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## STAFF REPORT

**DATE:** May 18, 2017  
**TO:** McMinnville Planning Commission  
**FROM:** Chuck Darnell, Associate Planner  
**SUBJECT:** Draft Amendments to Historic Preservation Ordinance

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### Report in Brief:

The purpose of this discussion item is to review recent amendments to Oregon Administrative Rule (OAR) 660-023-0200, also known as the Historic Resources rules for complying with Goal 5 of the Statewide Planning Program, and also to discuss draft amendments to the McMinnville Zoning Ordinance (Ordinance 3380) specific to Historic Preservation.

### Background:

The Oregon Statewide Planning Goals are a set of 19 goals related to a statewide land use planning program that is administered by the state's Land Conservation and Development Commission (LCDC). Goal 5 of the Statewide Planning Goals is related to Natural Resources, Scenic and Historic Areas, and Open Spaces. The preservation of historic resources is included in the rules associated with Goal 5, and provides the framework that local governments must follow in designating and protecting significant historic resources.

The amendments to the Goal 5 rules were triggered by a request from the Governor's office to clarify long-standing inconsistencies regarding the administration of local historic resource programs, protection of properties listed in the National Register of Historic Places, and application of Oregon's owner consent law. A Rulemaking Advisory Committee met through a series of meetings, culminating with a draft of proposed amendments to OAR 660-023-0200 in December of 2016. On January 27, 2017, those amendments were adopted by DLCD.

The adoption of the amended OAR 660-023-0200 results in the need for local governments to review their existing regulations and programs to ensure that they are consistent with the new state requirements. This process is undertaken continually by local governments as Oregon Administrative Rules (OAR) and Oregon Revised Statutes (ORS) are amended and adopted by the state. The Historic Landmarks Committee reviewed the adopted amendments to OAR 660-023-0200 at their February 22, 2017 meeting, and at their April 25, 2017 meeting, considered changes to the City of McMinnville's existing historic preservation program and ordinance (Ordinance 4401) based on the OAR amendments. Previous to the Historic Landmarks Committee's review of the OAR amendments, the Committee had also been discussing some additional amendments to make to Ordinance 4401.

**Discussion:**

The City of McMinnville already meets many of the requirements and rules for complying with Goal 5 of the statewide planning program. However, some updates will be required to our existing historic preservation ordinance and local historic preservation program based on the new rules.

Updates that are clearly stated in the OARs and will need to be incorporated into the City's regulations are as follows:

- Criteria to be considered in the designation of a historic resource.
- The review process and criteria for evaluation of the demolition or moving of National Register resources.
- A public hearing process will need to be established for the demolition or moving of National Register resources.
- Owner consent definitions and processes will need to be added to be consistent with the new rules and the ruling of *Lake Oswego Preservation Society v. City of Lake Oswego*.
- Any alteration to a historic resource on a locally adopted inventory will need to be reviewed by the City and will need to comply with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. Those standards and guidelines are stricter than the City's existing guidelines in the historic preservation ordinance (Ordinance 4401).

Updates that will be required based on the adopted Goal 5 rules, but that the City will have some discretion on, are as follows:

- Currently, the City has a Historic Resources Inventory that designated over 550 sites and buildings as historic, and includes four categories of designation (Distinctive, Significant, Contributory, and Environmental). The OAR will require that alterations to historic resources on a locally adopted inventory be reviewed by the City and those alterations will need to comply with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. It was unclear in the OAR language as to whether those Secretary of the Interior Standards would apply to all resources on our Historic Resources Inventory, or just those that are considered "historic landmarks" (those resources that are classified as "Distinctive" or "Significant").
  - Staff reached out to the State Historic Preservation Office (SHPO) for clarification on whether the Secretary of the Interior Standards would need to apply to all resources on our Historic Resources Inventory. SHPO clarified that the Secretary of the Interior Standards only need to apply to resources that the local government determines to be Goal 5 resources – or those resources that are "locally significant historic resources".
  - In the City of McMinnville's case, we have the ability to identify only the "historic landmarks" as Goal 5 resources, which would only require those types of resources to meet the Secretary of the Interior Standards.
  - The requirements in the adopted OARs are minimum requirements, and local regulations can be more protective of historic resources. The City could require that all resources on the local Historic Resources Inventory meet the Secretary of the Interior

Standards. However, this would not be consistent with past practice, as the current historic preservation ordinance (Ordinance 4401) only requires the Historic Landmarks Committee to review and approve alterations to “historic landmarks”.

- Ensure that resources listed on the National Register are protected by local land use regulations. The new rules allow for a local government to exclude accessory structures and non-contributing resources within a National Register nomination from the requirements of the new rules. The City will need to decide whether to exclude those types of structures. This would be applicable in the City of McMinnville’s Downtown Historic District.
- A historic preservation plan should be adopted by the City. The Historic Landmarks Committee was already planning on developing a historic preservation plan, and this was included as a primary activity on the committee’s 2017 work plan. The adopted OARs do not provide specific guidance on what needs to be included in local historic preservation plans, other than that the plans should contain goals and policies for historic resource preservation and the processes for creating and amending the local historic preservation program to achieve Goal 5. The specific components of the historic preservation plan can be determined by the local government.

### **Other Changes to Local Ordinance to Consider**

- Staff is suggesting that the Historic Preservation Ordinance (Ordinance 4401) be repealed and instead incorporated into the McMinnville Zoning Ordinance, rather than existing as a stand-alone ordinance. When making updates and amendments to the existing ordinance and regulations, staff will be suggesting that the changes take the form of a chapter within Title 17 of the McMinnville City Code, which is the Zoning Ordinance.
- The Historic Landmarks Committee had previously discussed the creation of a Certificate of Approval process that would require that any proposed demolition, moving, or alteration of a historic resource (or landmark) be reviewed and approved by the Historic Landmarks Committee. This Certificate of Approval process would replace the existing Building Permit Clearance review process, and would also need to be consistent with the new OARs. Currently, only alterations that require a building permit are subject to the historic preservation standards and review process.
- Staff will be drafting updated committee language, which would be inserted directly into the City Code in a section that would include language on all City commissions and committees. The bylaws would largely remain the same, but would just be removed from the historic preservation ordinance or chapter and would be placed in one section in the City Code for consistency.

### **Draft Amendments to Zoning Ordinance**

Staff is in the process of drafting amendments to the McMinnville Zoning Ordinance that would incorporate the updates and changes described above, and would also replace the existing Historic Preservation Ordinance (Ordinance 4401). Major components of the existing Historic Preservation Ordinance (Ordinance 4401) will not be deleted, but will be proposed to be copied over into the draft amendments to the Zoning Ordinance. The amendments will also be reviewed for consistency with the new OARs.

Staff will provide a draft version of these amendments at the May 18, 2017 Planning Commission Work Session for preliminary review, discussion, and feedback.

**Fiscal Impact:**

None.

**Commission Options:**

As this is a work session discussion item, no formal action is required. The Planning Commission may provide guidance to staff in drafting the final zoning text amendments which are proposed to be presented during a future public hearing.

**Recommendation/Suggested Motion:**

No specific motion is required, but the Planning Commission may provide guidance to staff in drafting the final zoning text amendments which are proposed to be presented during a future public hearing.

Staff is planning to continue to refine the draft amendments, and will be bringing them back to the Historic Landmarks Committee for another review at their May 24, 2017 regular meeting. If the Historic Landmarks Committee is comfortable with the proposed amendments at that point in time, they will recommend that the amendments move on to the Planning Commission for consideration during a public hearing process. That public hearing could potentially be held at the next Planning Commission meeting on June 15, 2017.

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