

ORDINANCE NO. 5149

AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE MCMINNVILLE MUNICIPAL CODE TO CHAPTER 17.54 "GENERAL REGULATIONS," AND APPROVING THE DECISION, FINDINGS, AND CONCLUSIONARY FINDINGS FOR DOCKET G 1-24.

RECITALS:

WHEREAS, Docket G 1-24 is a legislative action amending provisions related to trees in Title 17 (Zoning) of the McMinnville Municipal Code.

WHEREAS, Docket G 1-24, a draft legislative proposal for amendments to standards for residential accessory structures and yards, was initiated on August 13, 2024 with notice of the proposed amendments and a September 19, 2024 Planning Commission public hearing submitted to DLCD.

WHEREAS, on September 13, 2024, notice of the application and the September 19, 2024 Planning Commission public hearing was published in the News Register in accordance with Section 17.72.120 of the Zoning Ordinance.

WHEREAS, on September 19, 2024, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission recommended City Council approve the proposed amendments as presented.

WHEREAS, notice of the October 22, 2024 City Council meeting was posted on the City website in accordance with Oregon public meetings law.

WHEREAS, the City Council received the Planning Commission recommendation and staff report, and has deliberated.

WHEREAS, the City Council, being fully informed about said request, found that the requested amendments attached as Exhibit A conform to the applicable criteria, including the Comprehensive Plan goals and policies, as well as the McMinnville Zoning Ordinance, based on the material submitted by the Planning Division and the findings of fact and conclusionary findings for approval in Exhibit B.

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

1. The McMinnville Zoning Ordinance is amended as provided in Exhibit A; and
2. The Council adopts the Decision, Findings, and Conclusionary Findings for Docket G 1-24 attached as Exhibit B; and
3. This Ordinance will take effect 30 days after passage by the City Council.

Passed by the McMinnville City Council this 22nd day of October 2024 by the following votes:

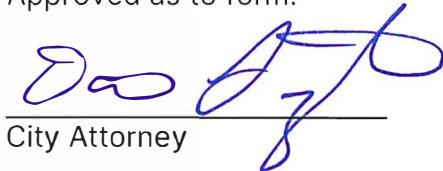
Ayes: Geary, Payne, Chenoweth, Garvin, Peralta

Nays: _____



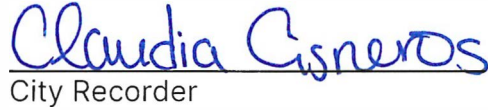
MAYOR

Approved as to form:



City Attorney

Attest:



City Recorder

EXHIBITS:

- A. Amendments to McMinnville Zoning Ordinance (17.54 of McMinnville Municipal Code)
- B. Decision, Findings, and Conclusionary Findings for Docket G 1-24

EXHIBIT A TO ORDINANCE NO. 5149

McMinnville Zoning Ordinance Amendments to Provisions Relating to Residential Accessory Structures and Yards

New text is in **bold, italic, underline text**. Deleted text is in ~~strikethrough text~~

Chapter 17.54

GENERAL REGULATIONS

(as amended by **Ordinance No. 5149, October 2024**,
and Ordinance No. 4912, March 2009)

17.54.020 ~~Residential Accessory Structure and Use.~~ An accessory structure refers to a detached, non-habitable building (such as a shed ~~or~~ greenhouse, **detached covered deck, detached garage, detached unenclosed covered patio, and similar structure**) generally used for storage or other non-commercial use. ~~An~~ **Accessory structures** ~~is~~ **are** permitted in addition to an attached or detached garage and shall comply with the following limitations:

- A. ~~One~~ **Accessory structures** may be located within a required rear yard or a required interior side yard behind the back building line, and shall not contain more than ~~400~~ **200** square feet in area or be greater than 10 (ten) feet in height. An accessory structure exceeding one or both requirements must comply with the setback requirements of the zone. In addition, if the accessory structure is more than 10 (ten) feet in height or greater than 200 square feet in floor area, a building permit shall be obtained prior to construction.
- B. No accessory structure may be constructed on any lot prior to the issuance of a building permit for the principal structure. A permit for a detached garage may be issued simultaneously with the issuance of a permit for a principle dwelling on the subject property.
- C. Accessory structure placed within six (6) feet of a residence must comply with the Oregon State Building Code fire safety requirements.
- D. ~~An~~ **Unenclosed covered patios and/or a covered decks** enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than 10 (ten) feet to a rear property line; eaves may extend 24 inches into this setback. ~~An~~ **Uncovered decks** may be located within the required rear yard or the required side yard behind the back building line provided that it may not be closer than five feet to a property line.
- E. The placement of a temporary storage structure (such as a "POD") for non-commercial use is permitted in a required yard for a period not exceeding 10 (ten) days in a calendar year. This does not apply to construction trailers (typically erected for the duration of the construction period of a home, subdivision, commercial or industrial site) which must be removed within two (2) weeks of the date that a final certificate of occupancy is issued for the particular development.
- F. Play structures may be placed along rear and/or interior side yard property lines except that any portion of the structure that is six (6) feet or more in height must be a minimum of five (5) feet from the interior side and/or rear property line.
- G. **Accessory structures placed prior to the adoption of Ordinance 5149 on October 22, 2024 and compliant with the standards of Section 17.54.020 are legally non-conforming as per the requirements of Chapter 17.63 (Nonconforming Uses) (Ord. 5149(part); 2024, Ord. 4128 (part), 1981; Ord. 3380 (part), 1968)**

17.54.050 Yards.

- A. Measurement. The measurement of a yard shall be made perpendicular from the property line to the nearest portion of the building.
- B. Requirement exceptions. The following exceptions to the front-yard requirements for a dwelling are authorized for a lot in any zone:
 1. If there are dwellings on both abutting lots with front yards of depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.
 2. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth halfway between the depth of the abutting lot and the required front-yard depth.
 3. Whether attached to a residence or as a separate structure, a covered storage facility (garage) for a vehicle on which the main opening is toward a street shall be located not less than 20 (twenty) feet from the property line bordering the street.
- C. Projections into yards.
 1. Architectural features such as cornices, canopies, sunshades, windows, chimneys, and flues shall not project more than 18 (eighteen) inches into a required yard;
 2. Eaves may extend a distance not to exceed 30 (thirty) inches into a required yard;
 3. **When attached to a dwelling, unenclosed covered patios and covered decks enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than 10 (ten) feet to a rear property line; eaves may extend 24 inches into this setback. When attached to a dwelling, uncovered decks may be located within the required rear yard or the required side yard behind the back building line provided that it may not be closer than five feet to a property line.**
 4. **When attached to a dwelling, unenclosed covered patios and covered decks enclosed only by railings placed prior to the adoption of Ordinance 5149 on October 22, 2024 date and compliant with the standards of Section 17.54.050(C)(3) are legally non-conforming as per the requirements of Chapter 17.63 (Nonconforming Uses).**
- D. In a district where automobile service stations are permitted or conditionally permitted, freestanding gasoline pumps and pump islands shall not be closer than 10 (ten) feet to a street property line.
- E. In a commercial or industrial zone, if an alley is adjacent to a required side or rear yard, the distance for a required yard may be measured from the center of the alley.
- F. Yards required along arterial streets. Except in zones where greater setbacks are required, a minimum five (5) foot yard shall be provided where a lot or parcel abuts an arterial street, as those streets are defined in the City's Transportation Master Plan. The required five (5) foot yard shall be maintained as a clear vision area as defined in Section 17.54.080 except that the following uses may be allowed when alternatives are unavailable:
 1. The exceptions described in Section 17.54.080.
 2. Signs and signposts provided that the body of the sign is below three (3) feet in height or above eight (8) feet in height when measured from the top of the curb, or where no curb exists, eight and one-half (8.5) feet from the edge of the pavement or top of asphalt measured at the property line.

- G. A building may be constructed with a cantilever which extends up to two (2) feet over the setback at a height greater than eight feet when measured from the top of the curb, or where no curb exists, from eight and one-half (8.5) feet above the edge of the pavement, or top of asphalt measured at the property line.
- H. Setback variance requests shall be processed under the provisions of Chapters 17.72 (Applications and Review Process) and 17.74 (Review Criteria), except that:
 - 1. The applicant must prove that the vision of motorists, bicyclists, and pedestrians will not be blocked or adversely affected as a result of the variance:
 - 2. Variances to the requirements of this section which do not involve building setbacks must comply with Section 17.54.060(H)(1) above, but need not comply with Section 17.74.110. (**Ord. 5149(part), 2024**; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

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City of McMinnville
Community Development
231 NE Fifth Street
McMinnville, OR 97128
503-434-7311
www.mcminnvilleoregon.gov

DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO THE MCMINNVILLE ZONING ORDINANCE, DOCKET G 1-24, RELATING TO RESIDENTIAL ACCESSORY STRUCTURES AND YARDS CHAPTERS 17.54


- DOCKET:** G 1-24
- REQUEST:** Proposed amendments to the McMinnville Zoning Ordinance, adopting amended standards for Residential Accessory Structures and Yards.
- LOCATION:** N/A. The proposal is a legislative text amendment.
- ZONING:** N/A. The proposal is a legislative text amendment.
- APPLICANT:** City of McMinnville
- STAFF:** Taylor Graybehl, Senior Planner
- HEARINGS BODY:** McMinnville Planning Commission
- DATE & TIME:** September 19, 2024, 6:30pm. Hybrid In-Person and Zoom Online Meeting: Kent Taylor Civic Hall, 200 NE 2nd Street, McMinnville, Zoom Meeting ID: 893 6863 4307
- DECISION-MAKING BODY:** McMinnville City Council
- DATE & TIME:** October 22, 2024, 7:00 PM. Hybrid In-Person and Zoom Online Meeting: Kent Taylor Civic Hall, 200 NE 2nd Street, McMinnville, Zoom Meeting ID: 872 7518 5011
- PROCEDURE:** The application is subject to the legislative land use procedures specified in Sections 17.72.120 - 17.72.160 of the McMinnville Municipal Code.
- CRITERIA:** Amendments to the McMinnville Zoning Ordinance must be consistent with the Goals and Policies in Volume II of the Comprehensive Plan and the Purpose of the Zoning Ordinance.
- APPEAL:** The City Council's decision on a legislative amendment may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date written notice of the City Council's decision is mailed to parties who participated in the local proceedings and entitled to notice and as provided

in ORS 197.620 and ORS 197.830, and Section 17.72.190 of the McMinnville Municipal Code.

DECISION

Based on the findings and conclusionary findings, the City Council **APPROVES** the legislative amendments to the Zoning Ordinance (Docket G 1-24).

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DECISION: APPROVAL
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City Council: 
Remy Drabkin, Mayor

Date: 10/29/2024

Planning Commission: 
Sidonie Winfield, Chair of the McMinnville Planning Commission

Date: 11/01/2024

Planning Department: 
Heather Richards, Community Development Director

Date: 10/30/24

I. APPLICATION SUMMARY

This application is a legislative proposal for proposed amendments to the McMinnville Zoning Ordinance adopting amended standards for Residential Accessory Structures and Yards in Chapter 17.54, specifically Sections 17.54.020 (Residential Accessory Structure and Use) and 17.54.050 (Yards)

II. ATTACHMENTS

- Attachment 1. Amendments (on file with Planning Division, see also Exhibit A to Ordinance 5149)

III. FINDINGS OF FACT – GENERAL FINDINGS

Docket G 1-24 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 revised standards for Residential Accessory Structures and Yards.

The City Council finds, that based on the findings of fact and the conclusory findings contained in this findings report, that the; proposed amendments to Sections 17.54.020 and 17.54.050 of the McMinnville Zoning Ordinance are consistent with all of the applicable state and local regulations.

This findings document provides conclusory findings regarding consistency with applicable provisions of state and local law. Supporting these is a factual basis upon which the conclusory findings rest.

IV. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. On August 15, 2024, city staff hosted a work session with the Planning Commission to discuss options for accessory structures and yards amendments to the McMinnville City Code. At that time, Planning Commission provided direction to move forward with a legislative effort to amend the McMinnville Municipal Code to modify regulatory standards for residential accessory structures and yard intrusions.
2. Notice of the application and the September 19, 2024, Planning Commission public hearing were provided to DLCD on August 13, 2024.
3. Notice of the application and the September 19, 2024, Planning Commission public hearing was published in the News Register on Wednesday, September 13, 2024, in accordance with Section 17.72.120 of the Zoning Ordinance.
4. On September 19, 2024, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission recommended City Council approve the proposed amendments.
5. Notice of the October 8, 2024, City Council meeting was posted on the City website in accordance with Oregon public meetings law.
6. On October 22, 2024, the City Council held a duly noticed public meeting to consider the recommendation of the Planning Commission and the proposal.

V. CONCLUSIONARY FINDINGS:

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

Zoning Ordinance

The Purpose Statement of the Zoning Ordinance serves as a criterion for Zoning Ordinance 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 proposal amends standards for residential accessory structures and intrusions into required yards. The Planning Commission evaluated a variety of issues, including required setbacks from property lines, accessory structure area and height, and if/where intrusions into required yards should be permitted. The proposal reflects the balancing of the needs of neighborhood residents and property owners in a manner that addressed compatibility in residential neighborhoods.

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 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. The proposal is consistent with this applicable Goal of Chapter X of the Comprehensive Plan.

The Planning Commission held a work session on August 15, 2024 to evaluate a draft zoning ordinance amendment and consider best practices, including those of other communities.

At the work session, the Planning Commission agreed to initiate the public hearing process for public consideration with presented draft proposal modified to permit for larger residential accessory structures to intrude into required yards (from 100 square feet to 200 square feet) and to allow for those residential accessory structures and yard intrusions permitted by the revised code to continue.

The Commission determined that the proposed amendments best balanced the needs of neighborhood and property owners, and that the proposed amendments should be considered through the public hearing process.

Notice of the proposal and public hearing was provided to DLCDC and published in the newspaper.

The public hearing process provides further opportunity for consideration of citizen involvement and input and associated deliberation.