



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

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

**DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.55 (WIRELESS COMMUNICATIONS FACILITIES) OF THE MCMINNVILLE ZONING ORDINANCE (ORDINANCE 3380).**

**DOCKET:** G 4-17

**REQUEST:** The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Ordinance) of the McMinnville Zoning Ordinance to update provisions related to wireless telecommunications facilities to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

**LOCATION:** N/A

**ZONING:** N/A

**APPLICANT:** City of McMinnville

**STAFF:** Ron Pomeroy, Principal Planner

**DATE DEEMED COMPLETE:** N/A

**HEARINGS BODY:** McMinnville Planning Commission

**DATE & TIME:** August 17, 2017, October 19, 2017 and November 16, 2017. Meetings held at the Civic Hall, 200 NE 2<sup>nd</sup> Street, McMinnville, Oregon.

**COMMENTS:** This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. No comments in opposition have been received.

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**Attachments:**

Attachment 1: Proposed Chapter 17.06 code amendments

Attachment 2: Proposed Chapter 17.55 code amendments

Attachment 3: Existing Chapter 17.55 proposed to be deleted

Attachment 4: Memo - Mike Bisset, Community Development Director, dated August 11, 2017, received August 11, 2017

Attachment 5: Letter - Patrick Evans, Crown Castle, dated August 16, 2017, received August 16, 2017

Attachment 6: Email - Patrick Evans, Crown Castle, dated October 30, 2017, received October 30, 2017

**DECISION**

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 4-17) to the McMinnville City Council.

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**DECISION: APPROVAL**  
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City Council: \_\_\_\_\_  
Scott Hill, Mayor of McMinnville

Date: \_\_\_\_\_

Planning Commission: \_\_\_\_\_  
Roger Hall, Chair of the McMinnville Planning Commission

Date: \_\_\_\_\_

Planning Department: \_\_\_\_\_  
Heather Richards, Planning Director

Date: \_\_\_\_\_

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## Application Summary:

The City of McMinnville is proposing a zoning text amendment to Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Facilities) of the McMinnville Zoning Ordinance. The proposed zoning text amendment is related to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.

Staff provided a copy of the proposed amendments to the legal team of Beery Elsner & Hammond, LLP, for review and current FCC compliance; BEH specializes, in part, in Municipal Law & Governance, and Land Use & Development Review. Staff incorporated the resultant comments and recommendations from legal counsel in the draft amendments that were provided to the Planning Commission at their regularly scheduled July 20, 2017 work session. Following review and discussion of the draft, the Commission requested that this matter be presented for Commission review at a public hearing during their regularly scheduled August 17, 2017 public meeting.

Notice of the August 17, 2017 public hearing was published in the August 8, 2017 edition of the News Register newspaper. At the August 17, 2017 meeting, the Commission opened the public hearing on this item and received testimony. A memo from Community Development Director, Mike Bisset, and dated August 11, 2017, was submitted into the record (Decision Document: Attachment 4). The memo relayed a concern related to the City's continued ability to install and utilize Supervisory Control and Data Acquisition (SCADA) systems that remotely monitor and control pump stations. Modified code language was suggested during the staff presentation to address this concern. Written testimony (Decision Document: Attachment 5) and verbal testimony were also received from Patrick Evans, a representative of Crown Castle, relative to the proposed text amendments; Crown Castle is the nation's largest provider of shared wireless infrastructure. Following discussion, the Commission elected to keep the record open and continue the hearing to the October 19, 2017 Planning Commission public meeting.

Staff initiated additional conversation and review of the proposed amendments with Mr. Evans and incorporated some of that resulting dialogue into the draft code amendments presented to the Commission at the October 19, 2017 hearing on this matter. Additionally, staff reached out on August 18, 2017 to the other two largest national wireless communications purveyors, SBA Communications and American Tower Corporation, inviting review and comment on the proposed code amendment. No response from either of those two companies has been received to date.

At the October 19, 2017 Planning Commission hearing, a staff presentation was provided culminating with a request that the Commission leave the record open and continue the public hearing to the November 16, 2017 Planning Commission public meeting. This recommendation was to allow time for additional legal counsel review of the recommended amendments, in particular the list of Federal Communications Commission (FCC) wireless communications exemptions recently incorporated into the draft recommendation. Following discussion, the Commission elected to keep the record open and continue the hearing to the November 16, 2017 Planning Commission public meeting.

On October 30, 2017, the Planning Department received additional email communication from Mr. Evans regarding the proposed amendments that were provided to the Commission at the October 19<sup>th</sup> public hearing (Decision Document, Attachment 6). Legal counsel was also asked for their assessment of some of observations offered. Recommendations from counsel have been incorporated into the current currently proposed draft amendments to the Wireless Communication Chapter (Chapter 17.55) of the McMinnville Zoning Ordinance.

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**Proposed Amendments:**

The proposed amendments to Chapter 17.06 and Chapter 17.55 of the McMinnville zoning ordinance (Ordinance 3380) are attached to this Decision Document as Attachment 1.

**CONDITIONS OF APPROVAL**

None.

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**COMMENTS**

This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. The only public agency comment received was from the Community Development Director and is attached to this Decision Document as Attachment 3.

Additional comments were provided on August 16, 2017 and October 30, 2017 by Patrick Evans (Attachments 5 and 6, respectively).

**FINDINGS OF FACT**

1. McMinnville’s first Wireless Communications Facilities ordinance was adopted in June, 2000, as Chapter 17.55 of the McMinnville Zoning Ordinance.
2. The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.55 (Wireless Communications Ordinance) of the McMinnville Zoning Ordinance to update provisions related to wireless telecommunications facilities to achieving a more desirable community aesthetic while ensuring code compliance with current Federal Communications Commission (FCC) regulations.
3. In concert with legal counsel, staff has drafted the following proposed amendments to McMinnville Zoning Ordinance (Ordinance 3380) specific to Section 17.55 (Wireless Communications Facilities) for consideration by the McMinnville Planning Commission and the McMinnville City Council.

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4. This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas; and the Oregon Department of Land Conservation and Development. No comments in opposition have been received.
5. Public notification of the public hearing held by the Planning Commission was published in the August 8, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.
6. The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

### **CONCLUSIONARY FINDINGS**

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

#### **Economy of McMinnville**

GOAL IV 1 TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF McMINNVILLE'S ECONOMY IN ORDER TO ENHANCE THE GENERAL WELL-BEING OF THE COMMUNITY AND PROVIDE EMPLOYMENT OPPORTUNITIES FOR ITS CITIZENS.

#### **Commercial Development**

GOAL IV 2 TO ENCOURAGE THE CONTINUED GROWTH OF McMINNVILLE AS THE COMMERCIAL CENTER OF YAMHILL COUNTY IN ORDER TO PROVIDE EMPLOYMENT OPPORTUNITIES, GOODS, AND SERVICES FOR THE CITY AND COUNTY RESIDENTS.

#### **Industrial Development**

GOAL IV 6 TO INSURE INDUSTRIAL DEVELOPMENT THAT MAXIMIZES EFFICIENCY OF LAND USES, THAT IS APPROPRIATELY LOCATED IN RELATION TO SURROUNDING LAND USES, AND THAT MEETS NECESSARY ENVIRONMENTAL STANDARDS.

#### **General Policies:**

48.00 The City of McMinnville shall encourage the development of new industries and expansion of existing industries that provide jobs for the local (McMinnville and Yamhill County) labor pools.

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## Economic Development

132.34.00 Supportive of the mobility needs of business and industry, the McMinnville transportation system shall consist of the infrastructure necessary for the safe and efficient movement of goods, services, and people throughout the McMinnville planning area, and between other centers within Yamhill County and the Willamette Valley. [..]

Finding: Goals IV 1, IV 2 and IV 6, and Policies 48.00 and 132.34.00 are satisfied by this proposal in that the proposed modifications would support the continued opportunity for the provision of wireless communications facilities in McMinnville. While requiring wireless communications facilities to physically blend in more cohesively with our local urban environment, this proposal will also lend support to job creation and retention, and aid in enhancing business and industry communications options. While not actual employment or manufacturing centers, wireless communications facilities will continue to provide for the digital transfer of information which is directly supportive of and enabling to the commercial and industrial sectors.

## 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 [..]

## Police and Fire Protection

153.00 The City of McMinnville shall continue coordination between the planning and fire departments in evaluating major land use decisions.

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: Policies 153.00, and 155.00 are satisfied by this proposal in that in that the proposed modifications would continue to support the efficient operation of a wireless communications network that would, in some part, enable the rapid movement of fire, medical, and police vehicles throughout McMinnville’s urban area. These amendments were provided to the McMinnville Police and Fire Departments for review and comment and no concerns or objections were provided.

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

Policies:

188.00 The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

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Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed Staff Report and Decision Document prior to the holding of advertized public hearing(s). All members of the public have access to provide testimony and ask questions during the public review and hearing process.

7. The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

General Provisions:

17.03.020 Purpose. The purpose of this ordinance 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, and adequate community facilities; to provide assurance of opportunities for effective utilization of the land resource; and to promote in other ways public health, safety, convenience, and general welfare.

Finding: Section 17.03.020 is satisfied by the request for the reasons enumerated in Conclusionary Finding for Approval No. 1.

RP:sjs

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