



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

503-434-7311

www.mcminnvilleoregon.gov

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE CITY CODE, TITLE 17, CHAPTER 17.03, GENERAL PROVISIONS.

DOCKET: G 1-21

REQUEST: The City of McMinnville is proposing to amend Title 17, Chapter 17.06 (Definitions), Chapter 17.12 (R-1 Single Family Residential Zone), Chapter 17.15 (R-2 Single Family Residential Zone), Chapter 17.18 (R-3 Two Family Residential Zone), Chapter 17.21 (R-4 Multiple Family Residential Zone), Chapter 17.22 (R-5 Multiple Family Residential Zone), Chapter 17.24 (O-R Office Residential Zone), Chapter 17.27 (C-1 Neighborhood Business Zone), Chapter 17.30 (C-2 Travel Commercial Zone), Chapter 17.33 (C-3 General Commercial Zone), Chapter 17.36 (M-L Limited Light Industrial Zone), Chapter 17.39 (M-1 Light Industrial Zone), Chapter 17.42 (M-2 General Industrial Zone), and Chapter 17.60 (Off-Street Parking and Loading) in order to remove regulatory barriers for child care providers within the City of McMinnville and to bring the City's Municipal Code into compliance with Oregon statutory regulations and guidelines relative to child care.

LOCATION: N/A

ZONING: R1, R2, R3, R4, R5, OR, C1, C2, C3, ML, M1, M-2

APPLICANT: City of McMinnville

STAFF: Heather Richards, Planning Director

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: April 15, 2021. Public hearing held virtually via Zoom meeting software, Zoom Online Meeting ID 942 3599 8716.

DATE & TIME: May 20, 2021. Meeting held virtually via Zoom meeting software, Zoom Online Meeting ID 960 2576 9049

DECISION-MAKING BODY: McMinnville City Council

DATE & TIME: TBD

PROCEDURE: The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.

CRITERIA: Amendments to the McMinnville Zoning Ordinance must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan and the Purpose of the Zoning Ordinance.

APPEAL: The Planning Commission will make a recommendation to the City Council. The City Council's decision on a legislative amendment may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code.

DECISION

Based on the findings and conclusions, the McMinnville Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 1-21) to the McMinnville City Council.

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DECISION: APPROVAL
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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: _____

I. Application Summary:

The City of McMinnville is proposing to amend Title 17, Chapter 17.06 (Definitions), Chapter 17.12 (R-1 Single Family Residential Zone), Chapter 17.15 (R-2 Single Family Residential Zone), Chapter 17.18 (R-3 Two Family Residential Zone), Chapter 17.21 (R-4 Multiple Family Residential Zone), Chapter 17.22 (R-5 Multiple Family Residential Zone), Chapter 17.24 (O-R Office Residential Zone), Chapter 17.27 (C-1 Neighborhood Business Zone), Chapter 17.30 (C-2 Travel Commercial Zone), Chapter 17.33 (C-3 General Commercial Zone), Chapter 17.36 (M-L Limited Light Industrial Zone), Chapter 17.39 (M-1 Light Industrial Zone), Chapter 17.42 (M-2 General Industrial Zone), and Chapter 17.60 (Off-Street Parking and Loading) in order to remove regulatory barriers for child care providers within the City of McMinnville and to bring the City's Municipal Code into compliance with Oregon statutory regulations and guidelines relative to child care. The City is adding definitions for "Child Care Center", "Child Care Home (Registered or Certified Family Child Care Home)" and "Day Care Facility (Adult)". The City is identifying "Child Care Home", and "Day Care Facility (Adult)" when the day care facility is located in a residential dwelling unit and has twelve or fewer people present at any one time, as outright permitted uses R1, R2, R3, R4, R5 and OR zones. "Child Care Center" as an outright permitted use when located in a City-owned park or recreation facility, public school and conforming private school, and "Child Care Center" when not located in a City-owned park or recreation facility, public school or conforming private school as a conditional use in the R1, R2, R3, R4, R5 and OR zones. And "Day Care Facility (Adult) when the structure is not a residence as a conditional use in the R1, R2, R3, R4, R5 and OR zones. The City is also proposing that "Child Care Homes: and "Child Care Center" be a permitted use in the C1, C2, C3, ML and M1 zones, and that "Child Care Centers" be a conditional use in the M2 zone. And finally, the city is proposing that "Child Care Center" and Child Care Facility" be required to provide one off-street parking space per on-site employee and a designated drop-off and pick-up zone for two vehicles be required.

II. CONDITIONS OF APPROVAL

None.

III. FINDINGS OF FACT

1. The City of McMinnville has received requests to reduce regulatory barriers for child care facilities to help enable the development of more child care in the community.
2. On November 19, 2020, city staff hosted a work session with the Planning Commission to discuss options for child care amendments to the McMinnville City Code. At that time, Planning Commission provided direction to move forward with a legislative effort to amend the McMinnville Municipal Code to remove regulatory barriers for child care providers as deemed appropriate.
3. Notice of the application and the April 15, 2021 Planning Commission public hearing was published in the News Register on Friday, April 9, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.
4. On April 15, 2021, the Planning Commission held a duly noticed public hearing to consider the request.
5. On April 15, 2021, the Planning Commission closed the public hearing and kept the written record open until April 30, 2021.
6. Title 17 of the MMC provides the code provisions for zoning and development regulations for the City of McMinnville.

IV. Comments Received

A letter was received from the Oregon Department of Land Conservation and Development, April 26, 2021. (Attached).

V. CONCLUSIONARY FINDINGS:

Alignment with Oregon Revised Statutes and Administrative Rules:

ORS 329A.440 – Oregon Revised Statute 329A.440 governs how cities and counties can regulate certain types of child care facilities. Per ORS 329A.440, registered family child care homes and certified family child care homes shall be considered a residential use of property for zoning purposes and shall be permitted uses in all areas zoned for residential or commercial purposes. A city cannot enact or enforce zoning ordinance prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a registered or certified family child care home.

329A.440 Application of zoning ordinances to registered or certified family child care homes.

(1) A registered or certified family child care home shall be considered a residential use of property for zoning purposes. The registered or certified family child care home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. A city or county may not enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a registered or certified family child care home.

(2) A city or county may impose zoning conditions on the establishment and maintenance of a registered or certified family child care home in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.

(3) A county may:

(a) Allow a registered or certified family child care home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215.203;

(b) Impose reasonable conditions on the establishment of a registered or certified family child care home in an area zoned for farm use; and

(c) Allow a division of land for a registered or certified family child care home in an exclusive farm use zone only as provided in ORS 215.263 (9).

(4) This section applies only to a registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status. [Formerly 657A.440]

Finding: Proposed amendments bring the McMinnville Municipal Code into compliance with ORS 329A.440 by allowing registered and certified family child care homes as allowed outright permitted uses in any residential and commercial zone if provided in a single-family dwelling unit.

OAR 414-200-0415 to OAR 414-350-0415 – Oregon Administrative Rules (OAR) 414-200-0415 to OAR 414-350-0415 govern the operational structure and licensing of child care facilities in the state of Oregon.

Finding: Proposed amendments align definitions of child care facilities in the McMinnville Municipal Code with OAR 414-200-0415 to OAR 414-350-0415, and reinforces the parameters for each type of child care facility in the allowance of the McMinnville Municipal Code.

Alignment with McMinnville's Comprehensive Plan:

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

Citizen Involvement

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

Finding: Goals X 1 is satisfied by this proposal in that the proposed modifications were reviewed at a public hearing by the McMinnville Planning Commission on April 15, 2021.