

EXHIBIT 4 – STAFF REPORT

DATE: September 16, 2021
TO: McMinnville Planning Commission
FROM: Heather Richards, Planning Director
SUBJECT: G 3-21, Annexations

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 public hearing to consider proposed amendments to the McMinnville Comprehensive Plan, Volume II, Goals and Policies, Chapter IX, "Urbanization", and the McMinnville Municipal Code, Title 16 and Title 17 establishing amended 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. (Docket 3-21).

Background:

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

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 during a 20-year planning period to accommodate growth. Annexation is the process for lands within the UGB to become part of the city limits, and thus developed to an urban intensity in

compliance with the city’s comprehensive plan. Lands within the UGB may be considered for annexation into the city limits consistent with ORS 222 and local ordinances. 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.

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.)

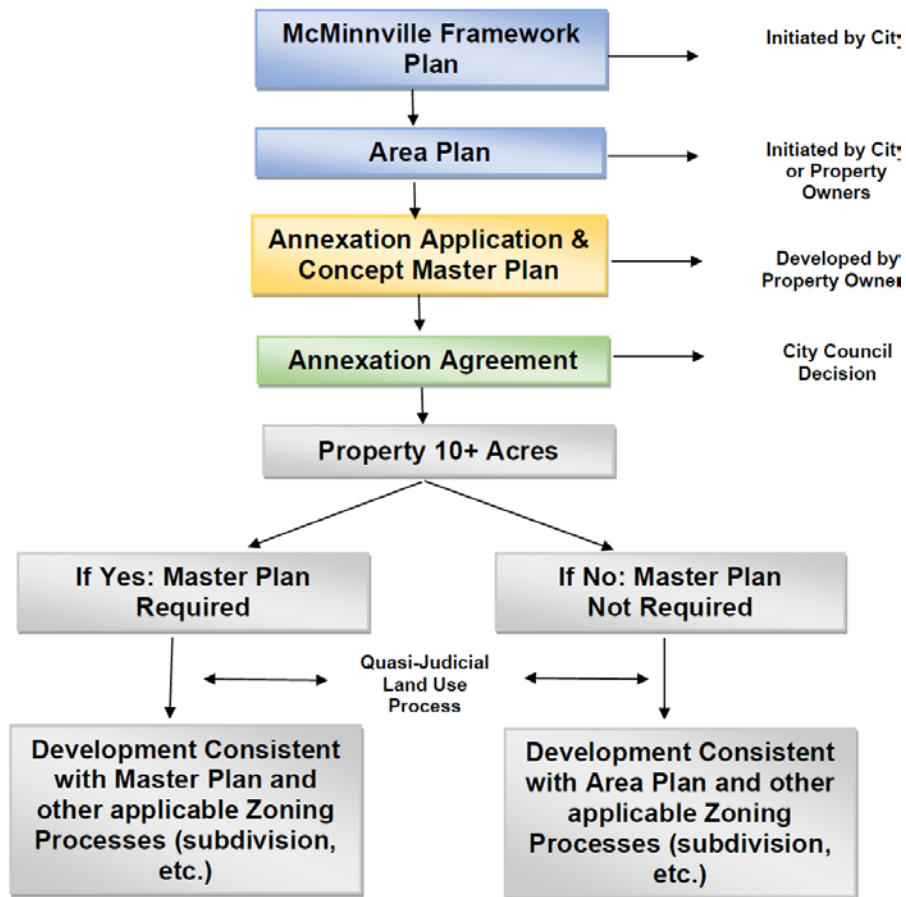
Corvallis and Philomath challenged the law shortly after It was enacted, arguing that the law Infringed on the home rule authority of cities to choose when and where to extend their boundaries. The Court of Appeals ruled In May, 2020 against the two cities, upholding the 2016 law amendments. The court 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

Summary Graphic of UGB Expansion Planning Process:



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 for approval. (Proposed amended policy language per Attachment C).*

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.

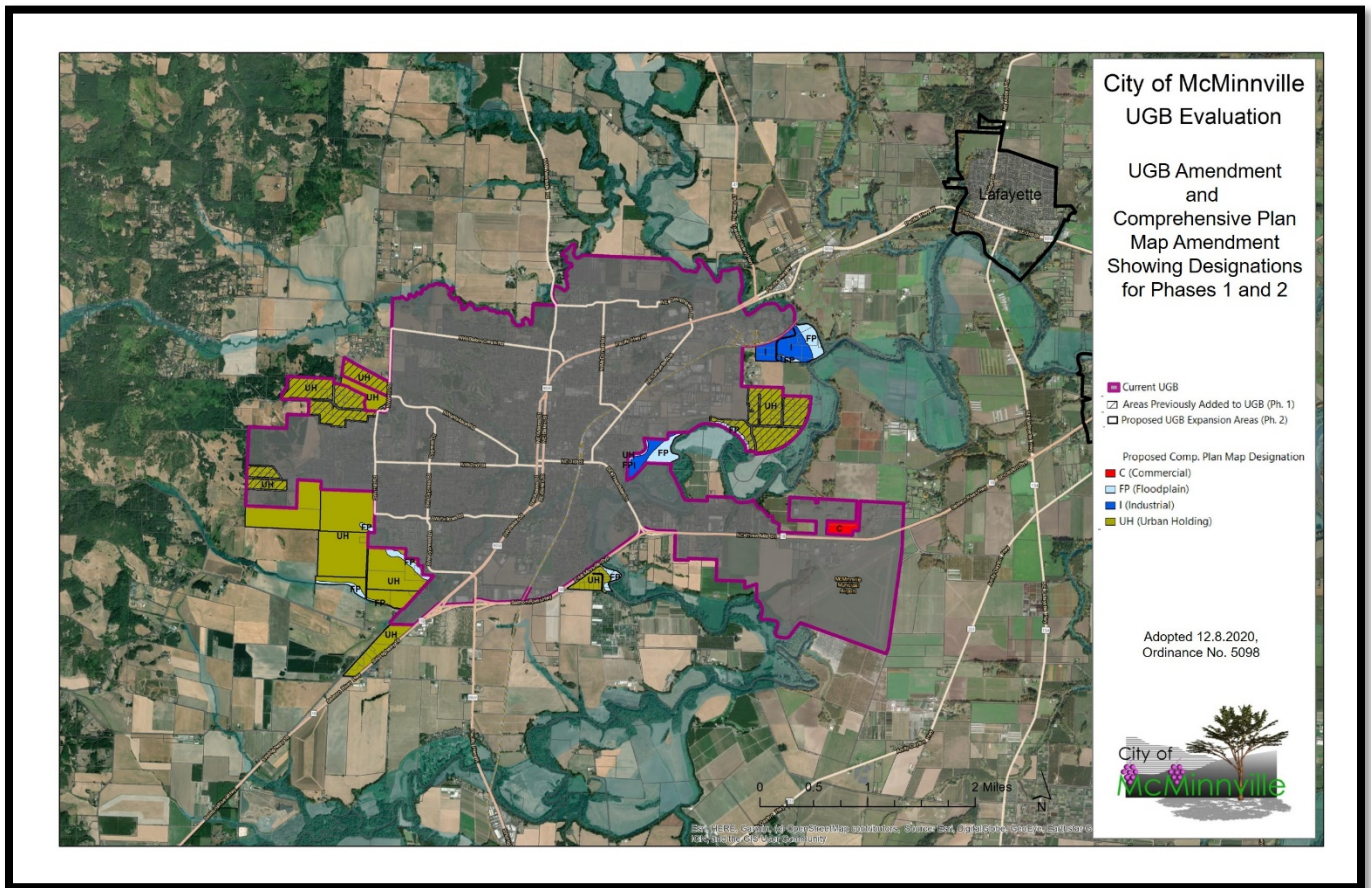
Discussion:

There are two inherent processes associated with an annexation: 1) demonstration of compliance with the McMinnville Comprehensive Plan, which is a land-use process; and 2) process and action of annexation, which is a governance process.

The process adopted in the MGMUP that these code amendments will implement these two processes separately. The land-use process demonstrating compliance with the

McMinnville Comprehensive Plan is required prior to the property being annexed into the city limits. For properties with a UH Comprehensive Plan Map designation, this process will entail the adoption of an Area Plan as a supplemental document to the McMinnville Comprehensive Plan as well as the adoption of a Master Plan prior to the annexation action for properties larger than 10 acres. For properties with a UH Comprehensive Plan Map designation, this process will entail a Comprehensive Plan Map amendment and Zoning Map amendment. For properties with a Commercial or Industrial Comprehensive Plan Map designation, this process will entail a Zoning Map amendment. All of these land-use processes are considered a Type IV land-use process requiring at a bare minimum a public hearing with the Planning Commission, the Planning Commission voting on a recommendation to the City Council and final action by the City Council.

Figure 1: City of McMinnville Comprehensive Plan Map.



The governance process will require an annexation application, an annexation agreement for all annexation requests approved by City Council and a City Council adopted ordinance approving the annexation. The annexation will not take effect until the land-use process is concluded including any associated appeals.

For properties with a UH Comprehensive Plan designation, the first step of the annexation process is the adoption of an Area Plan 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 which outlined the need for housing, employment land, and public amenities in that area to serve the city's acknowledged need for growth and development. This Area Plan will be adopted by the City Council as a supplemental document to the McMinnville Comprehensive Plan. This process will be a Type IV legislative land-use application requiring a public hearing with the Planning Commission and a final decision by the City Council.

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. (Please see Attachment B).

Figure 2: Framework Plan Map from MGMUP Framework Plan adopted by Ordinance No. 5098.

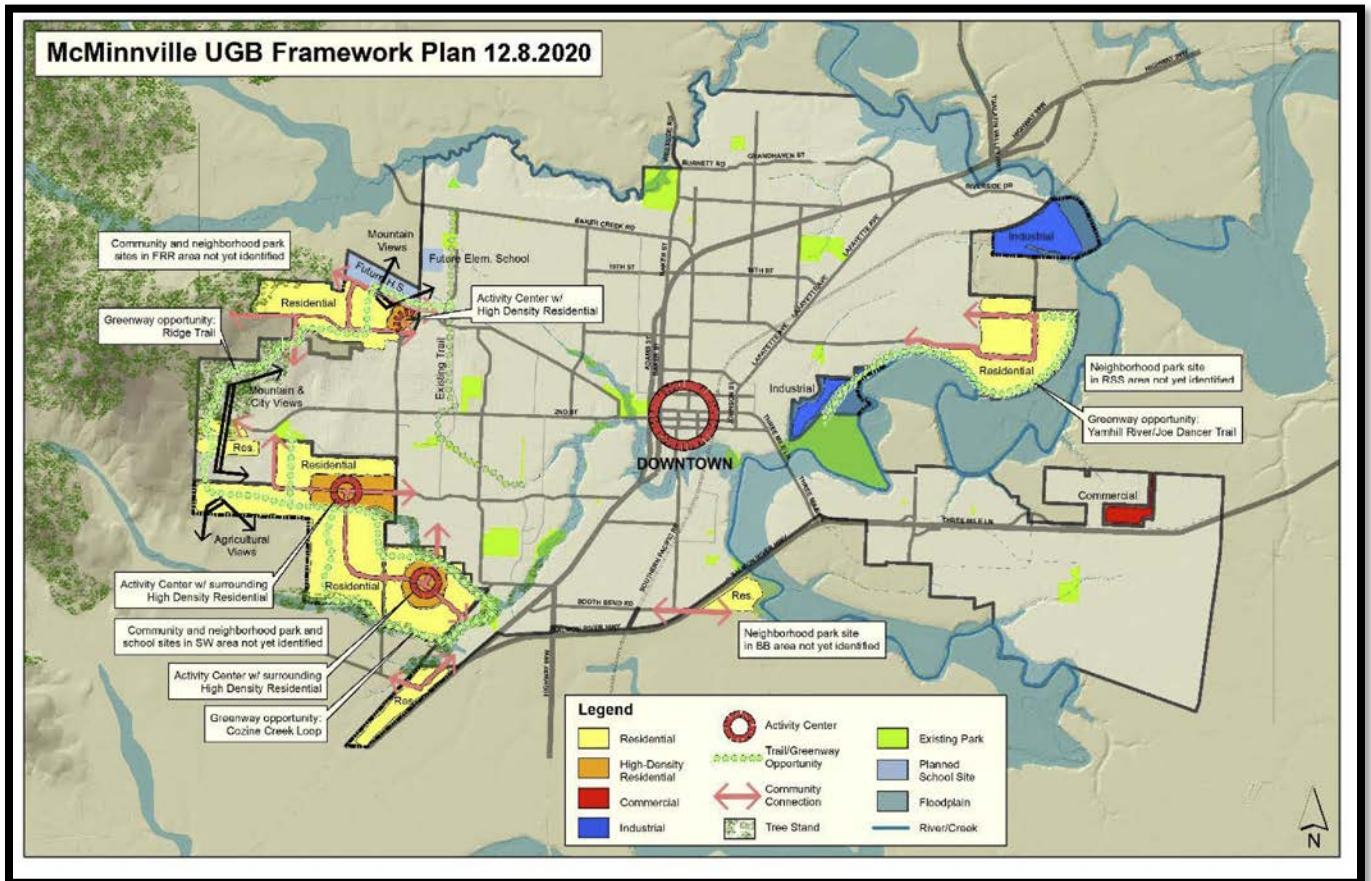


Figure 3: Excerpt of Acknowledged Land Need from MGMUP Framework Plan adopted by Ordinance No. 5098.

Land Need		Southwest	Fox Ridge Road	Riverside South	Redmond Hill Road	Booth Bend Road	Riverside North
Residential							
R-5	36 acres						
Parks							
Neighborhood Park	88.11 acres						
Community Park	58.84 acres						
Greenways/Natural Areas	106.81 acres						
Schools	43 acres						
Commercial	39.3 acres						
Industrial	Surplus						

The next step is for the landowner(s) to submit an annexation application to the City of McMinnville including all of the elements described in proposed Section 16.20.020 (Attachment A). One element that will be required in the annexation application is a conceptual master plan demonstrating how the development of their property will achieve the intent of the Area Plan when annexed to the City. The conceptual master plan will be strictly an advisory document for the city’s development of an annexation agreement, however it should serve as a baseline for a future land-use application to show compliance with the McMinnville Comprehensive Plan and Municipal Code. For this process the landowner(s) should be meeting with city staff to discuss Area Plan compliance, public infrastructure needs, etc.

After the application is submitted, the landowner(s) will need to enter into an Annexation Agreement with the City Council outlining the contractual terms of annexation. (Proposed Section 16.30.030 and 16.40.020 of the MMC – Attachment A). 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. The Annexation Agreement is approved by Resolution of the City Council. This action does not bind the Concept Master Plan to the property nor is it a land-use action. However, the Annexation Agreement does identify the land-use process that the applicant needs to follow to demonstrate compliance with the McMinnville Comprehensive Plan as well as a timeframe in order to annex their property into the city. This land-use process needs to be concluded prior to the annexation becoming effective.

After the landowner(s) have achieved all of the performance metrics of the Annexation Agreement, the City Council would then consider the annexation by ordinance. This process would be conducted in adherence with ORS 222.

Attachment A 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 B proposes necessary amendments to Title 17 of the MMC to support the city's new annexation process.

Attachment C proposed necessary amendments to the McMinnville Comprehensive Plan, Volume II, Goals and Policies, Chapter IX, "Urbanization".

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 D).

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 in certain instances. 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/zone map amendment process for properties 10 acres or more that are in the city's UGB and designated UH on the comprehensive plan map, or a comprehensive plan map amendment/zone map amendment for parcels less than 10 acres that are in the city's UGB and designated UH on the comprehensive plan map, or a zone map amendment for properties that are in the city's UGB and designated industrial or commercial on the comprehensive plan map. 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)).

The City also received comments from Sid Friedman on August 18, 2021, expressing concerns about the clarity of the process and the distinction of land-use processes versus governance with some recommended amendments. (See Attachment E). Staff reviewed those, incorporated the recommended amendments, and restructured some of the proposed amendments to further clarify and distinguish the process, including requiring the annexation application prior to the annexation agreement and requiring a concept master plan as part of the annexation application so that it is required of all properties that want to annex into the city in order to help inform the development of the annexation agreement.

Additional Considerations for Discussion:

How to address small parcels with a UH Comprehensive Plan Map designation.

There are several property owners that would like to annex 5 acres or less that have a UH Comprehensive Plan Map designation. Should there be a separate process for them that does not rely on a larger Area Planning process?

Attachments:

Attachment A: Draft Title 16 MMC Amendments

Attachment B: Draft Title 17 MMC Amendments

Attachment C: Draft Comprehensive Plan Goals and Policies Amendments, Chapter IX

Attachment D: Communications from Mark Davis

Attachment E: Communications from Sid Friedman

Attachment F: Decision Document for G 3-21

Fiscal Impact:

There is no immediate fiscal impact to the City of McMinnville with this action.

Recommendation:

Staff recommends the Planning Commission recommend the proposed amendments to the McMinnville City Council for adoption.

“THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY STAFF, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE THE PROPOSED AMENDMENTS PRESENTED IN DOCKET G 3-21.”



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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**
- 16.10.070 Annexation of Non-Conforming Uses**

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. The City recognizes that annexation of land is both an act of governance and land-use. This Chapter lays out the process necessary to annex property into the city of McMinnville. 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.

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.

16.10.020 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 for the annexation to be approved, including but not limited to provisions

for public facilities and public services to mitigate public facility and public service impacts to the City associated with the annexation and future development of the property, a process for ensuring that the annexation is consistent with the McMinnville Comprehensive Plan, and any other provisions that the City deems necessary for the annexation to meet the city's ordinances and 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. Procedures for approval shall comply with the provisions of Oregon Revised Statutes, particularly ORS 222.

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 needs 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.

16.10.070 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, any proposed changes to an existing residential structure will be subject to Chapter 17.63.

DRAFT

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

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 concept master plan as required in MMC Chapter 17.10.060 *et seq.*

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. The annexation agreement shall address, at a minimum, provisions for connection to and extension of public facilities and services to the annexed property. 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 shall also describe a process and timeframe for compliance with the McMinnville Comprehensive Plan. 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. The applicant must submit an annexation application consistent with the requirements of Section 16.20.020.
- B. The property owner will sign an annexation agreement to be considered for approval by the City Council either concurrently with or after the annexation application.
- C. The City Council will approve an annexation agreement that establishes the expectations of the city for the annexation to be successful.
- D. The property owner will initiate and complete the land-use process as described in the annexation agreement to rezone the property into a city urban zone which will become effective upon annexation. This process shall be a quasi-judicial land-use process that will need to be concluded prior to annexation.
- E. 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.
- F. 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 Annexation Agreement**
- 16.40.030 Review Process**
- 16.40.040 Quasi-Judicial Annexation Criteria**

16.40.010 Applicability.

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

16.40.020 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. The annexation agreement shall address, at a minimum, provisions for connection to and extension of public facilities and services to the annexed property. 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 shall also describe a process and timeframe for compliance with the McMinnville Comprehensive Plan. 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.

16.40.030 Review Process.

- A. Annexation Application Submittal. The applicant must submit an annexation application consistent with the requirements of Section 16.20.020.
- B. The property owner will sign an annexation agreement to be considered for approval by the City Council either concurrently with or after the annexation application.

- C. The City Council will approve an annexation agreement that establishes the expectations of the city for the annexation to be successful.
- D. The property owner will initiate and complete the land-use process as described in the annexation agreement to rezone the property into a city urban zone which will become effective upon annexation. This process shall be a quasi-judicial land-use process that will need to be concluded prior to annexation.
- E. 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.
- F. 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



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PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE – Chapter 17.03, General Provisions

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

Chapter 17.06 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 17.10

AREA AND MASTER PLANNING PROCESS (as adopted per Ordinance 5098, December 8, 2020)

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.

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.

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. A Concept Master Plan is required as a component of an annexation application to annex property into the city limits. ~~The development and approval of a Concept Master Plan is required prior to annexation of any land in a Urban Holding (UH) Comprehensive Plan Map designation. s as part of an annexation agreement.~~ **A Concept Master Plan is not binding and is an advisory document to help inform the annexation agreement. (See Title 16 of the McMinnville Municipal Code for the city's annexation process.)**
 - 2. Master Plan. The development and approval of a 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.

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. **An Area Plan shall be adopted as a supplement to the McMinnville Comprehensive Plan through a legislative land use proceeding if it was initiated by the City Council or either a quasi-judicial or legislative land use proceeding, depending on its size and the number of properties it covers, if it was initiated by an application.** 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.**

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:

- 1) The guidelines and characteristics of the Traditional Neighborhood model, as described in the McMinnville Growth Management and Urbanization Plan.
- 2) 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.
- 3) The City's adopted Great Neighborhood Principles, as described in Comprehensive Plan Policies 187.10 through 187.50.

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.

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 **as it is an advisory document to help inform the annexation agreement and is a required element of an annexation application. (See Title 16 of the McMinnville Municipal Code).** ~~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, However,~~ 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 MMC Section 17.72.120 (Applications – Public Hearing).

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 #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.

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.
 - 1) 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.
 - 1) 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.
 - 1) 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.
 - 2) Central parks and plazas shall be used to create public gathering spaces where appropriate.
 - 3) 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.
 - 1) 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.

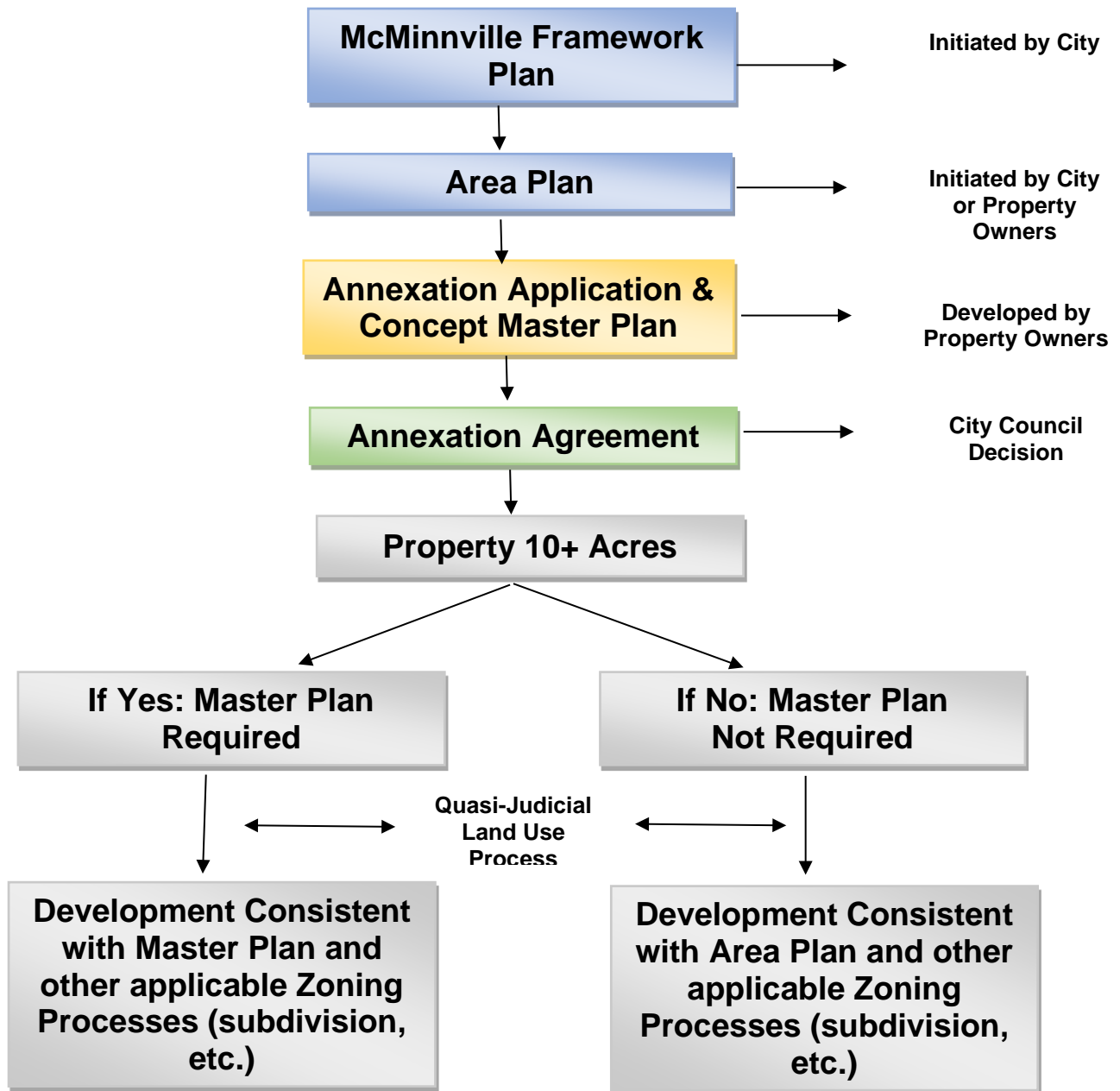
- 2) Pedestrian connections shall be provided to commercial areas, schools, community facilities, parks, trails, and open spaces, and shall also be provided between streets that are disconnected (such as cul-de-sacs or blocks with lengths greater than 400 feet).
- e. Bike Friendly. Great Neighborhoods are bike friendly for people of all ages and abilities.
 - 1) 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.
 - 2) 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.
 - 1) 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.
 - 2) 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.
 - 1) To the best extent possible all features within a neighborhood shall be designed to be accessible and feature elements and principles of Universal Design.
 - 2) 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.
 - 1) The size, form, and proportionality of development is designed to function and be balanced with the existing built environment.
 - 2) 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.
 - 3) 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.
 - 1) 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.
 - 2) Neighborhood-serving commercial uses are integrated into the built environment at a scale that is appropriate with the surrounding area.

- 3) 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.
 - 1) 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.
 - 1) 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.
 - 1) Neighborhoods shall have several different housing types.
 - 2) 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:
 - 1) Environmentally friendly construction techniques, green infrastructure systems, and energy efficiency incorporated into the built environment.
 - 2) Opportunities for public art provided in private and public spaces.
 - 3) 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.

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 MMC Section 17.72.120 and MMC Section 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:



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
	Area Plan	17.10
	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.~~

DRAFT



PROPOSED AMENDMENTS TO THE MCMINNVILLE COMPREHENSIVE PLAN, VOLUME II, GOALS AND POLICIES –

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

CHAPTER IX URBANIZATION

- 187.80.20 *Area Plans shall be adopted by the City Council as guiding land use documents. **The Area Plan will be adopted as a supplement to the McMinnville Comprehensive Plan.** ~~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, December 8, 2020)*
- 187.80.30 *The City of McMinnville shall establish a process for property owners to initiate the Area Planning process, if the City 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. (Ord. 5098, December 8, 2020)*

MASTER PLANNING

- 187.90.00 *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan **for approval.** ~~to be reviewed by the City Council and acknowledged in an Annexation Agreement.~~ (Ord. 5098, December 8, 2020)*
- 187.90.10 *Master Plans shall be consistent with the land uses identified in the adopted Area Plan that is applicable to the land in question. (Ord. 5098, December 8, 2020)*
- 187.90.20 *Master Plans shall identify current Comprehensive Plan designations and future urban zoning districts per the policies of the McMinnville Comprehensive Plan and the McMinnville Municipal Code. Uses identified in the Master Plan shall be consistent with the urban Comprehensive Plan designations and zones. (Ord. 5098, December 8, 2020)*

- 187.90.30 *Lands less than 10 acres in size may be annexed without the completion of the Master Planning process. Development of these lands shall be consistent with the land uses identified in the adopted Area Plan that is applicable to the land in question. Development of these lands shall be consistent with the land use development tools and requirements of the McMinnville Comprehensive Plan and the McMinnville Zoning Ordinance. (Ord. 5098, December 8, 2020)*
- 187.90.40 *Master Plans will be required as a land-use decision to rezone property from a rural zone to an urban zone. (Ord. 5098, December 8, 2020)*

DRAFT

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

Hi Heather,

Thank you for taking the time yesterday to discuss with me the city's area plans, Concept Master Plans, and proposed Annexation Agreements (chapter 17 and proposed chapter 16 of the city code).

To follow-up on our conversation, proposed Chapter 16 outlines two processes for annexation, depending on a property's plan designation and size. Annexation of properties that are 10 acres or more and/or plan-designated urban holding would be subject to requirements for area plans, concept and final master plans, and annexation agreements. (See proposed 17.10.060 at pdf. p. 146). Annexation of all properties that are both smaller than 10 acres and plan designated either commercial or industrial would continue to be processed as quasi-judicial land use proceedings.

As we discussed, I have several concerns.

My first concern is that the city declares by ordinance that certain decisions are not land use decisions, even though they fall squarely within the statutory definition of land use decisions at ORS 197.015.(10)¹. These decisions include the adoption of area plans, and potentially concept master plans, annexation agreements, and determinations of adequacy of infrastructure and public services.

I have a second concern with respect to the lower level of planning required for commercial and industrial parcels under 10 acres, as opposed to land that is plan-designated urban holding.

We also discussed the opportunity to address the problems that can arise when only a portion of a parcel is annexed, leaving a remnant under county jurisdiction and zoning.

Area Plans

I support the concept of area plans and believe they can be a valuable tool in guiding future development. That said, I have a serious concern regarding chapter 17.10.040:

¹ ORS 197.015(10) "Land use decision":

- (a) Includes:
 - (A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:
 - (i) The goals;
 - (ii) A comprehensive plan provision;
 - (iii) A land use regulation; or
 - (iv) A new land use regulation;
- ***
- (b) Does not include a decision of a local government:
 - (A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
- ***

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. (Emphasis added.)

Adoption of an area plan falls squarely within the statutory definition of a land use decision because it, “concerns the adoption, amendment or application of a comprehensive plan provision.” In fact, it is to be adopted as a supplement to the comprehensive plan and is thus a quintessential land use decision. As your staff memorandum explains:

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. (Emphasis added.)

Lest there be any doubt that adoption of an area plan involves application of the comprehensive plan and thus falls within the definition of a land use decision, here is an excerpt from the ordinance language that defines their scope and components:

17.10.050 Area plan scope and components.

* * *

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]rea 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

You state in your staff memo, the adoption of an area plan 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. I suggest that area plans be considered a Type IV decision, rather than similarly to one, leading to amending 17.10.040 as follows:

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. ***An Area Plan shall be adopted as a supplement to the McMinnville Comprehensive Plan through a legislative land use proceeding if it was initiated by the city council or either a quasi-judicial or legislative land use proceeding, depending on its size and the number of properties it covers, if it was initiated by an application.***

“Area plans” should also be added to the list of decisions requiring a hearing in section 17.72.120.

Finally, on the subject of area plans, the code (17.10.050) says an area plan "shall more specifically identify land uses, their locations" etc. More specifically than what? How specifically? For clarity, it may be beneficial to better explain this in the code.

Concept Master Plans

Like area plans, the ordinance explicitly states that formal adoption of a concept master plan is not a land use decision.

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.

I think that they may be a final land use decision, given that they are approved by the city council as part of a binding the annexation agreement. The concept plan identifies the location of plan and zone designations and the location of uses. The ordinance doesn't address how much the ultimate plan map amendment may deviate from the concept master plan, but as noted, they are adopted as part of a binding annexation agreement which suggests they are pretty locked-in.

Finally, the reasons that the ordinance cites to explain why a concept master plan is not a land use decision don't hold up. Just because a decision does not amend the comprehensive plan and is reviewed as part of an annexation agreement, does not mean the decision is not a land use decision. The adoption of a concept master plan may or may not be a land use decision, but not because of the reasons stated in the ordinance.

For these reasons, I suggest amending 17.10.065 to either (a) clarify that a concept master plan is non-binding and only advisory in nature; or (b) clarify that approval of a concept plan is a land use decision.

Annexation Agreement

The proposed annexation agreement between a property owner and the city is also explicitly not a land use decision, even though they seemingly involve application of comprehensive plan provisions. The proposed section 16.10.020 provides: "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." In addition, the proposed section 16.10.030 provides: "The annexation agreement shall address, at a minimum, ... compliance with the McMinnville Comprehensive Plan, approved applicable area plan, and concept master plan."

The annexation agreement certainly seems to be a final land use decision because it locks in plan and zone designations. Here are excerpts from the sample agreement in the packet:

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.

* * *

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.

As currently drafted, the area plan isn't a land use decision, the concept plan isn't a land use decision, and the annexation agreement isn't a land use decision. Nonetheless, the annexation

agreement (a) locks in plan designations shown in the area plan; and (b) addresses compliance with the comprehensive plan. Also, determination of applicability of the Great Neighborhood Principles and compliance with these principles requires interpretation or the exercise of policy or legal judgment which falls squarely within the definition of a land use decision per ORS 197.015(10).

I'm not sure I have any suggested ordinance language to address this, other than to treat annexation agreements as land use decisions. Alternatively, the city may be able to treat the area plans and concept master plans as land use decisions and determine compliance with the comprehensive plan and the applicability of, and compliance, with the great neighborhood principles exclusively through those land use processes, but I haven't completely thought that through.

Commercial and Industrial properties

As we discussed, there may be sound reasons to require the same level of planning for commercial and industrial parcels smaller than 10 acres, as for land that is designated urban holding. While the plan-designations are already established for these properties, the relationship of the various zones allowed within those designations are not; nor are the relationships between the various uses allowed in the zones to one. For example, an office park or office building may benefit from employee-serving day care, lunch spots, or public plaza. An industrial park could benefit from the same.

Moreover, to the extent that the city believes the use of annexation agreements can result in more "extractions," like walking paths, parks, etc., this certainly holds true for employment land, just as much as urban-holding land.

Other considerations

As we discussed, the city can use this opportunity to address the problems that can arise when only a portion of a parcel is annexed, leaving a remnant under county jurisdiction and zoning. The city could add to Chapter 16 a provision requiring/encouraging that only whole parcels be annexed.

As we also discussed, the potential exists for a developer/property owner to "game" the system by bringing in multiple annexations just under 10 acres so as to avoid the requirements that only apply to parcels greater than 10 acres. Requiring annexation of whole parcels would partially address this. So could a requirement that only one application for annexation be filed per year (or some other time period) for parcels and/or contiguous land under the same ownership.

I hope these comments are helpful. Please feel free to share them with the planning commission.

Sid



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

503-434-7311

www.mcminnvilleoregon.gov

DECISION, CONDITIONS OF APPROVAL, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE CITY CODE, TITLE 16, TITLE 17, AND THE MCMINNVILLE COMPREHENSIVE PLAN, VOLUME II, GOALS CHAPTER IX, DOCKET G 3-21, RELATING TO ANNEXATIONS.

DOCKET: G 3-21

REQUEST: The City of McMinnville is proposing to amend the McMinnville City Code by repealing Chapter 16, "Land Division Standards" and replacing with Title 16, "Annexations", amending Title 17 to clarify the adoption process for Area Plans and to update the code for compliance with ORS 222.127, and to amend Chapter IX, "Urbanization" of the McMinnville Comprehensive Plan to clarify the adoption process for Master Plans.

LOCATION: N/A. This proposal includes provisions which amend standards and provisions for future annexations into the McMinnville city limits.

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Heather Richards, Planning Director

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: September 16, 2021, 6:30pm. Meeting held virtually via Zoom meeting software: <https://mcminnvilleoregon.zoom.us/j/88033487320?pwd=SzY5d3A2SDRlVU9VTnVPeHRHZZB1UT09>

Zoom ID: 880 348 7320
Zoom Password: 947797

DECISION-MAKING

BODY: McMinnville City Council

DATE & TIME: TBD

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

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

I. APPLICATION SUMMARY

This application is a proposal initiated by the City of McMinnville to amend the McMinnville City Code by repealing Chapter 16, "Land Division Standards" and replacing with Title 16, "Annexations", amending Title 17 to clarify the adoption process for Area Plans and to update the code for compliance with ORS 222.127, and to amend Chapter IX, "Urbanization" of the McMinnville Comprehensive Plan to clarify the adoption process for Master Plans.

II. ATTACHMENTS

- Exhibit B. Proposed Amendments. (Currently labelled Attachments A, B, and C for the Planning Commission).

III. FINDINGS OF FACT – GENERAL FINDINGS

1. Docket G 3-21 is a legislative package of City-initiated proposed McMinnville Comprehensive Plan and McMinnville Municipal Code amendments related to annexations. The proposal is intended to implement the adopted process of annexations in the McMinnville Growth Management and Urbanization Plan adopted by Ordinance No. 5098, and to bring the McMinnville Municipal Code in compliance with recent changes to ORS 222.

IV. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. Notice of the application and the September 16, 2021 Planning Commission public hearing were provided to DLCD on August 5, 2021.
2. Notice of the application and the September 16, 2021 Planning Commission public hearing was published in the News Register on Wednesday, September 8, 2021, in accordance with Section 17.72.120 of the Zoning Ordinance.
3. On September 16, 2021, the Planning Commission held a duly noticed public hearing to consider the request.

V. CONCLUSIONARY FINDINGS:

The Conclusionary Findings are the findings regarding consistency with the applicable criteria for the application.

Title 17, McMinnville Municipal Code:

The Purpose Statement of Title 17 of the McMinnville Municipal Code serves as a criterion for Title 17 Development Code amendments:

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

FINDING: SATISFIED. The proposed amendments achieve these purposes by providing a process of planning and review that evaluates properties proposed for annexation with compliance with the McMinnville Comprehensive Plan and McMinnville Municipal Code as a requirement of annexation.

On December 2, 2020, the McMinnville City Council adopted Ordinance No. 5098 adopting the McMinnville Growth Management and Urbanization Plan (MGMUP) and its appendices as well as Comprehensive Plan Map amendments. The MGMUP delineated a new process for annexation of lands into McMinnville's city limits requiring an area plan for all land designated UH on the comprehensive plan map, and the need for an annexation application, an annexation agreement, and a land-use process for compliance with the McMinnville Comprehensive Plan prior to annexation of land into the city limits.

This new process created several layers of land-use review and governance to ensure that any property annexed into the city limits would be achieving the purpose of the McMinnville Municipal Code and adopted ordinances.

One of the purposes of these proposed amendments is to codify the implementation of that process that was adopted by Ordinance No. 5098.

Comprehensive Plan

As described in the Comprehensive Plan, the Goals and Policies of the Comprehensive Plan serve as criteria for land use decisions. The following Goals and Policies from Volume II of the McMinnville Comprehensive Plan are applicable to this request:

CHAPTER V. HOUSING AND RESIDENTIAL DEVELOPMENT

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

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)

FINDING: SATISFIED. Proposed amendment Section 16.30.040(D) and Section 16.40.030(D) require that the property owner complete a land use process for the necessary comprehensive plan amendments and zone map amendments needed to develop in compliance with the McMinnville Comprehensive Plan prior to annexation. The proposal is consistent with the applicable Goal and Policies of Chapter V of the McMinnville Comprehensive Plan. The proposed amendments include provisions to ensure compliance with the policies of the comprehensive plan for all property annexing into the city limits.

CHAPTER VII. COMMUNITY FACILITIES AND SERVICES

GOAL VII 1: TO PROVIDE NECESSARY PUBLIC AND PRIVATE FACILITIES AND UTILITIES AT LEVELS COMMENSURATE WITH URBAN DEVELOPMENT, EXTENDED IN A PHASED MANNER, AND PLANNED AND PROVIDED IN ADVANCE OF OR CONCURRENT WITH DEVELOPMENT, IN ORDER TO PROMOTE THE ORDERLY CONVERSION OF URBANIZABLE AND FUTURE URBANIZABLE LANDS TO URBAN LANDS WITHIN THE McMINNVILLE URBAN GROWTH BOUNDARY.

Police and Fire Protection:

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.*

FINDING: SATISFIED. Proposed amendment 16.020.020(K)(3) requires that all annexation applications must provide documentation that, *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 proposal is consistent with Goal VII.1 and associated policies of the McMinnville Comprehensive Plan.

CHAPTER IX. URBANIZATION

GOAL IX 1: TO PROVIDE ADEQUATE LANDS TO SERVICE THE NEEDS OF THE PROJECTED POPULATION TO THE YEAR 2023, AND TO ENSURE THE CONVERSION OF THESE LANDS IN AN ORDERLY, TIMELY MANNER TO URBAN USES.

GOAL IX 2: TO ESTABLISH A LAND USE PLANNING FRAMEWORK FOR APPLICATION OF THE GOALS, POLICIES, AND PROPOSALS OF THE McMINNVILLE COMPREHENSIVE PLAN

General Development Pattern:

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.*

FINDING: SATISFIED. The proposed amendments implement a process that will only allow annexations when the necessary urban services are available, and the property must complete a land-use process that results in a city rezone prior to annexation. The rezone will become effective upon annexation. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Land Use Development Tools:

187.00 *The City of McMinnville shall adopt additional implementation ordinances and measures to carry out the goals and policies of the McMinnville Comprehensive Plan. These shall include, but not be limited to, the Zoning Ordinance and Map, Annexation Ordinance, and Mobile Home Development Ordinance.*

FINDING: SATISFIED. The proposed amendments to Title 16 of the McMinnville Municipal Code adopt a process for annexation updating the annexation ordinances bringing them into compliance with the recently adopted MGMUP and ORS 222. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Great Neighborhood Principles:

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*

FINDING: SATISFIED. Compliance with the Great Neighborhood Principles are a requirement of the Master Plan process which is a requirement of annexation for all properties greater than 10 acres that are designated UH on the comprehensive plan map. The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Master Planning:

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)*

FINDING: SATISFIED. Proposed amendments to Title 16 of the McMinnville Municipal Code do require an approved Master Plan prior to annexation of land greater than 10 acres in size. However due to some confusion with the language of this policy relative to the land-use process of approving a Master Plan and the annexation agreement, the proposed amendments recommend amending this policy to: *Prior to annexation of all lands greater than 10 acres in size, property owners shall submit a Master Plan **for approval.** ~~to be reviewed by the City Council and acknowledged in an Annexation Agreement.~~* The proposal is consistent with Goal IX 1 and 2 and associated policies of the McMinnville Comprehensive Plan.

Proposal:

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)*

FINDING: SATISFIED. The proposed amendments to Title 16 of the McMinnville Municipal Code will update 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.

CHAPTER X. CITIZEN INVOLVEMENT AND PLAN AMENDMENT

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

FINDING: SATISFIED. Goals X 1 is satisfied by this proposal in that the proposed modifications were reviewed at a public hearing by the McMinnville Planning Commission on September 16, 2021