



**City of McMinnville**  
**Planning Department**  
231 NE Fifth Street  
McMinnville, OR 97128  
(503) 434-7311

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

# MINUTES

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**February 15, 2018**  
**Planning Commission**  
**Regular Meeting**

**6:30 pm**  
**McMinnville Civic Hall, 200 NE 2<sup>nd</sup> Street**  
**McMinnville, Oregon**

**Members Present:** Chair Roger Hall, Vice-Chair Zack Geary, Commissioners: Erin Butler, Susan Dirks, Gary Langenwalter, Roger Lizut, and Lori Schanche

**Members Absent:** Martin Chroust-Masin and Erica Thomas

**Staff Present:** David Koch – City Attorney, Chuck Darnell – Associate Planner, and Heather Richards – Planning Director

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## 1. Call to Order

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

## 2. Citizen Comments

None

## 3. Approval of Minutes

### A. November 16, 2017 Work Session

Commissioner Schanche moved to approve the November 16, 2017 Work Session minutes. The motion was seconded by Commissioner Langenwalter and passed 7-0.

## 4. Public Hearing (Quasi-Judicial)

### A. Zoning Text Amendment (G 1-18) (Exhibit 1)

**Request:** Approval to amend Chapter 17.06 (Definitions), Chapter 17.12 (R-1 Single-Family Residential Zone), Chapter 17.15 (R-2 Single-Family Residential Zone), Chapter 17.18 (R-3 Two-Family Residential Zone), Chapter 17.21 (R-4 Multiple-Family Residential Zone), Chapter 17.24 (O-R Office/Residential Zone), Chapter 17.30 (C-2 Travel Commercial Zone), Chapter 17.60 (Off-Street Parking and Loading), and Chapter 17.72 (Applications and Review Process) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to the reclassification of vacation home rentals as short term rentals. The amendments will introduce spacing standards for short term rentals located in residential zones and will update the standards that apply to short term rentals in residential zones for better

clarification on the required design and operation of these types of uses. The amendments will also address the classification of short term rentals in the commercial zones to better define these types of uses as short term rentals instead of the current classification as boarding houses or lodging houses.

Applicant: City of McMinnville

Chair Hall opened the public hearing and read the hearing statement. He asked if there was any objection to the Commission's jurisdiction to hear this matter. There was none. He asked if anyone on the Commission had disclosures to make, would abstain from participating or voting on this application, or had a potential or actual conflict of interest to declare. There was none.

Associate Planner Darnell provided the staff report. This was a request to approve the proposed zoning text amendments related to vacation home rentals that would be defined as short term rentals. The Commission had discussed this topic at previous meetings. Some of the public comments that had been received were related to the perceived negative impacts of existing vacation home rentals on neighborhoods. In response to that staff had done some research on how other cities regulated and enforced these rentals and had looked into the location of existing vacation home rentals. The proposed amendments reflected the conversations that the Commission and staff had previously. The major amendments were: reclassifying the use and updating the definitions, proposing a spacing standard in residential zones, making changes to the operational requirements, and making changes to the review and licensing process. The proposed definitions were short term rental, short term rental resident occupied, lodging, and bed and breakfast. The short term rental would replace the vacation home rental use. It would be the use of an entire dwelling unit for up to 21 days and a statement would be added that short term rentals included vacation home rentals that had been approved under the regulations in effect through April 12, 2018, which was the projected date for the new language to go into effect. They would be allowed in the same zones that vacation home rentals had been allowed, which was all residential and C-2 and C-3 zones. The short term rental resident occupied would replace the current bed and breakfast classification. It was the use of no more than two guest sleeping rooms for no more than 7 consecutive days. The dwelling unit would be occupied full time by a resident at the time the guest sleeping rooms were available for rent. This use would be allowed in all residential and office residential zones. The lodging definition would be updated to say a combination of guests, but did not classify who those guests were or how they were traveling. This would include hotels and motels and would be allowed in the C-2 and C-3 zones. The bed and breakfast classification would be used to describe the typical bed and breakfast that was a building primarily used for lodging and provided meals to guests. They were allowed in the R-4 and OR zones as conditional uses and were permitted in the commercial zones. The spacing standard was in response to the concerns about the number of rentals in neighborhoods. It would only apply to the residential zones and was a way to not allow a concentration of short term rentals to occur on a street or a whole street transitioning to that type of use. The spacing standard did not apply to short term rentals in commercial zones or resident occupied short term rentals. The spacing standard was that a short term rental would not be located within 200 feet of another short term rental. In terms of operational requirements, the existing code language was unclear regarding when a short term rental could be established. The proposal was to make it clear and expand the types of dwelling units that rentals could be allowed in, such as single family dwellings, common wall single family dwellings, two family dwellings, and accessory dwelling units. The structure would still have to retain the characteristics of a residence. Staff proposed not to allow short term rentals in multi-family dwelling units. The Affordable Housing Task Force wanted to make sure there was a balance for ADUs to be used as short term rentals and as an affordable housing option. Regarding licensing requirements, short term rentals would still be subject to a review process and a

neighborhood meeting. The short term rentals in commercial zones would not be need to go through that process as they were a permitted use. Some language had been changed regarding the renewal requirements, which stated that the permits would be renewed annually. Failure to renew the permit would result in the permit becoming void and applicants would have to reapply. For non-conforming uses that did not meet the spacing standard, they would be allowed to continue as non-conforming uses, but if they did not renew and maintain their permit, they would be subject to reapplication and the spacing standard would apply. Historically vacation home rentals in the OR zone were subject to the review and licensing process, but it was designated as a commercial land use. Staff recommended short term rentals in the OR zone continue to follow the review and licensing requirements as it was a mixed zone and there were a lot of residential uses in that zone. Some other changes were to off street parking and the application review process chapter. The definitions would be updated to be consistent.

Associate Planner Darnell reviewed the public testimony that had been received. One concern was it was unclear how long term or standard rental properties were treated. The City did not regulate long term rentals. Anything that was a rental for 22 days or more was considered a long term rental. There was a question about the local contact requirement. The current language required either the property owner or a local contact resided in the City limits, and the question was whether that should be expanded to a larger geographical area, such as the 97128 zip code. That zip code generally included the area in the hills west of McMinnville and some of the areas to the east and south toward Sheridan and Lafayette. It would still be a reasonably quick response time and staff recommended expanding the local contact location to the 97128 zip code. There were suggested amendments to other portions of the code. A typo was pointed out and the parking requirements for bed and breakfasts would remain. There was a question about how licenses were applied to properties and what happened if ownership changed. The approval of a short term rental would apply to the use of the property and the license was issued to the home owner and was good for one year. If a property changed ownership, the existing approved use was still in place and the new owner would have to change the license to their name. It fell to the seller and buyer to complete this process and if the license was not renewed by the new owner, the permit would be void and they would have to reapply. There was a question about short term rental uses and how they were grandfathered in. The existing approved vacation home rentals would be grandfathered in and would be considered legal non-conforming uses if they did not meet the spacing standard. This was only true for the rentals that had been licensed and approved by the City. Staff recommended the Commission recommend to the City Council approval of these code amendments.

There was discussion regarding the expansion of the local contact location.

Commissioner Dirks asked about enforcement.

Associate Planner Darnell said the current process was when the City became aware of a short term rental operating without City approval, a letter was sent to them asking for evidence that they were or were not approved. If there was no response, the next step was to issue a citation to appear in Municipal Court and the judge had the ability to assign fines for a violation of the zoning ordinance. Due to the size of the department, they operated on a complaint basis only. There was a student group doing research online and trying to find out the addresses of all the rentals in McMinnville and to find out if they were licensed or not. Once that information was gathered, it would be given to Code Enforcement.

Commissioner Langenwaller clarified these changes would become effective in April 2018 if approved by Council.

Commissioner Geary asked about the taxing structure for these rentals.

Planning Director Richards said the Transient Lodging Tax applied to these rentals, which was 11%. If they were registered as a legal vacation home rental they needed to report.

City Attorney Koch said there were penalties for not being registered and not filing the appropriate taxes. In the Transient Lodging Tax ordinance there was an audit provision and the City could audit providers to make sure their books were correct and there were no discrepancies to what was being reported to the City.

Proponents: Sidonie Winfield, McMinnville resident, said the addresses she had provided the City for the non-conforming VRBOs that were in her neighborhood were presented to them as an encouragement for the 200 foot standard and not as an official complaint. It was to recognize how much her neighborhood desperately needed the 200 foot standard. Seven homes out of the fifteen on her street were VRBOs. She asked what would happen if there were applications for VRBOs between now and April.

Associate Planner Darnell replied applications would be subject to the standards that were in place at the time of the application. There was a neighborhood meeting requirement that had to happen first.

Ms. Winfield said she would have liked the process to expire with the change of ownership, but she understood it was a use as opposed to a switching over of the property itself.

Associate Planner Darnell said it was an annual approval for the use, and if it was sold the new owner would have the license changed to their name and renewed before the renewal deadline. If they did not do it before the deadline, it became void.

Ms. Winfield clarified the use of the current license continued with the new owner. She would like to get rid of the concentration in her neighborhood.

Planning Director Richards commented it was a land use application and the use was approved for the property. The license to operate was an annual renewal, and if it was not renewed it became void and the land use became void.

Ms. Winfield explained to the audience that she lived off of Birch Street between 5<sup>th</sup> and 7<sup>th</sup> and there were at this point in time four licensed VRBOs, two unlicensed, and two proposed for that area. She was concerned about the concentration of these short term rentals which created what she called ghost houses. She hoped the spacing standard would help with this issue.

Planning Director Richards said vacation rentals that were not 200 feet from each other became legal non-conforming uses through these amendments. They could add in the code that if ownership was transferred, they would lose the opportunity for vacation rental use. In order to do that, all of the property owners who had vacation rental homes would need to be notified and another public hearing would need to be held.

Ms. Winfield suggested making a decision on the proposed amendments tonight, and adding that provision in at a later time. She would like to get the 200 foot standard in place as soon as possible.

City Attorney Koch said the Commission could take up the issue of termination of rights upon transfer of ownership if it was a lawful non-conforming use.

There was discussion regarding the basis for termination of the rentals.

Opponent: Dennis Cuc, McMinnville resident, said Ms. Winfield's testimony showed how different neighborhoods in McMinnville were and how addressing her concern in her neighborhood might not be appropriate for all areas of the City. In other areas of McMinnville there was substandard housing and putting a 200 foot barrier could be an issue if the best use of the property was a vacation rental home. He agreed that ghost houses in a nice neighborhood were different from other areas, such as downtown, Alpine Avenue, or the Gateway District. He suggested staff look at what cities in California who were vacation destinations did in limiting short term rentals. He also thought the limitations should be defined by neighborhood, as in some cases short term rentals improved a neighborhood. Putting limits on short term rentals limited property owners' ability to fully improve their properties and it locked neighborhoods into substandard development. In the neighborhoods that would be best for short term rentals, he thought there should not be a limit. Where there were issues like in Ms. Winfield's neighborhood, those neighborhoods should be addressed. He thought they should tailor the ordinance per neighborhood, as they should not limit those areas that were a walkable distance to downtown or the Gateway district. He thought it was a mistake to assume all neighborhoods were the same. A 200 foot buffer would destine some neighborhoods to lower quality housing and would bring turmoil to the neighborhood.

Chair Hall closed the public hearing.

Commissioner Schanche clarified there would not be a 200 foot separation for bed and breakfasts or resident occupied short term rentals.

Associate Planner Darnell explained the short term rentals that would be subject to a 200 foot separation were ones where the entire dwelling was rented out. Those that were resident occupied and rooms were rented out would not be subject to this spacing standard.

Mr. Cuc said that did not address his issue, which was the ability of a home to be developed.

Chair Hall asked if the Commission wanted to make a determination that they would deal with the property change of ownership issue at a later time and to move forward with what had been presented that night.

There was consensus to move forward with what had been presented and for staff to bring back the change of ownership issue.

Commissioner Schanche thought the amendments had been tailored for McMinnville and were appropriate.

Commissioner Geary asked if there was a maximum number of allowable dwellings to be rented out per lot. Was it allowed to have a house that was a permitted short term rental, and an accessory dwelling unit as a separate short term rental on the same property? He thought it should be defined that there was no more than one short term rental allowed on the same property.

Planning Director Richards said language could be added to the spacing standard that stated, "and on the same property."

There was consensus to make that change.

Chair Hall said in regard to Mr. Cuc's comments, land use decisions had to be a balancing act. Ms. Winfield's concern was that the character of her neighborhood would be lost. It was a quality of life issue, not a financial issue as raised by Mr. Cuc. He was not persuaded that if properties were not allowed to be short term rentals it would make a neighborhood devolve into a Section 8 situation. The onus was placed on the Commission not to allow neighborhoods to deteriorate and that was not part of their purview. They did the best they could for everyone involved.

Commissioner Dirks said the Commission had been looking at this in depth for many months and they had considered the entire city and had researched what other cities did. They were looking at what made sense for the whole city to ensure that there were not too many short term rental properties and yet there were enough rentals for the tourism industry.

Commissioner Geary asked what percentage of vacation homes there would be in the City if everyone filled in the 200 foot buffer.

Associate Planner Darnell said that analysis had not been done, but he had looked at a few of the licensed rentals and applied the 200 foot buffer and counted how many properties that touched. They did not do an analysis on in fill of available areas.

Based on the findings of fact, the conclusionary findings for approval, and the materials submitted by the City of McMinnville, Commissioner Lizut moved to recommend the City Council approve G 1-18 and the zoning text amendments as recommended by staff including the one additional amendment to the 200 foot standard. The motion was seconded by Commissioner Langenwalter and passed 7-0.

Commissioner Lizut said there would be another opportunity to testify on this matter to the City Council.

## **5. Discussion Items**

None

## **6. Old/New Business**

None

## **7. Commissioner Comments**

None

## **8. Staff Comments**

Planning Director Richards said there was a Historic Preservation Plan public meeting on February 20. There would be a Meet and Greet with the Building Team on March 5. Principal Planner Pomeroy had submitted his resignation effective February 14. He had served the City for 25 years, and a photo book was being put together to give to him.

**9. Adjournment**

Chair Hall adjourned the meeting at 8:10 p.m.

A handwritten signature in black ink, appearing to read "Heather Richards", written in a cursive style.

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Heather Richards  
Secretary