

ORDINANCE NO. 5153

AN ORDINANCE AMENDING THE MCMINNVILLE MUNICIPAL CODE, CHAPTER 17.64 TO PROVIDE TIME, PLACE AND MANNER REGULATIONS FOR PSILOCYBING ACTIVITIES IN MCMINNVILLE.

RECITALS:

WHEREAS, in November 2020, Oregon residents voted to approve Measure 109, legalizing the use of psilocybin mushrooms; and

WHEREAS, the ballot language allowed city residents to vote to delay the implementation of Measure 109 in their communities by two years; and

WHEREAS, in November 2022, McMinnville residents voted to delay the implementation of Measure 109 activities in McMinnville by two years; and

WHEREAS, ORS 475A.530 allows cities to enact reasonable time, place and manner regulations for psilocybin activities in their jurisdictions; and

WHEREAS, the McMinnville City Council met on October 19 and November 16, 2022, to conduct work sessions on time, place and manner regulations for psilocybin activities in McMinnville, directing city staff to draft regulations similar to those used by the City for marijuana activities; and

WHEREAS, a duly noticed public hearing before the McMinnville Planning Commission was held on December 5, 2024 after due notice had been provided in the local newspaper on November 29, 2024; and

WHEREAS, the Planning Commission, being fully informed about said request, found that the requested McMinnville Municipal Code amendments conformed to the applicable state and local governing regulations contained in Exhibit B of this ordinance and voted to recommend approval of the proposed code amendments in Exhibit A of this ordinance; and

WHEREAS, the City Council having received the Planning Commission recommendation and staff report, and having deliberated;

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

1. That the Council adopts the proposed McMinnville Municipal Code Amendments as documented in Exhibit A; and
2. That the Council approves the Decision, Conditions, Findings of Fact and Conclusionary Findings as documented in Exhibit B, approving the amendments ("G 5-22); and

3. That this Ordinance shall take effect 30 days after its passage by the City Council.

Passed by the McMinnville City Council this 18th day of December, 2024 by the following votes:

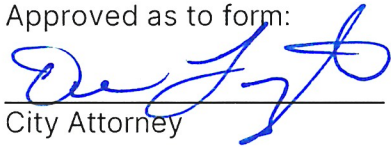
Ayes: Menke, Payne, Garvin, Geary, Peralta

Nays: Chenoweth



MAYOR

Approved as to form:



City Attorney

Attest:

Claudia Csneros
City Recorder

EXHIBITS:

- A. Chapter 17.64 Code Amendments
- B. Decision Document for Docket G 5-22



**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 5-22, RELATING TO TIME, PLACE AND MANNER REGULATIONS FOR PSILOCYBIN ACTIVITIES, CHAPTER 17.64.

- DOCKET:** G 5-22, Zone Text Amendment
- REQUEST:** The City of McMinnville is proposing amendments to Section 17.64. The proposal would create time, place and manner regulations for psilocybin activities.
- 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:** Heather Richards, Community Development Director
- HEARINGS BODY:** McMinnville Planning Commission

PLANNING COMMISSION

HEARING DATE & LOCATION:

December 5, 2024 at 6:30 P.M., 200 NE 2nd Street, McMinnville, OR 97128.
Zoom meeting ID: 893 6863 4307, Passcode: 989853

DECISION-MAKING

BODY: The McMinnville City Council makes the final decision, unless the Planning Commission decision is denial, in which case that is the final decision unless the Planning Commission decision is appealed to City Council.

MEETING DATE & LOCATION:

December 10, 2024, Kent Taylor Civic Hall, 200 NE Second Street and via Zoom. Zoom meeting ID: 895 7953 6277, Passcode: 108222

December 18, 2024, Kent Taylor Civic Hall, 200 NE Second Street and via Zoom. Zoom meeting ID: 862 3342 4870, Passcode: 167592

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. The proposal must also be consistent with applicable provisions of state law.

APPEAL: The Planning Commission makes a recommendation to the City Council. 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.

COMMENTS: This matter was referred to the following public agencies for comment: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, Public Works Department, Waste Water Services, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Planning Department; Ziplly Fiber (formerly Frontier Communications); Comcast; Recology; Northwest Natural Gas; Oregon Department of State Lands; and Oregon Department of Transportation. Their comments are provided in Section IV of this document.

II. DECISION

Based on the findings and conclusions, the McMinnville City Council **APPROVES** the legislative amendments to the Zoning Ordinance (Docket G 5-22).

////////////////////////////////////
DECISION: APPROVAL
////////////////////////////////////

City Council: 
Remy Drabkin, Interim Mayor of McMinnville

Date: 12/24/2024

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

Date: 1/3/25

Planning Department: 
Heather Richards, Community Development Director

Date: 1/3/25

I. PROPOSAL SUMMARY:

This is a legislative text amendment to the McMinnville Municipal Code, Title 17, Zoning Ordinance to create time, place , and manner regulations concerning psilocybin activities in McMinnville.

II. FINDINGS OF FACT - PROCEDURAL FINDINGS

1. November 2020, the Oregon electorate passed Measure 109 legalizing the use of psilocybin mushrooms in particular circumstances.
2. In 2021, the Oregon Legislature drafted and adopted statewide statutory guidelines for psilocybin activities.
3. On October 19 and November 16, 2022, the City Council hosted work sessions with city staff to discuss draft code language.
4. November 2022, the City of McMinnville electorate voted to postpone the allowance of psilocybin activities within the city limits by two years.
5. On October 29, 2024, the City noticed the proposed zoning ordinance amendments to the Department of Land Conservation and Development.
6. On November 29, 2024, the "City noticed a public hearing to consider time, place and manner regulations for psilocybin activities in the News Register.
7. On December 5, 2024, the Planning Commission held a duly noticed public hearing to consider the request. The Planning Commission made a recommendation to City Council to adopt time, place and manner regulations for psilocybin activities.
8. On December 10, 2024, the City Council voted on the first reading of Ordinance No. 5153.
9. On December 18, 2024, the City Council voted on the second reading of Ordinance No. 5153, approving the proposed code amendments.

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.

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.

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

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

ORS 475A.530

- (1) *For purposes of this section, "reasonable regulations" includes:*
- (a) *Reasonable conditions on the manner in which a psilocybin product manufacturer that holds a license issued under [ORS 475A.290 \(Manufacturer license\)](#) may manufacture psilocybin products;*
 - (b) *Reasonable conditions on the manner in which a psilocybin service center operator that holds a license issued under [ORS 475A.305 \(Psilocybin service center operator license\)](#) may provide psilocybin services;*
 - (c) *Reasonable limitations on the hours during which a premises for which a license has been issued under [ORS 475A.210 \(Short title\)](#) to [475A.722 \(Severability\)](#) may operate;*
 - (d) *Reasonable requirements related to the public's access to a premises for which a license has been issued under [ORS 475A.210 \(Short title\)](#) to [475A.722 \(Severability\)](#); and*
 - (e) *Reasonable limitations on where a premises for which a license may be issued under [ORS 475A.210 \(Short title\)](#) to [475A.722 \(Severability\)](#) may be located.*

(2) Notwithstanding [ORS 30.935 \(Prohibition on local laws that make farm practice a nuisance or trespass\)](#), [215.253 \(Restrictive local ordinances affecting farm use zones prohibited\)](#) (1) or [633.738 \(Prohibition of local laws to inhibit or prevent production or use of seeds or products of seeds\)](#), the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under [ORS 475A.210 \(Short title\)](#) to [475A.722 \(Severability\)](#) if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under [ORS 475A.305 \(Psilocybin service center operator license\)](#) from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under [ORS 475A.305 \(Psilocybin service center operator license\)](#). [2021 c.1 §81]

FINDING: SATISFIED. The proposed time, place and manner regulations are reasonable and does not have separation standards greater than 1000 feet.

EXHIBIT 1 - MINUTES

December 5, 2024
Planning Commission
Regular Meeting

6:30 pm
Hybrid Meeting
McMinnville, Oregon

Members Present: Dan Tucholsky, Sylla McClellan, Rachel Flores, Meg Murray, Brian Randall, Beth Rankin, and Elena Mudrak

Members Absent: Sidonie Winfield and Matthew Jones

Staff Present: Heather Richards – Community Development Director, Tom Schauer – Senior Planner, Taylor Graybehl – Senior Planner, Susan Muir – Parks and Recreation Director, and Bill Kabeiseman – Bateman Seidel

1. Call to Order

Vice Chair Tucholsky called the meeting to order at 6:30 p.m.

2. Citizen Comments

None.

3. Minutes

- November 7, 2024

Commissioner Randall and Rankin noted they had visited the site for the first public hearing, but their names were not listed.

Commissioner McClellan moved to approve the November 7, 2024 minutes as amended. The motion was seconded by Commissioner Rankin and passed unanimously.

4. Public Hearings

A. Quasi-Judicial Hearing: Sign Appeal (AP 3-24), 2155 NE Lafayette Avenue, Tax Lot R4415 1300

Request: An appeal of the Planning Director decision on a sign permit application (SR 11-24). The decision being appealed is the denial of the installation of one (1) freestanding sign facing Lafayette Avenue, located at 2155 NE Lafayette Avenue. The application was denied because the proposed sign exceeds the maximum area of freestanding sign in the Commercial Zone as permitted by Section 17.62.070(C)(1) of the McMinnville Municipal Code (MMC).

Applicant: Scott Thorkildson

Vice Chair Tucholsky said this issue had been resolved and the applicant had withdrawn the appeal.

B. Legislative Hearing: City of McMinnville Proposed Amendments To The Comprehensive Plan To Support The Parks, Recreation And Open Space Plan (Docket G 5-24)

Request: A proposal to adopt the June 2024 Parks Recreation and Open Space Plan as a supplemental document to the McMinnville Comprehensive Plan, and to amend Volume I, Background Information, Volume II, Goals and Policies and Volume III, McMinnville Growth Management and Urbanization Plan's Framework Plan, to support the Parks, Recreation, and Open Space (PROS) Plan.

Applicant: City of McMinnville

Vice Chair Tucholsky said the public hearing for this application had been closed at the last meeting, and the Commission would now deliberate on the application.

Staff Report: Community Development Director Richards said this was a legislative initiative to support the June 2024 Parks, Recreation, and Open Space Plan with the land use program. It required adoption of the Parks Plan as part of the Comprehensive Plan through an acknowledged Comprehensive Plan amendment process. She explained the purpose of the adoption and answered a question about the alignment of the Parks Plan with the proposed amendments to the Framework Plan and how it impacted the Fox Ridge Road Area Plan. She discussed the parks identified in the Fox Ridge Plan and the proposed language that the Fox Ridge Plan would incorporate one neighborhood park of a 5-acre minimum. The park would be co-located on or near the future high school site and would include opportunities for passive and active recreation that was accessible to all residents with a 10 minute (or ½ mile) walk of their home. The Fox Ridge Plan also included several natural and geographic features that provided an excellent opportunity for a natural resource park. Staff thought the proposed amendments were more in alignment with the plans than they were today without the amendments.

Commissioner Deliberation: The Commission deliberated on how this satisfied the spirit of what the Fox Ridge area citizens envisioned.

Commissioner Murray MOVED to recommend the Council APPROVE the proposed amendments to the Comprehensive Plan to support the Parks, Recreation and Open Space Plan (Docket G 5-24). SECONDED by Commissioner Flores. The motion PASSED 7-0.

C. Legislative Hearing: City of McMinnville Psilocybin Activities, Time, Place and Manner Regulations (Docket G 5-22)

Request: A proposal to amend the McMinnville City Code, Title 17, Chapter 17.64, to add a section with time, place and manner regulations relative to licensed Psilocybin Manufacturers and Service Centers.

Applicant: City of McMinnville

Vice Chair Tucholsky opened the public hearing and read the hearing statement. He asked if there was any objection to the jurisdiction of the Commission to hear this matter. There was none. He asked if any Commissioner wished to make a disclosure or abstain from participating or voting on this application. There was none.

Staff Report: Community Development Director Richards presented the text amendment to the zoning ordinance for time, place, and manner regulations for psilocybin services. She gave a background on psilocybin services and how the Council voted to postpone onboarding for two years while Oregon Health Authority adopted rules. Those rules were adopted in 2022 and the direction from Council was to create similar time, place, and manner regulations to marijuana activities. She discussed the types of services, local government issues, what the law allowed for time, place, and manner regulations for manufacturers and service centers, McMinnville's regulations for marijuana facilities, and other cities' regulations for psilocybin. The proposed regulations for psilocybin facilities in McMinnville were: service centers allowed in C1 and C3 zones and manufacturing in ML, M1, and M2 zones, must be separated by 1,000 feet, could not be within 1,000 feet of a school (including preschools), library, community center, aquatic center, recreational facility attended primarily by minors, or licensed daycare center, and could not be located on a property with a residence, including a caretaker's residence. Hours of operation would be from 9 a.m. to 9 p.m. The development standards for these facilities included: must be in a building and not a trailer, cargo container, or motor vehicle, no outdoor storage allowed, no paraphernalia visible to the public, no drive-through facilities or temporary facilities, and must have exterior lighting and waste disposal.

Commissioner Questions: There were questions regarding these uses being allowed in the same building as marijuana and how co-location in facilities was prohibited but they could be adjacent on the same tax lot, adding distance from potential future community centers, how the language meant daycare facilities not home based daycares that were not licensed, requiring space between marijuana and psilocybin businesses or allowing them to be located close together, how they could not be located on a property with a residence due to the effects of psilocybin and safety concerns of adjacent residents, making the location restrictions the same for marijuana and psilocybin, how at the dispensaries they did not consume the product but people experienced the treatment at the psilocybin facilities which posed a greater potential risk and further restrictions were appropriate, allowing manufacturing to be more concentrated but not distribution, and how not allowing psilocybin in McMinnville was not a choice due to Council's previous direction.

Commissioner Randall suggested making the marijuana location restrictions the same as the psilocybin restrictions. Any existing licensed marijuana facilities in these locations would be grandfathered in.

There was no public testimony.

Commissioner Rankin MOVED to CLOSE the public hearing, SECONDED by Commissioner McClellan. The motion PASSED 7-0.

Vice Chair Tucholsky closed the public hearing.

Commissioner McClellan MOVED to recommend the Council APPROVE City of McMinnville Psilocybin Activities, Time, Place and Manner Regulations (Docket G 5-22) and to add the same time, place, and manner restrictions to marijuana facilities, allowing

current licensed facilities to be grandfathered in. SECONDED by Commissioner Rankin.
The motion PASSED 6-1 with Commissioner Mudrak opposed.

5. Commissioner Comments

None.

6. Staff Comments

Community Development Director Richards discussed upcoming meetings.

7. Adjournment

Vice Chair Tucholsky adjourned the meeting at 8:07 p.m.