnville Municipal Code, the more specific provision shall prevail over a more general provision.

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

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

this code. Any use of land in violation of this code is declared to be a nuisance.(Ord. 4920, §2, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.055 Conditions of Approval. The Planning Director, Planning Commission, the City Council or the Hearings Officer when acting as the hearing authority, may impose conditions of approval on any planning action to modify that planning action to comply with the criteria of approval or to comply with other applicable City ordinances. Such conditions shall be binding on the approved planning action, and a violation of a condition imposed by the hearing authority shall be a violation of this ordinance, and subject to all the penalties thereof.

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

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

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

17.03.090 Violations.

- A. Any use of land in violation of this title shall be and hereby is declared to be unlawful and a public nuisance, including but not limited to the following:
1. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this title.
 2. Any use of land, building or premise established, conducted, operated or maintained contrary to the provisions of this title.
 3. Offering for public view any use of land, building, or premise established, conducted, operated without a valid land use approval or otherwise maintained contrary to the provisions of this title.

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

~~17.03.080 Violation Procedure Penalty.~~

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

17.03.100090 Legal Proceedings as Alternative Remedy. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or land is, or is proposed to be, used in violation of this title, the building or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration, or use. (Ord. 4920, §2, 2010)