

EXHIBIT 4 – STAFF REPORT

DATE: August 19, 2021
TO: McMinnville Planning Commission
FROM: Heather Richards, Planning Director
SUBJECT: Annexations Work Session

STRATEGIC PRIORITY & GOAL:



GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

OBJECTIVE/S: Strategically plan for short and long-term growth and development that will create enduring value for the community

Report in Brief:

This is a work session to discuss requirements and procedures for annexation of lands to the City of McMinnville for compliance with the McMinnville Growth Management and Urbanization Plan (MGMUP) and ORS 222, which governs annexations of land into cities in Oregon.

The proposed code amendments are currently scheduled for their first evidentiary hearing with the Planning Commission on September 16, 2021, and have been noticed with the Department of Land Conservation and Development.

Background:

Oregon statewide planning goals require that each city be surrounded by a boundary which is called an urban growth boundary (UGB). The UGB defines the area which the city has identified as being eligible to be included within the city limits sometime during the 20-year planning period. Lands within the UGB may be considered for annexation into the city limits consistent with ORS 222 and local ordinances.

The history of annexation requirements and processes within the City of McMinnville is nuanced and complicated. Annexations are governed by state laws (Oregon Revised Statute, Title 21, Chapter 222), City Charters, and local ordinances.

A proposal for annexation of territory to a city may be Initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. The boundaries of a city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water, if the proposal for annexation is approved in the manner provided by the city charter or by ORS 222.111.

In McMinnville, there has been a long history of annexation requirements and procedures that have been amended over time, including local ordinances and the City Charter.

Historically In McMinnville, annexations have been governed by Ordinances No. 4130, 4357, 4535, 4624, 4636, and 4670. All of which developed and amended an annexation process for the City of McMinnville over the past forty (40) years. The history of the amendments to these ordinances is nuanced and difficult to administer. (Please see Table 1 below).

Staff is recommending repealing all of these Ordinances and dedicating a chapter of the McMinnville Municipal Code (Chapter 16) to Annexations for transparency and ease of administration.

Ordinance	Date of Approval	What it does?
No. 4130	April 7, 1981	<ul style="list-style-type: none"> • Enacted requirements and procedures for annexation of land to the City of McMinnville. • Land must be in the UGB. • Land must be contiguous to the city limits. • Plan for development must meet comprehensive plan policies. • Adequate level of services must be available or made available within three years of annexation. • Public hearing at the Planning Commission level. PC provides a recommendation to City Council. • City Council public hearing and final decision. • City shall attempt to not create islands of non-incorporated territory within the city limits. • If an island is created, it needs be annexed within one year. • Zoning shall be AH or county zoning until it is rezoned into a city zone for development.

Ordinance	Date of Approval	What it does?
No. 4357	February 4, 1986	<ul style="list-style-type: none"> • Repeals Ordinance No. 4130. • In response to state changes to ORS 222, which no longer required two public hearings if all the property owners of the land to be annexed consent to the annexation. • City elected to retain a public hearing for annexations at the Planning Commission level and eliminate the one required at the City Council level. • Land still must be in the UGB. • Land still must be contiguous to city limits. • Plan for development must meet comprehensive plan policies. • Adequate level of services must be available or made available within three years of annexation. • Public hearing at the Planning Commission level. PC provides a recommendation to City Council. • City Council public hearing and final decision. • City shall attempt to not create islands of non-incorporated territory within the city limits. • If an island is created, it needs be annexed within one year. • Zoning shall be AH or county zoning until it is rezoned into a city zone for development
No. 4535	April 27, 1993	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 due to state amendments to ORS 222 relative to nonunanimous consent of property owners to be annexed.
No. 4624	May 14, 1996	<ul style="list-style-type: none"> • Amends Ordinance No. 4357 to require that Islands created by annexations be annexed into the city within one year.
No. 4636	November 12, 1996	<ul style="list-style-type: none"> • Repeals Ordinance No. 4357 in response to local ballot measure No. 36-32 passed on May 21, 1996 to amend the City Charter to read that all annexations except those otherwise mandated by state law, be referred to a vote of the electorate.
No 4670	June 23, 1998	<ul style="list-style-type: none"> • Amends Ordinance No. 4636 relative to the definition of adequate levels of municipal sanitary sewer and water service required within three years of annexation.

The most recent ordinance passed relative to annexations is Ordinance No. 4636, which provides for the following:

All annexations must be:

- Within the UGB
- Contiguous to the city limits
- Complies with the Comprehensive Plan, Volume II, Goals and Policies
- Must have an adequate level of urban services available or made available, within three years time of annexation.
- Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for the proposed annexation.
- Public hearing with the Planning Commission for recommendation of approval to City Council to go to the ballot or denial.
- Cities shall strive to not create Islands of unincorporated territory within the corporate limits of the City
- Land will come Into the City based on underlying comprehensive plan designation and be zoned AH If no other zone has been requested or it does not have a county zone.
- Referred to the electorate for a vote of approval or denial

Just like the city ordinances, the McMinnville City Charter has also been amended over time to reflect changing requirements and procedures for annexations. In 1996, Section 3 of the McMinnville City Charter as adopted in 1971, was amended to read that "Unless mandated by State Law, any annexation, delayed or otherwise, to the City of McMinnville may only be approved by a prior majority vote among the electorate." (Ballot Measure 36-32, May 21, 1996.). This then established a history of annexation requests that were determined by a city-wide vote of the electorate.

In 2016, the Oregon State Legislature passed Senate Bill 1573 amending ORS 222.127, stating that essentially if a landowner, or landowners petition the City for annexation, the legislative body of the city shall annex the property without submitting the proposal to the electors of the city if the property is within the UGB, contiguous to the city limits, meets the comprehensive plan, and conforms to all other ordinances of the city. In other words, the City cannot force a proposed annexation to be put to the voters if all landowners within the proposed annexed area agree to the annexation.

ORS 222.127

- (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.*
- (2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the*

electors of the city if:

- (a) *The territory is included within an urban growth boundary adopted by the city or Metro, as defined in [ORS 197.015 \(Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325\)](#);*
 - (b) *The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;*
 - (c) *At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and*
 - (d) *The proposal conforms to all other requirements of the city's ordinances.*
- (3) *The territory to be annexed under this section includes any additional territory described in [ORS 222.111 \(Authority and procedure for annexation\)](#) (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.*
- (4) *When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed. [2016 c.51 §2]*

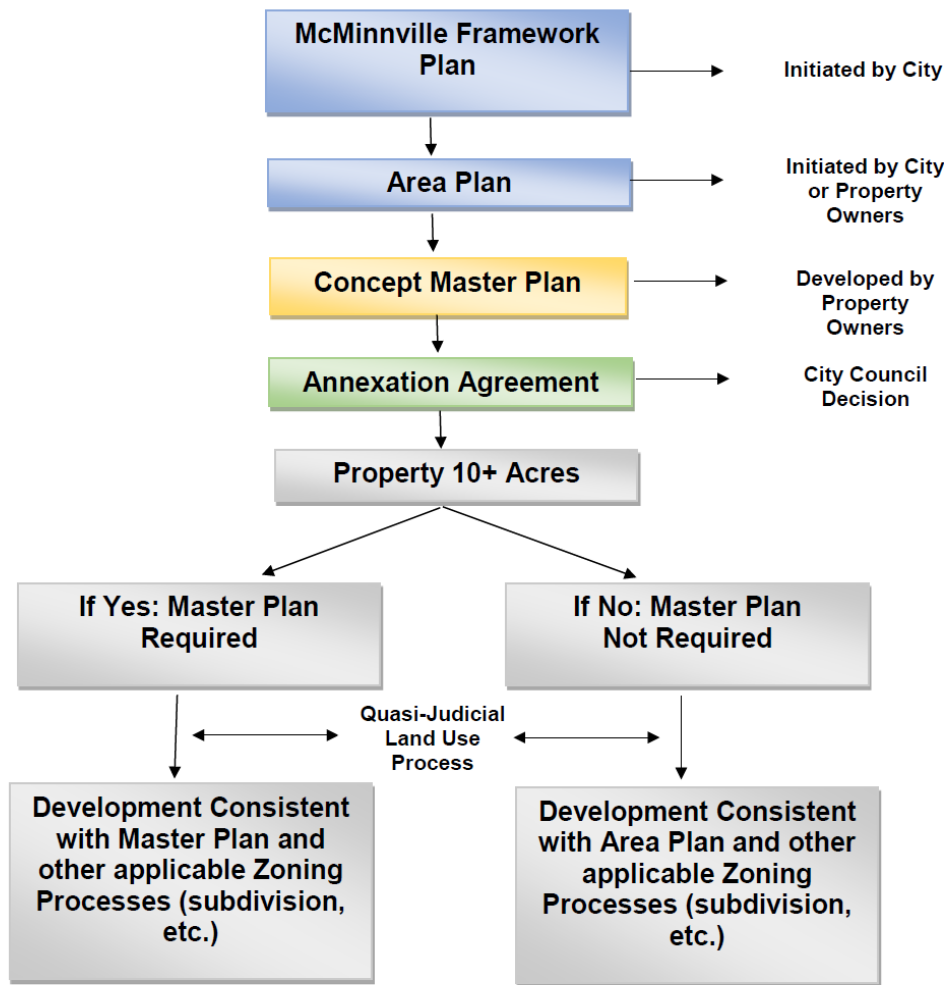
The Oregon Legislature adopted this amendment to ORS 222.127 in 2016 because it had been determined that some cities were using the electorate vote to prevent the necessary growth of the city to meet its required population absorption. (33 cities were managing annexations in this manner.)

Corvallis and Philomath challenged the law shortly after it was enacted, arguing that the law infringed on the home rule authority of cities to choose when and where to extend their boundaries. The Court of Appeals ruled in May, 2020 against the two cities, upholding the 2016 law amendments. The court cited key exceptions in the cities' charters that waive election requirements if an annexation is "mandated by state law". The City of McMinnville has similar language in its City Charter.

In December, 2020, the McMinnville City Council approved Ordinance No. 5098, adopting the McMinnville Growth Management and Urbanization Plan. Within that plan was a new annexation process for the City of McMinnville that would allow for thoughtful and intentional planning prior to annexation and compliance with ORS 222, the Oregon Statute that governs annexation processes in the State of Oregon.

This annexation process is predicated on three major components:

- Area Plan
- Annexation Agreement
- Master Plan



Comprehensive Plan Policies Governing Annexations:

- 71.05 *The City of McMinnville shall encourage annexations and rezoning which are consistent with the policies of the Comprehensive Plan so as to achieve a continuous five-year supply of buildable land planned and zoned for all needed housing types. (Ord.4840, January 11, 2006; Ord. 4243, April 5, 1983; Ord. 4218, November 23, 1982)*
- 155.00 *The ability of existing police and fire facilities and services to meet the needs of new service areas and populations shall be a criterion used in evaluating annexations, subdivision proposals, and other major land use decisions.*
- 183.00 *The City of McMinnville, with the cooperation of Yamhill County, shall establish three categories of lands within the Urban Growth Boundary. Future urbanizable lands are those lands outside the city limits, but inside the Urban Growth Boundary. These lands shall be retained in agricultural resource zones until converted to urbanizable lands by annexation to the City of McMinnville. Urbanizable lands are those lands within the city limits which are not yet developed at urban densities. Conversion of these lands to the urban classification shall involve fulfillment of the goals and policies of this plan, provision of urban services, and application of appropriate implementation ordinances and measures. Urban lands are those lands within the city limits developed at urban densities.*

187.40 *The Great Neighborhood Principles shall guide long range planning efforts including, but not limited to, master plans, small area plans, and annexation requests. The Great Neighborhood Principles shall also guide applicable current land use and development applications.*

187.90.00 *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan to be reviewed by the City Council and acknowledged in an Annexation Agreement. (Ord. 5098, December 8, 2020)*

Comprehensive Plan Proposals Relative to Annexations:

48.30 **“Urban Holding” (UH) Zoning Map Designation.** *The City shall establish an “Urban Holding” (UH) zone, which may be applied to lands within the UH Comprehensive Plan Map designation. Lands within the UH Comprehensive Plan map designation may be annexed and rezoned to UH as an interim designation before urban zoning is applied, subject to completion of the master planning process consistent with an approved annexation agreement. (Ord. 5098, December 8, 2020)*

48.90 **Annexation Process.** *The City shall update its annexation ordinance (Ordinance No. 4357) to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that includes a conceptual master plan but is not a land-use process. (Ord. 5098, December 8, 2020)*

48.95 **McMinnville – Yamhill County Urban Growth Boundary Management Agreement.** *The City shall update its urban growth boundary management agreement (Ordinance No. 4146) with Yamhill County. (Ord. 5098, December 8, 2020)*

Comprehensive Plan Proposal 48.90 Instructs the City to update It’s annexation ordinance to reflect new statutory requirements and a process consisting of an annexation agreement with the City Council that Includes a conceptual master plan but Is not a land-use process.

Staff Is recommending amendments to the McMinnville City Code, repealing Title 16, which Is a duplicated land division ordinance similar to Chapter 17.53, and replacing It with new language dedicated to annexation requirements and processes for the City of McMinnville that reflects the process outlined and adopted In December, 2020, with the MGMUP, and to amend Chapter 17 as necessary to support this process.

The new language recommended for Title 16, "Annexations", reflects the provisions of ORS 222, the provisions of local Ballot Measure 36-32 passed In 1996 that are still relevant after Senate Bill 1753 (2016) was adopted and the process and values adopted with the MGMUP In December, 2020.

Discussion:

The first step of the annexation process is the adoption of an Area Plan for the UGB UH Comprehensive Plan designation that delineates a high level land-use plan for the area identifying future comprehensive plan designations and city zoning that will meet the intention of the adopted Framework Plan outlined the need for housing, employment land,

and public amenities in that area that serve the city's stated for growth and development. This plan will be adopted by the City Council as a supplemental document to the McMinnville Comprehensive Plan. This process will be treated similar to a Type IV land-use application requiring a public hearing with the Planning Commission and a final decision by the City Council.

Then the next step is for the landowner(s) to develop a conceptual master plan demonstrating how their property will achieve the intent of the Area Plan when annexed to the City. For this process the landowner(s) should be meeting with city staff to discuss Area Plan compliance, public infrastructure needs, etc.

Ordinance No. 5098 adopting the MGMUP also adopted amendments to the McMinnville City Code, Chapter 17.10, that provides the criteria and requirements for area plans and master plans. (See Attachment A).

When that process is completed, the landowner(s) would enter into an Annexation Agreement with the City Council outlining the terms of annexation. The Annexation Agreement is an annexation contract between the landowner(s) and the City Council determining what is expected from both parties for the annexation to be successful.

The annexation agreement is the opportunity for the City to require elements of the concept master plan that the City deems is necessary for the public good associated with the annexation. This typically includes the dedication and development of necessary public infrastructure improvements, as well as the dedication and development of public parks and trails, and in some cities, the development of necessary affordable housing to meet the city's future housing need. Attachment B provides a draft annexation agreement template. Typically, this annexation agreement is drafted prior to completion of the conceptual master plan so that the landowner(s) are aware of what the city will require as part of the annexation in advance of investing in the master planning process.

The Concept Master Plan and Annexation Agreement would then be adopted by the City Council after a public hearing process.

Then the landowner(s) would go through a quasi-judicial process for the adoption of the Master Plan (public hearing at the Planning Commission with a recommendation for approval to the City Council or a denial that can be appealed to the City Council), at which time, once approved, the City will approve the Annexation by ordinance if all other components of the Annexation Agreement have been met.

Attachment C provides the draft recommended amendments to the McMinnville City Code, Title 16 - Annexations, describing all of the annexation requirements and processes

needed outside of the land-use process for annexations in order to be compliant with ORS 222.111 and to reflect historic community values relative to annexations.

Attachment D describes necessary amendments to Title 17 of the MMC to support the city's new annexation process.

Attachment E represents a draft annexation ordinance.

The proposed amendments and process were provided to the City Council at a work session on July 21, 2021. The City Council directed staff to move forward with the proposed amendments.

After the work session the City Council received a letter from Mark Davis expressing his concerns about the proposed process. This letter was addressed in follow-up comments by the City Attorney at the next City Council meeting on July 27, 2021. Mark Davis followed up that City Council meeting with an additional email to city staff on August 1, 2021 and the City Attorney replied on August 5, 2021. (Please see Attachment F).

Mark Davis' testimony primarily focuses on whether or not the provision of public participation and opportunity for appeals are being retained in the annexation process with the proposed code amendments. Prior to the legislative amendments in 2016, a McMinnville annexation application was reviewed by the planning commission with a public hearing for compliance with the comprehensive plan and zoning ordinance. The Planning Commission made a recommendation of approval or denial to the City Council. The City Council would then review the Planning Commission recommendation and decide whether or not they supported the recommendation (that the proposed development plan associated with the annexation complied with the comprehensive plan and zoning ordinance) and would then approve or deny the request to be put on the local ballot. The decision for compliance with the comprehensive plan and zoning ordinance was a quasi-judicial process with clear and objective criteria and the opportunity for appeal to the Land Use Board of Appeals (LUBA) by both the applicant and opponents depending upon the final decision of the City Council. The popular vote by the electorate was, in the view of the 2016 legislature a discretionary vote without the opportunity for appeal by either the applicant or opponents.

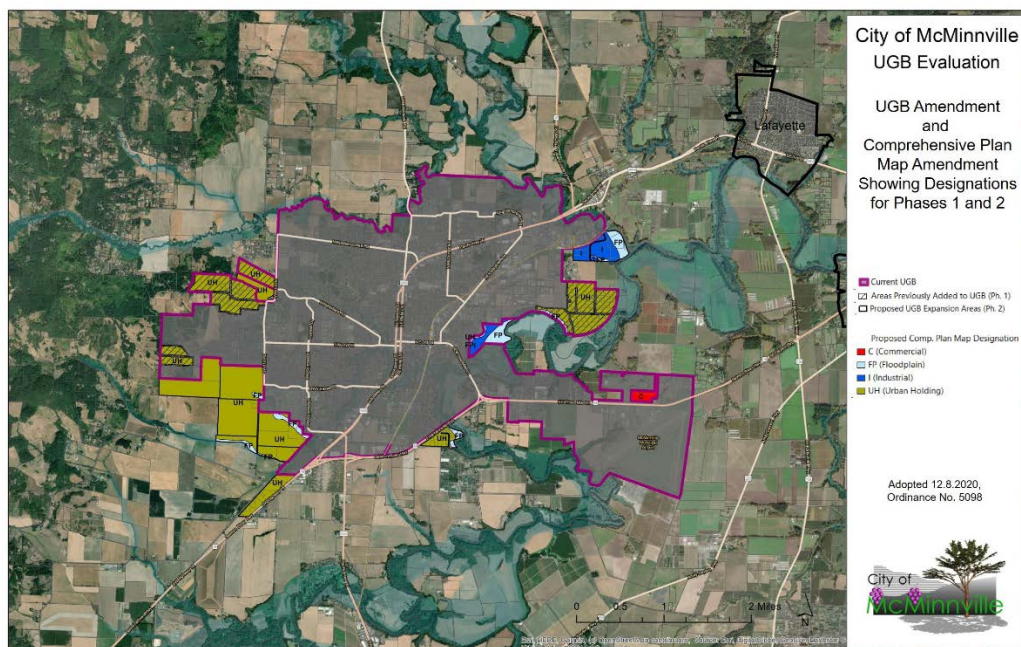
ORS 222.127 is very specific in that it instructs cities to annex property into the city if it meets the performance metrics laid out in ORS 222.127(2).

- (2) *Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city **shall** (emphasis added) annex the territory without submitting the*

proposal to the electors of the city if:

- (a) *The territory is included within an urban growth boundary adopted by the city or Metro, as defined in [ORS 197.015 \(Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325\)](#);*
- (b) *The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;*
- (c) *At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and*
- (d) *The proposal conforms to all other requirements of the city's ordinances.*

The proposed process eliminates the discretionary popular vote of the electorate based upon the fact that new laws do not allow cities to utilize that process for annexation decision-making. However, it retains the quasi-judicial review of the proposal by the Planning Commission and the City Council for compliance with the comprehensive plan and zoning ordinance either through a master plan and comprehensive plan map amendment process for properties 10 acres or more or a comprehensive plan map amendment for parcels less than 10 acres. The final act of Annexation cannot occur unless this compliance is demonstrated, and properties will not be considered annexed until all opportunities for the land-use appeal have been exercised. The proposed process also provides an additional layer of public process and opportunity for appeal with the added provision of the need for an adopted Area Plan prior to annexation if the property is located in an urban holding comprehensive plan designation in the urban growth boundary. The Area Plan will be adopted as a supplemental document to the Comprehensive Plan and subject to a public hearing with the Planning Commission and a final decision by the City Council, and can also be appealed to LUBA. The only occasions where an Area Plan is not required is for land that is designated either commercial or industrial land in the UGB on the City's Comprehensive Plan map.



The process proposed in the adopted MGMUP adds an additional layer of review to the process outlined in ORS 222.127, by requiring an adopted Area Plan and Master Plan prior to annexation. Since these were adopted as Comprehensive Plan policies and zoning ordinance amendments with Ordinance No. 5098, they qualify as part of the ORS 222.127(2)(d) provision.

All of the other provisions of the McMinnville's previous annexation ordinances that are not considered clear and objective land-use standards but still reflect the value of McMinnville relative to annexations have been captured in the proposed Title 16 amendments, including:

- Must have an adequate level of urban services available or made available, within three years time of annexation. (Proposed MMC 16.20.020(K)(1)).
- Findings documenting the availability of police, fire, and school facilities and services shall be made to allow for the proposed annexation. (Proposed MMC 16.20.020(K)(3)).

Attachments:

Attachment A: Chapter 17.10 of the MMC – Area Plans and Master Plans

Attachment B: Draft Annexation Agreement

Attachment C: Draft Title 16 MMC Amendments

Attachment D: Draft Title 17 MMC Amendments

Attachment E: Draft Annexation Ordinance

Attachment F: Communications from Mark Davis

ATTACHMENT A

Chapter 17.10

AREA AND MASTER PLANNING PROCESS

Sections:

- 17.10.010 Purpose.**
- 17.10.020 Applicability.**
- 17.10.030 Procedures.**
- 17.10.040 Area plan process.**
- 17.10.050 Area plan scope and components.**
- 17.10.060 Master plans.**
- 17.10.065 Master plan process.**
- 17.10.070 Master plan submittal requirements.**
- 17.10.080 Master plan review criteria.**
- 17.10.090 Development of areas less than 10 acres.**

17.10.010 Purpose.

To provide a process that will allow for and ensure the transition from rural to urban land uses in a manner that is consistent with the McMinnville Comprehensive Plan, UGB expansion plans, and the city's overall land supply needs identified in applicable UGB expansion plans and documents. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.020 Applicability.

The area plan and master plan processes apply to all lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.030 Procedures.

- A. *Area Plan Requirement.* Prior to annexation or comprehensive plan map amendment, zone change, or development of any land in Urban Holding (UH) comprehensive plan map designations, the city must review and adopt an area plan, if applicable.
- B. *Master Plan Requirement.*
 - 1. *Concept Master Plan.* The development and approval of a concept master plan is required prior to annexation of any land in Urban Holding (UH) comprehensive plan map designations as part of an annexation agreement.

2. *Master Plan.* The development and approval of a final master plan is required prior to a zone change, or development of any land in Urban Holding (UH) comprehensive plan map designations and the UH zone. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.040 Area plan process.

- A. The city council shall initiate an area planning process for lands that are designated as Urban Holding (UH) on the McMinnville Comprehensive Plan Map.
- B. Property owners may initiate the area planning process, if the city council has not yet initiated or completed an area plan for land designated on the comprehensive plan map as Urban Holding (UH) in a UGB expansion area.
1. Area planning may be initiated by property owners for lands 100 acres or greater in size.
- C. The city council shall adopt an area plan as a guiding land use document. The adoption of the area plan is not a land use decision, and does not result in any changes to comprehensive plan designations or zoning districts. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.050 Area plan scope and components.

- A. Area plans shall more specifically identify land uses, their locations, and their relationship to public facilities, natural resources, and existing urban uses. The land uses identified in an area plan must be consistent with the applicable framework plan and the identified land use needs for the Urban Holding (UH) area.
- B. *Principles and Standards for Area Plans.*
1. Area plans must embody the development principles of the applicable framework plan, UGB expansion plan, McMinnville Comprehensive Plan, and any other city land use policies and standards.
 - a. *2003-2023 McMinnville Growth Management and Urbanization Plan (MGMUP).* The MGMUP provides guidance for the planning and development of fully integrated, mixed-use, pedestrian-oriented neighborhoods. Therefore, area plans for UH areas within the MGMUP areas will be developed to be consistent with:
 - i. The guidelines and characteristics of the traditional neighborhood model, as described in the McMinnville Growth Management and Urbanization Plan.
 - ii. The potential identification of locations that would be suitable for neighborhood activity centers (NACs) to meet neighborhood commercial land needs as identified in the MGMUP framework plan, and also support surrounding residential development, as described in the McMinnville Growth Management and Urbanization Plan.
 - iii. The city's adopted Great Neighborhood Principles, as described in Comprehensive Plan Policies 187.10 through 187.50. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.060 Master plans.

Master plans are required for annexation into the city of McMinnville, urbanization into city of McMinnville zones and development, for all properties 10 acres or more.

A. *Applicability.* This section applies to all properties 10 acres or more proposed for annexation and/or rezoning from the UH zone to a city development zone.

1. Master plans shall be required for all lands 10 acres or greater in size.
2. Lands less than 10 acres in size may be annexed into the city, and subsequently developed.

B. *Purpose.* The purpose of a master plan is to provide:

1. Orderly and efficient development of the city consistent with the city's framework plans and adopted area plans.
2. Compatibility and/or transition with adjacent developments and the character of the area.
3. A complementary mix of uses and activities to achieve the principles of the McMinnville Growth Management and Urbanization Plan.
4. An interconnected transportation network – streets, bicycle routes, and pedestrian trails – with the master plan area and to existing and planned city streets, routes and trails.
5. A range of housing choices for areas planned to have residential components.
6. A range of open spaces and recreation facilities, as needed to facilitate the framework plan, adopted area plan and parks and recreation facility plan.
7. Public and semi-public facilities and services.
8. Preservation of historic buildings, scenic views, and natural resources to the greatest extent possible.
9. Transitions or buffers between urban development and rural areas.
10. Implementation of McMinnville's comprehensive plan, including adopted area plans and the Great Neighborhood planning principles. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.065 Master plan process.

A. *Concept Master Plan.* For the conceptual plan review process, there is no need for the post-acknowledgement plan amendments (PAPAs) to the Oregon Department of Land Conservation and Development, or local Measure 56 notice, although early involvement of nearby property owners and state agencies that may have an interest in the effect of urbanization on state interests is advised, because the decision does not yet amend the McMinnville Comprehensive Plan, as it is being reviewed and approved as part of an annexation agreement with the

McMinnville city council and is not considered a land use decision. The concept master plan should consider all of the same elements and factors as the master plan described below.

B. *Master Plan.* For the final master plan approval, legislative review and approval is required as part of a quasi-judicial land use decision as it will be an amendment to the McMinnville Comprehensive Land Use Plan and Zoning Map. Following the city council's adoption of an area plan, but prior to the annexation, comprehensive plan map amendment, zone change, or development of any land within the subject area plan, property owners shall submit a master plan for review and approval by the city council.

1. Applications and requests for the approval of a master plan shall be reviewed under the review process described in Section [17.72.120](#) (Applications – Public Hearings). (Ord. 5098 § 1 (Appx. E), 2020).

17.10.070 Master plan submittal requirements.

Applications for the review and approval of a concept master plan and master plan shall include the following elements:

- A. *Plan Objectives.* A narrative shall set forth the goals and objectives of the master plan and how it achieves McMinnville's MGMUP and adopted Great Neighborhood Principles.
- B. *Plan Area and Context.* A map of the plan area and surrounding vicinity shall set the context for the master plan.
- C. *Land Use Diagram.* The land use diagram shall indicate the distribution and location of planned land uses for the master plan, including plans for park and open space and community facilities. The plan shall identify proposed comprehensive plan and zoning designations.
- D. *Significant Resources Inventory.* An inventory of significant natural resources, scenic and historic resources, and open space areas. When significant resources are present, the master plan shall include a management plan to protect resource sites.
- E. *Natural Hazard Areas.* Inventory and identify areas subject to natural hazards.
- F. *Mixed-Use Areas.* Identify areas planned for mixed uses, which may also include neighborhood activity centers if identified in the applicable area plan.
- G. *Commercial Areas.* Identify areas planned for commercial use, which may also include neighborhood activity centers if identified in the applicable area plan.
- H. *Residential Areas.* Identify areas planned for housing development. The housing plan must identify a mix of housing types and densities so that the overall density in the area meets the housing density objectives for the area that are identified in the applicable framework plan and area plan. The applicable framework plan and area plan are based on a UGB expansion plan that includes findings that specify the housing types and densities that need to be achieved in order to meet future housing needs. Great Neighborhood Principle No. 11 also requires

that “A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.”

I. *Parks and Open Space.* Identify land suitable for park and recreation use in accordance with the needs in the applicable framework plan and area plan, and the standards in the McMinnville Parks, Recreation, and Open Space Master Plan.

J. *Transportation Analysis and Plan.* Prepare a traffic impact analysis and local street plan that is consistent with street spacing and connectivity guidelines in the McMinnville Transportation System Plan (TSP). The street plan shall show the proposed classification for all streets, proposed bicycle routes, and proposed pedestrian facilities. The street plan shall show how streets, bike routes, and pedestrian facilities will connect with adjacent urban areas that are already existing and also how those facilities will be extended to adjacent UGB expansion areas that have not yet gone through the master planning process.

K. *Public Facilities Analysis and Plan.* The plan must include a conceptual layout of public facilities (including at a minimum sanitary sewer, power, water, and storm drainage) needed to support the land use diagram. The public facilities analysis should address overall capacities and must be consistent with the city’s adopted facility master plans. Where necessary, the analysis shall identify improvements that may require amending the adopted facility master plans.

L. *Site Design and Development Standards.* If unique or innovative development standards are proposed for any area within the master plan area that differ from the city’s normal development standards, these may be identified in the master plan and requested through a planned development process. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.080 Master plan review criteria.

A. In the review of an application for a master plan, the planning commission and city council shall consider the following:

1. Whether the proposed master plan is consistent with the framework plan, area plan, and comprehensive plan in terms of land use, density, transportation systems and networks, and open space.
2. Whether the proposed master plan is generally suitable for the area in which it is proposed, considering existing and planned neighborhoods, shopping and employment areas, and natural resources and hazards.
3. Whether the proposed master plan is integrated with existing developed or planned areas.
4. Whether the master plan is consistent with the city’s adopted Great Neighborhood Principles, which include:
 - a. *Natural Feature Preservation.* Great Neighborhoods are sensitive to the natural conditions and features of the land.

- i. Neighborhoods shall be designed to preserve significant natural features including, but not limited to, watercourses, sensitive lands, steep slopes, wetlands, wooded areas, and landmark trees.

- b. *Scenic Views.* Great Neighborhoods preserve scenic views in areas that everyone can access.
 - i. Public and private open spaces and streets shall be located and oriented to capture and preserve scenic views, including, but not limited to, views of significant natural features, landscapes, vistas, skylines, and other important features.
- c. *Parks and Open Spaces.* Great Neighborhoods have open and recreational spaces to walk, play, gather, and commune as a neighborhood.
 - i. Parks, trails, and open spaces shall be provided at a size and scale that is variable based on the size of the proposed development and the number of dwelling units.
 - ii. Central parks and plazas shall be used to create public gathering spaces where appropriate.
 - iii. Neighborhood and community parks shall be developed in appropriate locations consistent with the policies in the parks master plan.
- d. *Pedestrian Friendly.* Great Neighborhoods are pedestrian friendly for people of all ages and abilities.
 - i. Neighborhoods shall include a pedestrian network that provides for a safe and enjoyable pedestrian experience, and that encourages walking for a variety of reasons including, but not limited to, health, transportation, recreation, and social interaction.
 - ii. Pedestrian connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces, and shall also be provided between streets that are disconnected (such as cul-de-sacs or blocks with lengths greater than 400 feet).
- e. *Bike Friendly.* Great Neighborhoods are bike friendly for people of all ages and abilities.
 - i. Neighborhoods shall include a bike network that provides for a safe and enjoyable biking experience, and that encourages an increased use of bikes by people of all abilities for a variety of reasons, including, but not limited to, health, transportation, and recreation.
 - ii. Bike connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces.
- f. *Connected Streets.* Great Neighborhoods have interconnected streets that provide safe travel route options, increased connectivity between places and destinations, and easy pedestrian and bike use.
 - i. Streets shall be designed to function and connect with the surrounding built environment and the existing and future street network, and shall incorporate human scale elements including, but not limited to, Complete Streets features as defined in the comprehensive plan, grid street networks, neighborhood traffic management techniques, traffic calming, and safety enhancements.
 - ii. Streets shall be designed to encourage more bicycle, pedestrian and transit mobility with a goal of less reliance on vehicular mobility.

- g. *Accessibility.* Great Neighborhoods are designed to be accessible and allow for ease of use for people of all ages and abilities.
- i. To the best extent possible all features within a neighborhood shall be designed to be accessible and feature elements and principles of Universal Design.
 - ii. Design practices should strive for best practices and not minimum practices.
- h. *Human-Scale Design.* Great Neighborhoods have buildings and spaces that are designed to be comfortable at a human scale and that foster human interaction within the built environment.
- i. The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.
 - ii. Buildings include design elements that promote inclusion and interaction with the right-of-way and public spaces, including, but not limited to, building orientation towards the street or a public space and placement of vehicle-oriented uses in less prominent locations.
 - iii. Public spaces include design elements that promote comfortability and ease of use at a human scale, including, but not limited to, street trees, landscaping, lighted public areas, and principles of Crime Prevention through Environmental Design (CPTED).
- i. *Mix of Activities.* Great Neighborhoods provide easy and convenient access to many of the destinations, activities, and local services that residents use on a daily basis.
- i. Neighborhood destinations including, but not limited to, neighborhood-serving commercial uses, schools, parks, and other community services, shall be provided in locations that are easily accessible to surrounding residential uses.
 - ii. Neighborhood-serving commercial uses are integrated into the built environment at a scale that is appropriate with the surrounding area.
 - iii. Neighborhoods are designed such that owning a vehicle can be optional.
- j. *Urban-Rural Interface.* Great Neighborhoods complement adjacent rural areas and transition between urban and rural uses.
- i. Buffers or transitions in the scale of uses, buildings, or lots shall be provided on urban lands adjacent to rural lands to ensure compatibility.
- k. *Housing for Diverse Incomes and Generations.* Great Neighborhoods provide housing opportunities for people and families with a wide range of incomes, and for people and families in all stages of life.
- i. A range of housing forms and types shall be provided and integrated into neighborhoods to provide for housing choice at different income levels and for different generations.
- l. *Housing Variety.* Great Neighborhoods have a variety of building forms and architectural variety to avoid monoculture design.

- i. Neighborhoods shall have several different housing types.
- ii. Similar housing types, when immediately adjacent to one another, shall provide variety in building form and design.
- m. *Unique and Integrated Design Elements.* Great Neighborhoods have unique features, designs, and focal points to create neighborhood character and identity. Neighborhoods shall be encouraged to have:
 - i. Environmentally friendly construction techniques, green infrastructure systems, and energy efficiency incorporated into the built environment.
 - ii. Opportunities for public art provided in private and public spaces.
 - iii. Neighborhood elements and features including, but not limited to, signs, benches, park shelters, street lights, bike racks, banners, landscaping, paved surfaces, and fences, with a consistent and integrated design that are unique to and define the neighborhood. (Ord. 5098 § 1 (Appx. E), 2020).

17.10.090 Development of areas less than 10 acres.

Lands less than 10 acres in size may be annexed into the city and rezoned into urban zones without the approval and adoption of a master plan. This may occur when the lands are designated for only residential use in the applicable area plan.

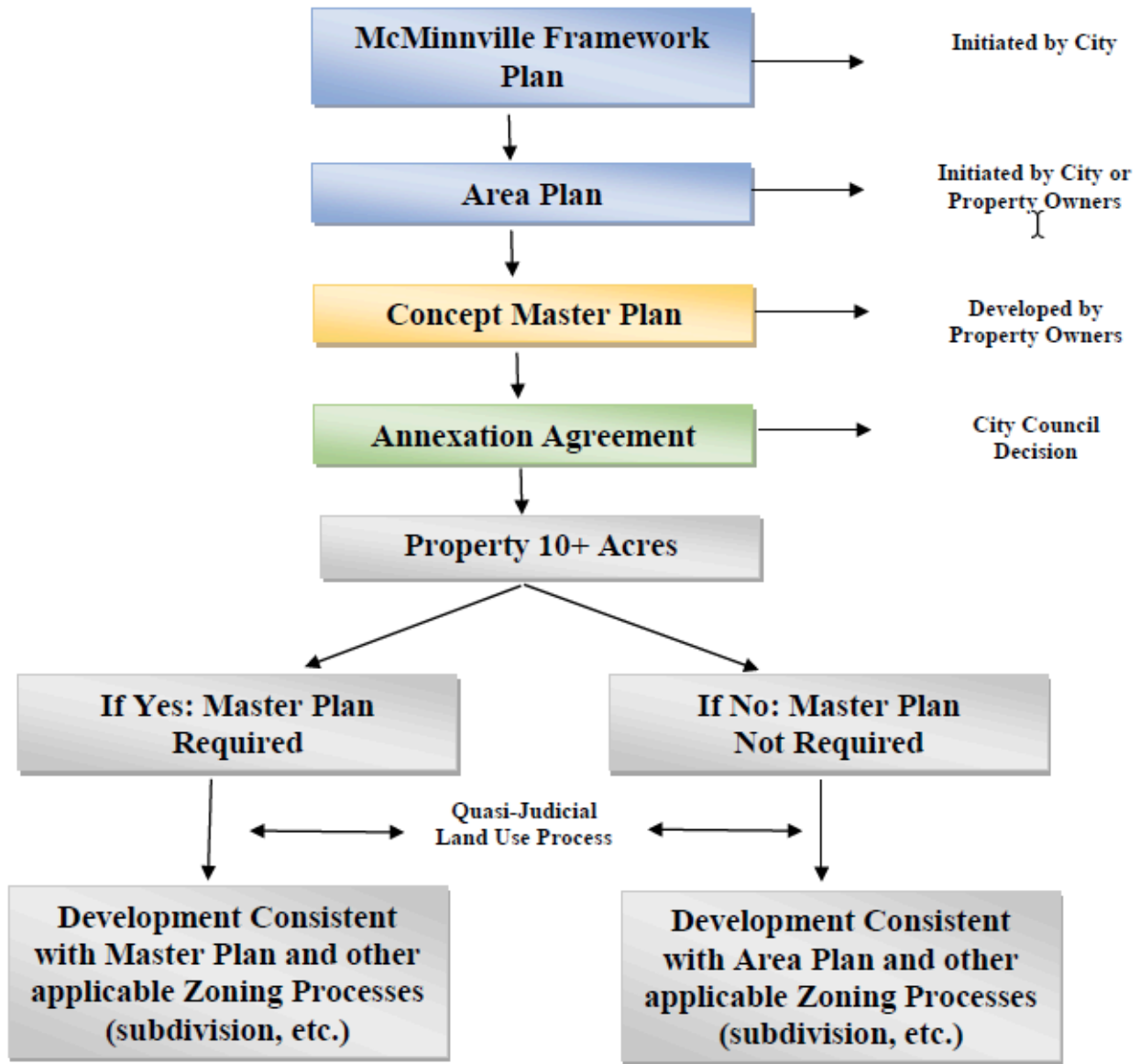
A. Following the annexation of lands that are less than 10 acres in size, the lands shall be subject to the comprehensive plan map amendment and zone change review processes described in Sections [17.72.120](#) and [17.74.020](#). Urban comprehensive plan map designations and urban zoning districts shall be requested for the lands, and the designations and zoning districts must be consistent with the land uses identified in the adopted area plan that is applicable to the land in question.

B. The development of lands less than 10 acres in size must:

1. Be consistent with the uses identified in the area plan applicable to the land in question;
2. Meet the city's adopted Great Neighborhood Principles;
3. Include a local street plan that complies with the applicable area plan, the McMinnville TSP, and other local street spacing and connectivity requirements; and
4. Be consistent with all other required policies and standards of the McMinnville Comprehensive Plan and Zoning Ordinance.

Summary Graphic of UGB Expansion Planning Process

Summary Graphic of UGB Expansion Planning Process:



(Ord. 5098 § 1 (Appx. E), 2020).

This website is for demonstration or proofing purposes only. It is not necessarily endorsed by City of McMinnville and should not be relied upon for the content of any document.

The McMinnville Municipal Code is current through Ordinance 5104, passed June 8, 2021.

Disclaimer: The city recorder's office has the official version of the McMinnville Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

Note: This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

[City Website: www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

City Telephone: (503) 435-5702

[Code Publishing Company](#)

After Recording Return To:

**City Recorder's Office
City of McMinnville
230 Second Street
McMinnville, OR 97128**

ANNEXATION AGREEMENT

This Annexation Agreement is made and entered into this ____ day of _____, _____, by and between the City of McMinnville, Oregon, an Oregon municipal corporation (hereinafter "City") and _____ (hereinafter "Owner").

WITNESSETH

WHEREAS, Owner is the record owner of the property legally described on Exhibit A attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

WHEREAS, the Property is within the City's urban growth boundary and is proposed to be annexed to the City; and

WHEREAS, Owner desires to have the Property annexed to the City; and

WHEREAS, Owner will submit a petition for annexation and provide the City with all required consents for annexation; and

WHEREAS, the City is willing to annex the Property on the terms and conditions, and subject to the provisions, of this Agreement; and

WHEREAS, Owner desires to submit a Concept Master Plan application per Section 17.10 of the McMinnville Municipal Code and the City is willing to accept, process, and conditionally approve a Concept Master Plan application that meets the requirements of Section 17.10 of the McMinnville Municipal Code prior to the annexation and rezoning of the Property subject to the terms of this Agreement, and

WHEREAS, the City and Owner desire to enter into this Agreement to regulate the annexation, zoning, use and development of the Property; and

WHEREAS, should a property owner who chooses not to execute the Annexation Agreement, refuses to grant a right-of-way and/or easement across his or her property in accordance with the City's Public Facilities Plans, the City may institute condemnation proceedings to effectuate such right-of-way and/or easement, or modify the Public Facilities Plans to bypass the property, in order to accommodate the orderly construction of the public infrastructure; and

WHEREAS, Council will consider this annexation on _____, 2021 and this agreement is part of the annexation.

NOW, THEREFORE, in consideration of the representations, promises and mutual covenants contained herein, the City and Owner agree as follows:

1. RECITALS: The foregoing recitals are incorporated herein as is fully set forth in this Section.

2. ANNEXATION
 - a. City agrees that it will initiate an ordinance annexing the Property into the City once all required consents and signed Annexation Agreements have been received by the City and fully executed.

 - b. Owner may terminate this Agreement by serving written notice to the City no less than 60 days prior to the effective date of the termination. The notice must be received by the City at least 60 days prior to the public hearings for council consideration of the annexation. If the City receives such notice, this Agreement terminates as of the effective date of the notice. After the annexation resolution is adopted by the City, this Agreement may only be terminated by written consent of Owner and City.

3. COMPREHENSIVE PLAN/ZONING: At the time of annexation, the City will apply the Comprehensive Plan designations for the Property as identified in the adopted _____ Area Plan, "Area Plan", per Exhibit B, and the city zoning identified in the approved Final Master Plan.

4. DEVELOPMENT: Owner agrees as follows:
- a. Owner shall waive and shall not assert any claim against the City that may now exist or that may accrue through the date of annexation of the Property. This includes any claim arising out of this agreement, any land use regulation, or under Measure 37 (ORS 197.352), Measure 49, and Measure 56 (ORS 227.186).
 - b. Owner shall obtain approval of a Concept Master Plan per Section 17.10 of the McMinnville Municipal Code concurrent with approval of this Annexation Agreement. The City will not execute this Agreement until the Concept Master Plan is approved by the City Council.
 - c. Owner shall obtain approval of a Final Master Plan per Section 17.10 of the McMinnville Municipal Code prior to or concurrent with the Annexation Ordinance for this Property.
 - d. Owner agrees that any development of the property will comply with the applicable approved Area Plan and will incorporate and follow the City's Great Neighborhood Principles (attached as Exhibit C) as applicable. The City Manager or City Manager designee, or Hearings Body shall determine the applicability of the Great Neighborhood Principles to the subject property as necessary.
 - e. Owner agrees that it will, without any cost to the City, dedicate the necessary rights-of-way or easements for all Planned Improvements identified in the City's Public Facilities Plan, prior to annexation. The Public Facilities Plan includes the updated Wastewater and Water Master Plans, Transportation System Plan and Parks and Recreation Master Plan. If such Public Facilities Plan have not yet been adopted for the urban growth boundary, the Owner agrees that it will, without any cost to the City, dedicate the necessary rights-of-way or easements for all Planned Improvements identified in the adopted _____ Area Plan. (Attached as Exhibit D).
 - f. Owner agrees to donate funds to the McMinnville School District as specified in Exhibit E. The donation is in addition to any amounts identified by a school district under chapter 829, Oregon Laws 2007.
 - g. Owner shall be required/encouraged to construct an appropriate mix of housing as demonstrated by the adopted _____ Area Plan in order to respond to community housing needs. Furthermore, the City

will require/encourage Owner to create dedicated affordable housing for low and moderate income households by

- Allocating X% of all housing units to housing serving households of 80% Area Median Income or less. These housing units shall be deed restricted for _____ years to serve this household income demographic and will be monitored by _____ for compliance.
 - Donating X% of Property to _____ Community Land Trust for the development of affordable housing serving households of 80% Area Median Income or less.
- h. Water Rights. Owner shall remove all irrigation water rights from Property. Removal shall occur prior to the platting of the first phase of development. Alternate methods of removal will require approval of the Director of Public Works.
- i. City will accept and review development plans under anticipated zoning and proposed Public Facilities Plan. However the City will not issue any building permits for the Property until after the City has applied zoning and adopted a revised Public Facilities Plan and System Development Charges. This includes resolution of all appeals relating to provide transportation, water, wastewater and park facilities to serve the Property. Notwithstanding ORS 227.178 (3), Owner agrees that development applications for the property will be reviewed under the updated Public Facilities plan and System Development Charges.
- j. City will issue necessary permits to allow construction of necessary public facilities to serve the Property in advance of adoption of Public Facility Plans provided the developer assumes all risks and indemnifies the City from any claims arising out of the construction. This includes the risk that the City, through a public process, may zone the Property in a manner different than anticipated by Owner.
- k. Owner agrees to not remonstrate against the formation of a local improvement district or reimbursement district created for the purpose of funding public improvements that serve the Property.
5. AMENDMENT: This Agreement and any exhibits attached hereto may be amended only by the mutual written consent of both parties.

6. **SEVERABILITY:** If any provision, covenant or portion of this Agreement or its application to any person, entity, property or portion of property is held invalid, or if any ordinance or resolution adopted pursuant to this Agreement or its application to any person, entity, property or portion of property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement or other ordinances or resolutions passed pursuant hereto, and to that end, all provisions, covenants, and portions of this Agreement and of the ordinances and resolutions adopted pursuant hereto are declared to be severable.
7. **NO WAIVER OF RIGHT TO ENFORCE AGREEMENT:** Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
8. **ENTIRE AGREEMENT:** This Agreement supersedes all prior agreements, negotiations and exhibits and is a full integration of the entire agreement of the parties relating to the subject matter hereof. The parties shall have no obligations other than specifically stated in this Agreement except those of general applicability.
9. **SURVIVAL:** The provisions contained in this Agreement shall survive the annexation of the property and shall not be merged or expunged by the annexation of the property or any part thereof to the City.
10. **SUCCESSORS AND ASSIGNS:** This Agreement shall run with the land described on Exhibit F and inure to the benefit of, and be binding upon, the successors in title of the Owners and their respective successors, grantees, lessees, and assigns, and upon successor corporate authorities of the City and successor municipalities.
11. **TERM OF AGREEMENT:** This Agreement shall be binding upon the parties and their respective successors and assigns for the full statutory term of twenty (20) years, commencing as of the date of this Agreement.

12. **ENFORCEMENT:** Owner agrees that if it fails to perform as required under this Agreement, the City Council may, at the City Council's option, refuse to process any development application submitted for the property or include as conditions of approval any requirement of this Agreement. Owner hereby waives any claim regarding such conditions of approval, whether to LUBA or to any state or federal court.
13. **ATTORNEY FEES:** In any proceeding to enforce, apply or interpret this Agreement, each party shall bear its own attorneys' fees and costs.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the date first above written.

CITY

OWNER

Jeff Towery, City Manager

ATTEST:

Claudia Cisneros, City Recorder

STATE OF OREGON)
) ss.
County of Yamhill)

This instrument was acknowledged before me this ____ day of ____
_, __ by Jeff Towery, City Manager, on behalf of the City of McMinnville, who
acknowledged that he had authority to sign on behalf of the City of
McMinnville and this instrument to be the City's voluntary act and deed.

Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Yamhill)

This instrument was acknowledged before me this ____ day of _____
_, __ by _____, who
acknowledged this instrument to be his/her voluntary act and deed.

Notary Public for Oregon



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

www.mcminnvilleoregon.gov

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE –

Chapter 16 will be replaced in its entirety with the following language.

**TITLE 16
ANNEXATION**

Chapters:

16.10 General Provisions

16.20 Annexation Initiation

16.30 Properties Subject to MMC 17.10.060

16.40 Properties Not Subject to MMC 17.10.060

CHAPTER 16.10 General Provisions

Sections.

- 16.10.010 Purpose**
- 16.10.020 Definitions**
- 16.10.030 Applicability**
- 16.10.040 Annexation Approval**
- 16.10.050 Zoning of Annexed Areas**
- 16.10.060 Effective Date and Notice of Approved Annexation**

16.10.010 Purpose

This Chapter is intended to establish procedures and criteria for annexation under the provisions of the Oregon Revised Statutes including, but not limited to, Chapter 222. This Chapter aims to achieve orderly and efficient annexation of land to the City that will result in providing a complete range of public services and public facilities for the annexed territory and to ensure consistency with the McMinnville Comprehensive Plan. The City recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services, including, but not limited to, such as sanitary sewer, water, stormwater, roads, and parks.

The process for annexing property is divided into two routes. The first route is provided in Chapter 16.20 herein and applies to properties that are subject to Chapter 17.10. The second route is provided in Chapter 16.30 herein and applies to properties that are 10 acres or less that are not subject to Chapter 17.10.

Cross reference: See ORS 222.855 for annexation to abate a public danger. Also, see ORS 222.111 for annexation eligibility and ORS 222.010 – 222.750 for annexation procedures.

16.010.020 Definitions

Annexation – The process by which a municipality, upon meeting certain requirements, expands its corporate limits.

Annexation Agreement – The written agreement between the City and owners of land requesting annexation that states the terms, conditions and obligations of the parties to extend public facilities and public services and mitigate public facility and public service impacts to the City associated with the annexation and future development of the property. The agreement is also used to ensure that the annexation is consistent with the McMinnville Comprehensive Plan and that the resulting development meets the community’s identified needs.

16.10.030 Applicability

The following conditions must be met prior to or concurrent with City processing of any annexation request:

- A. The subject site must be located within the McMinnville urban growth boundary.
- B. The subject site must be contiguous to the existing City limits.

16.10.040 Annexation Approval

- A. City Council approval of annexation applications shall be by ordinance.
- B. If an annexation is initiated by property owners representing less than 100 percent of all owners of property to be annexed, after holding a public hearing and if the City Council approves the proposed annexation, the City Council shall call for an election within the territory to be annexed. Otherwise no election on a proposed annexation is required.

16.10.050 Zoning of Annexed Areas

The McMinnville Comprehensive Plan Map provides for comprehensive plan designations on all land within the City’s urban growth boundary. Land that is currently designated as a Urban Holding comprehensive plan designation need to undergo an Area Planning process per Section 17.10.010 – 17.10.050 of the McMinnville Municipal Code and at the time of annexation a new comprehensive plan designation will be applied to the subject property that will identify the future City zoning classifications of that property.

16.10.060 Effective Date and Notice of Approved Annexation

A. The effective date of an approved annexation must be set in accordance with ORS 222.040 or 222.180.

B. Notice of Approved Annexation:

1. Not later than 10 working days after the passage of an ordinance approving an annexation, the City Manager or designee will:

- a. Send by certified mail a notice to public utilities (as defined in ORS 757.005), electric cooperatives and telecommunications carriers (as defined in ORS 133.721) operating within the City.
- b. Mail a notice of the annexation to the Secretary of State, Department of Revenue, Yamhill County Clerk, Yamhill County Assessor, affected districts, and owners and electors in the annexed territory. The notice must include:
 - i. A copy of the ordinance approving the annexation;
 - ii. A legal description and map of the annexed territory;
 - iii. The findings, if applicable; and
 - iv. Each site address to be annexed as recorded on Yamhill County assessment and taxation rolls.
- c. The notice to the Secretary of State will also include a copy of the statement of consent as required in Section 17.68.030, Annexation Initiation.

2. If the effective date of an annexation is more than one year after the City Council passes the ordinance approving it, the City Manager or designee will mail a notice of the annexation to the Yamhill County Clerk not sooner than 120 days and not later than 90 days prior to the effective date of the annexation.

CHAPTER 16.20
Annexation Initiation

Sections.

16.20.010 Annexation Initiation

16.20.020 Annexation Application

16.20.010 Annexation Initiation

An annexation application may be initiated by City Council resolution, or by written consents from electors and/or property owners as provided below.

16.20.020 Annexation Application

An annexation application shall include the following:

- A. A list of owners, including partial holders of owner interest, within the affected territory, indicating for each owner:
 - 1. The affected tax lots, including the township, section and range numbers;
 - 2. The street or site addresses within the affected territory as shown in the Yamhill County Records;
 - 3. A list of all eligible electors registered at an address within the affected territory; and
 - 4. Signed petitions as may be required in Subsection B below.

- B. Written consents on City-approved petition forms that are:
 - 1. Completed and signed, in accordance with ORS 222.125, by:
 - a. All of the owners within the affected territory; and
 - b. Not less than 50 percent of the eligible electors, if any, registered within the affected territory; or

 - 2. Completed and signed, in accordance with ORS 222.170, by:
 - a. More than half the owners of land in the territory, who also own more than half the land in the contiguous territory and of real property therein representing more than half the assessed value of all real property in the contiguous territory (ORS 222.170(1)); or

- b. A majority of the electors registered in the territory proposed to be annexed and a majority of the owners of more than half the land (ORS 222.170(2)).
- 3. Publicly owned rights-of-way may be added to annexations initiated by these two methods with consent(s) from the property owner(s).
- C. In lieu of a petition form described in Subsection B above, an owner's consent may be indicated on a previously executed Consent to Annex form that has not yet expired as specified in ORS 222.173.
- D. Verification of Property Owners form signed by the Yamhill County Assessor/Tax Collector Department.
- E. A Certificate of Electors form signed by the Yamhill County Clerk and Elections Department.
- F. An ORS 195.305 waiver form signed by each owner within the affected territory.
- G. A waiver form signed by each owner within the affected territory as allowed by ORS 222.173.
- H. A legal description of the affected territory proposed for annexation consistent with ORS 308.225 that will include contiguous or adjacent right-of-way to ensure contiguity as required by ORS 222.111.
- I. A map stamped by a licensed surveyor that is to scale and highlights the affected territory and its relationship to the city limits.
- J. A list of the districts currently providing services to the affected territory.
- K. An adequate level of urban services must be available, or made available, within three (3) years of annexation. An adequate level of urban services is defined as:
 - 1. Municipal sanitary sewer and water service meeting the requirements enumerated in the McMinnville Comprehensive Plan for provision of these services. The sanitary sewer service overall will be considered

adequate if the municipal operations are in accordance with federal and state regulations, permits, and orders.

2. Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the City will note requirements such as dedication of rights-of-way and easements, waivers of remonstrance against assessment for road improvement costs, and/or participation in other transportation improvement costs, for application at the appropriate level of the planning process. The City will also consider public costs of the improvements.
 3. Documentation of the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.
- L. A written narrative addressing the proposal's consistency with the approval criteria specified in Chapter 16.30, if applicable.
- M. A fee as established by Council resolution.
- N. If applicable, a draft annexation agreement to be approved by Council pursuant to Section 16.30.030 herein and a concept master plan as required in MMC Chapter 17.10.060 *et seq* to be approved by Council.

CHAPTER 16.30
Properties Subject to MMC 17.10.060

Sections.

- 16.30.010 Applicability**
- 16.30.020 Area Planning and Master Planning**
- 16.30.030 Annexation Agreement**
- 16.30.040 Review Process**

16.30.010 Applicability.

This Chapter applies to all properties that are subject to MMC 17.10.060.

16.30.020 Area Planning and Master Planning.

Properties in areas that the City has determined are subject to area planning as provided in Chapter 17.10 and in other adopted plans, such as the McMinnville Growth Management and Urbanization Plan, must have an approved area plan and master plan, as provided in Chapter 17.10, and have an annexation agreement to be annexed into the City.

16.30.030 Annexation Agreement.

Properties subject to this Chapter 16.30 must enter into an annexation agreement with the City. The City Council may adopt by resolution an annexation agreement with the owner(s) of property that is proposed for annexation to the City, and such agreement may include an agreement to annex at a future date. The annexation agreement shall address, at a minimum, connection to and extension of public facilities and services and compliance with the McMinnville Comprehensive Plan, approved applicable area plan, and concept master plan (*see* MMC 17.10). Connection to public facilities and services shall be at the discretion of the City, unless otherwise required by the Oregon Revised Statutes. Where public facilities and services are available and can be extended, the applicant shall be required to do so. The annexation agreement can also have additional requirements for annexation into the city at the discretion of the City Council that responds to the overall future growth and development needs of the community.

16.30.040 Review Process.

- A. Annexation Application Submittal. Concurrent with submittal of a concept master plan pursuant to Sections 17.10.060 – 17.10.080, the applicant must submit an annexation application consistent with the requirements of Section 16.20.020 that includes the annexation agreement. The application will be reviewed for completeness as provided in Section 17.72.040.
- B. The property owner will sign an annexation agreement to be considered for approval by the City Council either concurrently with or prior to the annexation application.
- C. The City Council will undertake a legislative review process to determine whether to approve the annexation. The burden is on the applicant to prove compliance with the requirements of this Title and to provide applicable findings.
- D. The City Council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in subsection (b) of this section, but where annexation is needed to address a health hazard, to annex an island, to address sanitary sewer, stormwater, or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the city council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available

CHAPTER 16.40
Properties Not Subject to MMC 17.10.060

Sections.

- 16.40.010 Applicability**
- 16.40.020 Review Process**
- 16.40.030 Quasi-Judicial Annexation Criteria**
- 16.40.040 Annexation of Non-Conforming Uses**

16.40.010 Applicability.

This Chapter applies to all properties that are not subject to MMC 17.10.060.

16.40.020 Review Process.

- A. Annexation Application Submittal. The applicant must submit an annexation application consistent with the requirements of Section 16.20.020 along with the applicable development application and related plan (*see* MMC 17.53 and 17.72). The application will be reviewed for completeness as provided in Section 17.72.040.
- B. Consideration of Annexation Application. Annexation applications will be reviewed and considered pursuant to McMinnville Chapter 17.72, as it applies to quasi-judicial proceedings, except the criteria to be considered by the Planning Commission and the City Council are provided in Section 16.40.030 herein.

16.40.030 Quasi-Judicial Annexation Criteria.

The following criteria shall apply to all quasi-judicial annexation requests:

- A. The proposed use for the site complies with the McMinnville Comprehensive Plan and with the designation on the McMinnville Comprehensive Plan Map. If a redesignation of the Comprehensive Plan Map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the McMinnville Comprehensive Plan and any applicable Area Plan.

- B. The application complies with the requirements of Section 16.20.020 and provides the necessary findings, including, but not limited to, findings related to adequate urban services.
- C. The burden is on the applicant to prove compliance with the requirements of this Title and to provide applicable findings.
- D. The city council may annex properties where urban services are not and cannot practically be made available within the three-year time frame noted in subsection (B) of this section, but where annexation is needed to address a health hazard, to annex an island, to address sanitary sewer, stormwater, or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the city council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

16.40.040 Annexation of Non-Conforming Uses

- A. Generally. When a nonconforming use is annexed into the city, the applicant shall provide, in the annexation application, a schedule for the removal of the nonconforming use. At time of approval of the annexation, the city council may add conditions to ensure the removal of the nonconforming use during a reasonable time period. The time period may not exceed 10 years.
- B. Exception. A legal nonconforming residential structure is allowed to remain indefinitely. Notwithstanding the foregoing, a proposed changes to an existing residential structure will be subject to Chapter 17.63.



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

www.mcminnvilleoregon.gov

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 17.06 DEFINITIONS

~~**Annexation**—An extension of the boundary of the City which involves a land use process that evaluates if a property meets the criteria for incorporation into the City limits and a vote by the electorate of McMinnville.~~

Chapter 17.09 ZONE CLASSIFICATIONS BOUNDARIES AND MAPS

~~17.09.050 Annexed areas. If a property is annexed into the City and does not concurrently apply for and obtain urban comprehensive plan designations and urban zone designations, it shall be placed in the urban holding zone and will not be allowed any building permits until the zone is changed to a developable city zone through the procedures set forth in Chapter 17.72 (Applications and Review Process) of this title. An unzoned area annexed to the City shall be placed in the R-1 zone. A County zoned area annexed to the City shall remain in the County zone classification and shall not be allowed any building permits until the zone is changed to a city zone through the procedures set forth in Chapter 17.72 (Applications and Review Process) of this title.~~ Simultaneous application for annexation and a zone change is allowed provided that the zone change ordinance does not take effect until and unless the property is properly annexed to the City and incorporated within the city limits. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

Chapter 17.72 APPLICATIONS AND REVIEW PROCESS

~~17.72.080 Legislative or Quasi-Judicial Hearings. The applications listed in this Chapter are either legislative or quasi-judicial in nature and are subject to a public hearing before the Planning Commission or City Council.~~

- A. A requested amendment to the text of the zoning ordinance or comprehensive plan would call for a legislative-type hearing, the purpose of which is to obtain public input primarily on matters of policy. A legislative amendment may be initiated by the City Council, the Planning Commission or by the Citizens' Advisory Committee. Any other citizen may petition the City Council requesting them to initiate a text amendment.
- B. An application that is site specific (such as a zone change ~~or annexation request~~) would call for a quasi-judicial hearing. The decisions made as a result of such hearings must be based upon testimony submitted and supported by Findings of Fact. An amendment that is site specific may be initiated by the City Council, the Planning Commission, the Citizens' Advisory Committee or by application of the property owner.

17.72.090 Application Review Summary Table. The following table offers an overview of land use applications and corresponding review body. Additional information regarding the notification and approval criteria for specific land use applications can be found by referring to the procedural reference section in the right-hand column of the table. Information regarding the hearing body and the hearing procedure can be found in this chapter. (Ord. 5047, §2, 2018, Ord. 5034 §2, 2017; Ord. 4984 §1, 2014).

Review Process	Land Use Application	Zoning Ordinance Reference
Applications Public Hearing- Planning Commission	Annexations* **	Ord. No. 4357
	Appeal of Director's Decision	17.72.170
	Application (Director's Decision) for which a Public Hearing is Requested	17.72.120
	Comprehensive Plan Map or Text Amendment*	17.74.020
	Conditional Use Permit	17.74.030-060
	Legislative Amendment	17.72.120
	Master Plan	17.10
	Planned Development Amendment*	17.74.070
	Legislative Amendment *	17.72.120
	Subdivision (more than 10 lots)	17.53.070
	Variance	17.74.100-130
	Zone Change*	17.74.020

* Following Public Hearing, Planning Commission makes recommendation to City Council

~~** Following City Council recommendation, Annexation requests are subject to voter approval~~

17.72.160 Effective Date of Decision. Unless an appeal is filed, a decision made by the Planning Director or the Planning Commission shall become final fifteen (15) calendar days from the date that the notice of the decision is mailed. Unless an appeal is filed, a decision made by the City Council shall become final 21 (twenty-one) days from the date that the notice of decision is mailed. ~~Annexation requests are subject to voter approval following the City Council's decision.~~

ORDINANCE NO. XXXX

AN ORDINANCE DECLARING CERTAIN TERRITORY AS BEING ANNEXED TO AND INCORPORATED WITHIN THE CITY OF MCMINNVILLE, SETTING THE COMPREHENSIVE PLAN DESIGNATIONS AND URBAN ZONES.

WHEREAS, the real property described in Exhibit "A" attached hereto and incorporated by reference is contiguous to the City of McMinnville; and

WHEREAS, all owners of the territory described in Exhibit "A" have consented in writing to the annexation of the land described in Exhibit "A" into the City of McMinnville; and

WHEREAS, there are no electors residing on the property described in Exhibit "A"; and

WHEREAS, an application has been submitted to the City of McMinnville for the annexation of the property described in Exhibit "A"; and

WHEREAS, the City Council finds that this annexation complies with the McMinnville Comprehensive Plan and Chapter 16 of the McMinnville Municipal Code; and

WHEREAS, the City Council finds that this Docket X-XX has been approved by Ordinance No. XX thereby approving a master plan for this property that is compliant with _____ Area Plan and Chapter 17.10 of the McMinnville Municipal Code; and

WHEREAS, the City Council finds that the property owner has complied with all of the covenants and requirements of Annexation Agreement X; and

WHEREAS, the City Council finds that this annexation is in the best interest of the City and of said territory described in Exhibit "A".

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

SECTION 1: Annexation Area: The real property described in Exhibit "A" to this ordinance is hereby proclaimed to be annexed to the City of McMinnville, Oregon.

SECTION 2: Record: The City Recorder shall submit to the Secretary of State of the State of Oregon a copy of this ordinance together with a copy of the statement of consent of the land owners of the property described in Exhibit "A".

The City Recorder shall also send a description by metes and bounds or legal subdivision of the new boundaries of the City of McMinnville to the Yamhill County Tax Assessor and the Yamhill County Clerk within 10 days of the date of this ordinance.

SECTION 3: TAKES EFFECT: That this ordinance shall take effect thirty (30) days after its passage by the City Council.

Passed by the Council this _____ day of _____,
_____ by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

CITY RECORDER

CITY ATTORNEY

From: [Amanda Guile-Hinman](mailto:Amanda.Guile-Hinman@startlivingthetruth.com)
To: mark@startlivingthetruth.com
Cc: [Heather Richards](mailto:Heather.Richards@startlivingthetruth.com)
Subject: RE: Change in Annexation Process
Date: Thursday, August 5, 2021 12:34:07 PM
Attachments: [Chapter 17.10 MMC.pdf](#)

Hi Mark,

I've attached the Code language regarding Area Plans and Master Plans for your reference, as well as a link to Appendix G from the McMinnville Growth Management and Urbanization Plan, which explains area planning and master planning processes that are now in the City Code, and which this process is further implementing. https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/19961/appendix_g_-_framework_plan_final_12.8.2020.pdf

As far as the annexation approval process, nothing is changing to the process to annex other than addressing the change codified in ORS 222.127. In other words, the applicant(s) must still fill out an application, which must be considered by Council. If the applicant(s) own all the property to be annexed, the only difference is that after Council approval, it cannot go to a vote. Similarly, the development approval process for construction on the property has not changed. What the City has done is include additional processes earlier in the planning for development to ensure that development is consistent with the community's vision of McMinnville and addresses the necessary infrastructure, parks, schools, and other community needs that are needed for new growth in McMinnville.

When the City went through its UGB amendment, the City wanted to ensure that the City properly planned for new development in the areas designated as Urban Holding by requiring area plans for large swaths of land, rather than looking at each parcel individually. That way, issues such as infrastructure, preservation, parks, density, etc. can be planned more intentionally and strategically. In the MGMUP, the City identified 6 areas to undergo an area planning process. Area plans are legislative decisions to be made by the City Council after a community engagement process. Area plans, as explained in Appendix G, "must embody the development principles of the MGMUP and other City land use policies and standards." Area planning is generally initiated by the City, will go through a public engagement process, and will be approved by the City Council. It is not an administrative process. All land that has an Urban Holding designation will be subject to an area plan.

Master plans are required for annexation into the City for any properties that are 10 acres or larger that are currently designated Urban Holding in the City's Comprehensive Plan Map. The property owner will develop a concept master plan that must address all the submittal requirements listed in the City Code and be compliant with the related area plan and the Comprehensive Plan. The concept master plan will initially be approved by the City Council along with an annexation agreement through resolution. Again, this is not an administrative process.

The final master plan must go through a quasi-judicial review process before the Planning Commission and City Council, as outlined in the City Code. Like the concept master plan, it must comply with the area plan and the Comprehensive Plan, in addition to meeting all the submittal requirements in the City Code.

If a property is less than 10 acres, or does not have an Urban Holding designation, then it goes through the standard development approval processes, including a quasi-judicial land use approval process, but is not required to have an area plan or master plan.

This new area planning/master planning process ensures that development of the new Urban Holding areas occur within the context of the larger area and the community as a whole. Both Heather and I have extensive experience with this approach and have personally seen that it better addresses issues such as traffic, water/sewer/stormwater infrastructure, park lands, preservation of natural resources, and more when the community is able to have a say from the very beginning stages of planning for what it wants to see with new development and also means that developers cannot just look at their one property when planning out their development.

Heather may have more to add, but I hope this clarification addresses your concerns.

Amanda Guile-Hinman (she/her)
City Attorney
amanda.guile@mcminnvilleoregon.gov
(503) 434-7303

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-----Original Message-----

From: Mark Davis <mark@startlivingthetruth.com>
Sent: Sunday, August 1, 2021 9:26 PM
To: Heather Richards <Heather.Richards@mcminnvilleoregon.gov>; Amanda Guile-Hinman <Amanda.Guile@mcminnvilleoregon.gov>
Subject: Change in Annexation Process

This message originated outside of the City of McMinnville.

Heather and Amanda:

Thank you for taking the time to reply to my letter to the City Council about the annexation process. I have listened again to both Heather's presentation at the Work Session and Amanda's clarification at the last City Council meeting, and I'm sorry but I don't see how this results in "significantly more public input than previously allowed."

One of the slides in Heather's PowerPoint presentation states: "Amend Chapter 17 to remove any references to annexation processes and procedures making them administrative and not quasi-judicial." From the presentation it seems clear that the Area Plan, Concept Master Plan and Annexation Agreement are administrative processes managed by Planning staff and subject to approval by City Council. I heard no indication that these overarching decisions of what land get annexed and to what purposes it will be dedicated are subject to any land use hearings (and by extension the right of citizen appeal).

It appears to me that the only point in this process where the public will be allowed to have input and a right to appeal the decision is the hearing for a Master Plan required of properties in excess of 10 acres. While I think this type of citizen participation is still important in reviewing the development plans, I think the hearings will be similar to what we heard about in Baker Creek North and Oak Ridge Meadows. Hopefully, these proposed hearings will be even less contentious since the Great Neighborhood Principles should improve the overall Master Plan that the developers present to the public.

Still, the larger questions about the annexations like infrastructure capacity, green space and park land, housing affordability, and the general layout of the development will all have been settled when the Annexation Agreement has been signed and the public will have no opportunity to address these issues.

I understand the proposed changes will be the subject of an upcoming Planning Commission hearing and I intend to raise these points at that time. If I am incorrect in my understanding that the Area Plan and Annexation Agreement

are administrative actions not subject to quasi-judicial hearings, I would appreciate you clarifying that point.

Just to be clear in making these points I do not intend to question your professional qualifications or personal integrity. I believe in the constitutional principle of checks and balances and Goal One of the State's Land Use System. As City staff and Council members change over the years, I believe allowing the citizens' right to testify and appeal important decisions helps ensure the integrity of the land use system.

Mark Davis

Mark Davis
652 SE Washington Street
McMinnville, OR 97128

July 25, 2021

McMinnville City Council
230 NE Second Street
McMinnville, OR 97128

Dear Mayor Hill and Members of the Council:

The Council's decision at the July 21st work session to move forward with a new annexation process was disappointing on several levels. Most obviously, you made that decision in a closed session that did not allow anyone from the public to comment. Not that the public could have commented about the documents under discussion anyway, since they were provided to the Council the day before work session but not made available to the public until the day after you met.

I realize you can hold that legal fig leaf in front of yourselves and righteously say you haven't made a legally binding decision so you don't have to invite the public to address you. But from a psychological perspective you have committed to very specific results from this process and such prior commitments are very hard to change even if compelling information is later provided at the required public hearing.

Despite Goal One declarations about the importance of public participation, it is hard for individual citizens who lack professional standing to be taken seriously during the formal land use hearing process. The proposal you agreed to on Wednesday evening removes even that citizen's right to be heard by turning annexation requests from land use hearings into administrative matters settled in private by staff and rubber-stamped by the Council.

The State Legislature removed our right to vote on annexations. The City Council is now proposing to take away our right to even testify about specific elements of annexation proposals and appeal misapplications of the law to the Land Use Board of Appeals (LUBA). Yes, that does happen. In 1996 I appealed approval of a city annexation to LUBA based on inadequate public infrastructure, a decision that was ultimately remanded to the city.

At the heart of the discussion about how to handle annexations is a basic philosophy of how government makes important decisions that impact the entire community. One method is to allow appointed bureaucrats with professional expertise to make those decisions subject to approval of the governing body; at the other end of the political spectrum is permitting the public to vote on those decisions.

Given our 20-year experiment with voting on annexations, I think it is instructive to look at what happened in the community before and after the implementation of voting on

annexations in the mid-90s. The early 90s was a period of rapid growth that overwhelmed our aging public infrastructure. Long-time residents complained bitterly about the increase in traffic, and the main sewer line from the west side of town was broken and leaking directly into Cozine Creek near Linfield, a situation exacerbated whenever it rained and stormwater leaked into the sewer system overwhelming its capacity.

Citizens including myself repeatedly asked the Council and Planning staff to slow the annexation process down to allow for infrastructure improvements to handle future growth. The response varied between claiming there was nothing they could do (land use law forced them to keep annexing more property) and claiming all this growth was really good for the community.

This response led directly to the voter approval of the charter amendment to require a vote on annexations. To my recollection the only annexation ever defeated at the ballot box was the proposed 172-acre Shadden Claim annexation. All other annexation votes for smaller additions to the UGB were approved, including later attempts by other developers to bring smaller chunks of the Shadden Claim property into the city limits.

Voters clearly had a vision of slow, steady growth of the community in line with our capacity to support that growth. Supporters of the defeated Shadden Claim proposal lamented the loss of the huge planned subdivision, but the developer insisted on developing it out within 5 years which would have had a dramatic impact on population which was already surging.

All this was taking place during the initial planning for a new UGB expansion that used a population projection growth rate of 3 percent. Had this vision of Shadden Claim and continued rapid population growth been realized we would have had a population of 45,000 in 2020 and be heading for 85,000 residents in 2040. Voting on annexations slowed things down so we could get the sewer infrastructure updated and new roads constructed. I personally believe that the community benefited greatly from the gentle braking that annexation votes put on what was becoming runaway growth.

That is not to say the proposal you considered on Wednesday night was without merit. I like the idea of annexations not being the automatic process that they have been. Property owners entering the city limits are being granted access to city infrastructure and services worth millions of dollars. They should be asked set aside land for parks and affordable housing. The current system puts them in the city with a few minor fees and reduced system development charges and then the expectation is that the existing taxpayers will pay the difference.

I think we currently have a good, dedicated Planning Director. I also think we have conscientious, public-spirited City Council. Having watched people come and go over the past few decades, I don't believe public policy should be based on assuming both of those things are always going to be true. However you decide to proceed with annexations, I think you should provide some ability for the public to inspect the details

of the process and maintain the right of public to appeal to LUBA those decisions lacking in legality.

I would also request that when the Council is going to look at draft planning documents and make decisions about whether they are acceptable or not that you provide them for the public to look at and allow the public the opportunity to comment on them. Work sessions are being used to avoid your Goal One responsibilities.

Thank you for considering my viewpoint on these matters.

Sincerely,

//S//

Mark Davis