



**Oregon**  
Theodore R. Kubongski, Governor

**Department of Land Conservation and Development**  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



**NOTICE OF ADOPTED AMENDMENT**

1/26/2010

**TO:** Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** City of McMinnville Plan Amendment  
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Friday, February 05, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

**Cc:** Jennifer Lynagh, City of McMinnville  
Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative

<paa> YA





FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

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DEPT OF  
DEPT OF  
JAN 19 2010  
LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of McMinnville**

Local file number: **G 3-09**

Date of Adoption: **January 12, 2010**

Date Mailed: **January 15, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: Oct 2, 2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Sections of the McMinnville Zoning Ordinance (No.3380) were amended to provide revised standards related to land-use application submittal, review, and appeal process for purposes of providing consistency with other provisions of the zoning ordinance and State law.

Does the Adoption differ from proposal? No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **McMinnville**

Acres Involved: **city-wide**

Specify Density: Previous:

New:

Applicable statewide planning goals:

**1** **2** 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No



**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

---

Local Contact: **Jennifer Lynagh**

Phone: **(503) 434-7311** Extension:

Address: **231 NE Fifth St**

Fax Number: **503-474-4955**

City: **McMinnville**

Zip: **97128**

E-mail Address: **Jennifer.lynagh@ci.mcminnville.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. **Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:**
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.



ORDINANCE NO. 4920

An Ordinance amending the McMinnville Zoning Ordinance (No. 3380) to provide revised standards related to land use application submittal, review, and appeal processes for purposes of providing consistency with other provisions of the zoning ordinance and State law.

RECITALS:

As part of the City Council-directed task of updating the McMinnville Comprehensive Plan and implementing ordinances, and to bring land use review procedures current with State law, the Planning Department has prepared draft amendments to Chapter 17.72 (Public Hearings) of the McMinnville Zoning Ordinance. This chapter has been revised to address the application submittal, review, and appeal process so that references to these processes are contained solely within this chapter. As a result: 1) information related to the application submittal, review, and appeal process in chapters 17.53 (Land Division Standards), 17.56 (Large Format Commercial Development), and 17.59 (Downtown Design Standards and Guidelines), was removed and replaced with language directing the reader to the newly named Chapter 17.72 (Applications and Review); 2) Chapters 17.66 (Conditional Uses), and 17.69 (Variances) were combined into a new chapter (17.74, Review Criteria) in which the review criteria for several applications is addressed; and 3) Chapter 17.75 (Administrative Provisions) was deleted in its entirety, sections of which were incorporated into Chapter 17.72 and Chapter 17.03.

Staff's draft amendments were presented to the Planning Commission at a public hearing held November 19, 2009, after due notice had been published in the "News Register" for the hearing. At the public hearing, the Commission suggested three (3) minor revisions to Chapter 17.72 which have been incorporated into the attached draft.

Following the close of the public hearing, the Commission voted unanimously to forward a recommendation to the City Council for approval of the amendments recommended by staff, as amended. Now, therefore:

THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That Chapter 17.72 (Public Hearings) of McMinnville Ordinance No. 3380 (the Zoning Ordinance) is amended as described in Exhibit "A," attached hereto as Chapter 17.72 (Applications and Review).

Section 2. That Chapter 17.75 (Administrative Provisions) of McMinnville Ordinance No. 3380 (the Zoning Ordinance) is deleted in its entirety and relocated to Chapters 17.72 (Applications and Review) and 17.03 (General Provisions) as described in Exhibit "B" attached hereto.

Section 3. That Chapter 17.66 (Conditional Uses) and Chapter 17.69 (Variances) are deleted in their entirety, portions of which are incorporated into a new chapter 17.74 (Review Criteria) as described in Exhibit "C" attached hereto.

Section 4. That the McMinnville Zoning Ordinance (No. 3380) is further amended as necessary to incorporate the appropriate references to new or revised sections or chapters as described in Exhibit "D," attached hereto.

Section 5. That this ordinance shall be subject to the terms and conditions of Ordinance No. 3823, entitled "Initiative and Referendum," for a period of 30 (thirty) days.

Passed by the Council this 12<sup>th</sup> day of January 2010, by the following votes:

Ayes: Hansen, Hill, Jeffries, May, Menke, Yoder

Nays: \_\_\_\_\_

Approved this 12<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
COUNCIL PRESIDENT

Attest:

\_\_\_\_\_  
CITY RECORDER

Approved as to Form:

  
\_\_\_\_\_  
CITY ATTORNEY

# EXHIBIT A

## Chapter 17.72

### APPLICATIONS AND REVIEW PROCESS

#### Sections.

<u>17.72.010</u>	<u>Purpose</u>
<u>17.72.020</u>	<u>Application Submittal Requirements</u>
<u>17.72.030</u>	<u>Filing Fees</u>
<u>17.72.040</u>	<u>Application Review for Completeness</u>
<u>17.72.050</u>	<u>Application Decision Time Limit</u>
<u>17.72.060</u>	<u>Limitations on Renewal or Refiling of Application</u>
<u>17.72.070</u>	<u>Concurrent Applications</u>
	<u>Application Review and Decision Process</u>
<u>17.72.080</u>	<u>Legislative or Quasi-Judicial Hearings</u>
<u>17.72.090</u>	<u>Application Review Summary Table</u>
<u>17.72.100</u>	<u>Applications and Permits-Director's Review</u>
<u>17.72.110</u>	<u>Applications-Director's Review with Notification</u>
<u>17.72.120</u>	<u>Applications-Public Hearings</u>
<u>17.72.130</u>	<u>Public Hearing Process</u>
<u>17.72.140</u>	<u>Mailed Notification</u>
	<u>Notice of and Effective Date of Decision</u>
<u>17.72.150</u>	<u>Notice of Decision</u>
<u>17.72.160</u>	<u>Effective Date of Decision</u>
	<u>Appeal</u>
<u>17.72.170</u>	<u>Appeal from Ruling of the Planning Director</u>
<u>17.72.180</u>	<u>Appeal from Ruling of Planning Commission</u>
<u>17.72.190</u>	<u>Appeal from Ruling of City Council</u>

17.72.010 Purpose. The purpose of this chapter is to describe the various review and appeal processes for land use applications and permits in McMinnville.

#### 17.72.020 Application Submittal Requirements.

Applications shall be filed on forms provided by the Planning Department and shall be accompanied by the following;

- A. A scalable site plan of the property for which action is requested. The site plan shall show existing and proposed features, such as access, lot and street lines with dimensions in feet, distances from property lines,

- existing and proposed buildings and significant features (slope, vegetation, adjacent development, drainage etc.)
- B. An explanation of intent, nature and proposed use of the development, and any pertinent background information.
- C. Property description and assessor map parcel numbers(s).
- D. A legal description of the property when necessary.
- E. Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- F. Materials required by other sections of the McMinnville Zoning Ordinance specific to the land use application.
- G. Other materials deemed necessary by the Planning Director to illustrate compliance with applicable review criteria, or to explain the details of the requested land use action.

17.72.030 Filing fees. The City shall charge and collect a filing fee for each such application as established by resolution of the City Council.

- A. The applicant(s) shall submit the required filing fee at the time of application submittal;
- B. Whether the request is approved or denied, the petitioner shall not be entitled to a refund of the initial fee paid. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.72.030) has been moved from Chapter 17.75.010 (Administrative Provisions).~~

17.72.040 Application Review for Completeness. Upon receipt of a complete application, the Planning Director shall review the application for completeness within 30 (thirty) days of the date that the application is submitted. If, upon review, the application is found to be incomplete, the applicant shall be advised in writing of the information needed to complete the application within 30 (thirty) days of the date of application submittal. The application shall be deemed complete upon receipt of all of the missing information or upon written notice from the applicant that some or all of the missing information will not be provided. Throughout all land use proceedings, the burden of proof shall rest on the applicant.

17.72.050 Application Decision Time Limit. The City shall take final action on all land use requests that are wholly within the authority and control of the City within 120 days from the date the application is deemed complete. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time. The 120 day period does not apply to an amendment of the comprehensive plan or a land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development (DLCDD) as required by ORS 197.610.

17.72.060 Limitations on Renewal or Refiling of Application. Where an application that is subject to a public hearing has been denied, no new application for the same purpose shall be filed within one year of the date of the previous denial unless the

City Council or Planning Commission, for good cause, shall grant permission to do so. This section (17.72.060) has been moved from Chapter 17.75.060 (Administrative Provisions). (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.72.070 Concurrent Applications.** When a proposal involves more than one application for the same property, the applicant may submit concurrent applications which shall be processed simultaneously. In so doing, the applications shall be subject to the hearing procedure that affords the most opportunity for public hearing and notice.

**Application Review and Decision Process**

**17.72.080 Legislative or Quasi-Judicial Hearings.** The applications listed in this Chapter are either legislative or quasi-judicial in nature and are subject to a public hearing before the Planning Commission or City Council.

- A. A requested amendment to the text of the zoning ordinance or comprehensive plan would call for a legislative-type hearing, **the purpose of which is to obtain public input primarily on matters of policy.** A legislative amendment may be initiated by the City Council, the Planning Commission or by the Citizens' Advisory Committee. Any other citizen may petition the City Council requesting them to initiate a text amendment.
- B. An application that is site specific (such as a zone change or annexation request) would call for a quasi-judicial hearing. **The decisions made as a result of such hearings must be based upon testimony submitted and supported by Findings of Fact.** An amendment that is site specific may be initiated by the City Council, the Planning Commission, the Citizens' Advisory Committee or by application of the property owner.

**17.72.090 Application Review Summary Table.** The following table offers an overview of land use applications and corresponding review body. Additional information regarding the notification and approval criteria for specific land use applications can be found by referring to the procedural reference section in the right-hand column of the table. Information regarding the hearing body and the hearing procedure can be found in this chapter.

<u>Review Process</u>	<u>Land Use Application</u>	<u>Zoning Ordinance Reference</u>
<b>Applications and Permit-Director's Review Without Notification</b>	Home Occupation Permit	17.67
	Large Format Commercial Design Review (standard)	17.56.040
	Manufactured Home Park Permit	Ord. No.4220
	Model Home Permit	17.54.060
	Property Line Adjustment	17.53.050
	Recreational Vehicle Park Permit	Ord. No.4220-Section 12
<b>Review with</b>	Temporary Living Unit Permit	17.54.070
	Administrative Variance	17.74.080-090
	Classification of an Unlisted Use	17.54.010
	Downtown Design Review	17.59.030-040



<b>Notification</b>	Large Format Commercial Design Review (variation to prescribed standards)	17.56.040
	Partition	17.53.060
	Subdivision-up to 10 lots	17.53.070
	Three Mile Lane Design Review	Ord. Nos. 4131, 4572
	Transitional Parking Permit	17.60.130
<b>Public Hearing- Planning Commission</b>	Annexations* **	Ord. No. 4357
	Appeal of Director's Decision	17.72.170
	Comprehensive Plan Map or Text Amendment*	17.74.020
	Conditional Use Permit	17.74.030-060
	Planned Development Amendment*	17.74.070
	Subdivision (more than 10 lots)	17.53.070
	Legislative Amendment *	17.72.120
	Variance	17.74.100-130
	Zone Change*	17.74.020
<b>Public Hearing- City Council</b>	Appeal of Planning Commission's Decision	17.72.180
<b>MUAMC***</b>	Urban Growth Boundary (UGB) Amendment	Ord. Nos. 4130,4146

\* Following Public Hearing, Planning Commission makes recommendation to City Council

\*\* Following City Council recommendation, Annexation requests are subject to voter approval

\*\*\* McMinnville Urban Area Management Commission

**17.72.100 Applications and Permits - Director's Review. The following applications are subject to the Planning Director's review for which a decision shall be made within 20 (twenty) working days from the date that a complete application is received. Applications shall be submitted as required in Section 17.72.020.**

- **Home Occupation Permit**
- **Large Format Commercial Development (not involving a variation to standards)**
- **Mobile Home Park Permit**
- **Model Home Permit**
- **Property Line Adjustment**
- **Recreational Vehicle Permit**
- **Temporary Living Unit Permit**

**Notice to neighboring property owners for the above land use applications and permits is not provided. Prior to a decision, the Director may forward the application to other City departments for review and comment. The Planning Department shall provide written notice of the decision to all parties who participated and, in the case of a Temporary Living Unit permit, to the abutting property owners.**

17.72.110 Applications – Director’s Review with Notification. The following applications shall be submitted as stated above in Section 17.72.020 and shall be reviewed by the Planning Director or designee.

- Administrative Variance
  - Classification of an Unlisted Use
  - Downtown Design Review
  - Large Format Commercial Development (variation to standard)
  - Tentative Partition
  - Tentative Subdivision (up to 10 lots)
  - Three Mile Lane Design Review
  - Transitional Parking Permit
- A. Notice of the request shall be provided to owners of property within 100 feet of the site for which the application is made. For applications involving classification of an unlisted use, the only notification provided shall be that published in a newspaper of general circulation a minimum of 14 (fourteen) days prior to a decision being rendered. Notices for applications listed in Section 17.72.110 shall:
1. Provide a 14 (fourteen) day period for submission of written comments prior to the decision;
  2. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;
  3. List, by commonly used citation, the applicable criteria for the decision;
  4. Set forth the street address or other easily understood geographical reference to the subject property;
  5. State the place, date, and time that comments are due;
  6. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;
  7. Include the name and phone number of a local government contact person;
  8. Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and
  9. Briefly summarize the local decision making process for the land use decision being made.
- B. During the 14 (fourteen) day comment period, a person who has received notice may request a public hearing following the procedure as outlined in Section 17.72.120
- C. The Director or designee shall make a decision for the above applications within 30 (thirty) days following the close of the 14 (fourteen) day comment period. The Director’s decision may be appealed as outlined in Section 17.72.170

**17.72.120 Applications-Public Hearings.** The Planning Commission shall hold at least one public hearing **on the following land use applications.**

- **Application with Director's decision for which a public hearing is requested**
- **Annexation**
- **Appeal of a Planning Director's Decision**
- **Comprehensive Plan Map Amendment**
- **Comprehensive Plan Text Amendment**
- **Conditional Use Permit**
- **Planned Development**
- **Planned Development Amendment**
- **Tentative Subdivision (more than 10 lots)**
- **Urban Growth Boundary Amendment**
- **Variance**
- **Zone Change**
- **Zoning Ordinance Text Amendment \***

**The above applications are subject to the following submittal, notice, and hearing requirements:**

- A. Applications must be filed not less than 35 (thirty-five) days prior to the date of the public hearing. **Applications other than those involving text amendments or other legislative matters shall be reviewed for completeness as outlined above in Section 17.72.040.**
- B. **The Director shall send a copy of the proposal to any agency or City department identified by the Director as having interest in the proposal including those agencies and departments responsible for determining compliance with state and federal requirements. The notified agency may provide written comment regarding the proposal.**
- C. **An application to amend the comprehensive plan map, zoning ordinance text, comprehensive plan text or other application requiring notice to the Department of Land Conservation and Development Commission (DLCD) as a "post acknowledgment plan amendment" shall be submitted to the Planning Department a minimum of 55 (fifty-five) days prior to the date of the public hearing so that notice of the application can be provided to the DLCD.**
- D. Notice of the public hearing shall be published in a newspaper of general circulation in the City, not less than five (5) days nor more than 15 (fifteen) days prior to the date of the public hearing.
- E. Written notice of a variance request shall be mailed to the applicant and all property owners within 100 feet of the exterior boundary of the subject property, and within 200 feet of the exterior boundary of the subject property for an application for a conditional use permit not fewer than 20 (twenty) nor more than 30 (thirty) days prior to the date of the public hearing.
- F. Written notice of a request for applications other than those involving text amendments or other legislative matters shall be mailed to the applicant and



all property owners within 300 feet of the exterior boundary of the subject property, not fewer than 20 (twenty) nor more than 30 (thirty) days prior to the date of the public hearing.

- G. Written notice of an application to change a zone for all or part of a mobile home park shall be provided for the tenants of a mobile home park at least 20 (twenty) days but not more than 40 (forty) days before the date of the first public hearing on the applications.

**17.72.130 Public Hearing Process.** Public hearings shall be conducted as per requirements of McMinnville Ordinance No. 3682, as amended;

- A. **A staff report shall be submitted to the review body, and shall be made available to the public at least seven (7) days before the date of the public hearing.**

1. Any public hearing may be continued to a specific date, time, and location by oral announcement **of that specific date, time, and location** prior to the hearing being recessed. This announcement is sufficient notice to all applicants, adverse parties, and interested persons, **and no further notice is required.**

- B. **Legislative hearings.** Within 45 days following the public hearing on a comprehensive plan text amendment or other legislative matter, unless a continuance is announced, the Planning Commission shall render a decision which shall recommend either that the amendment be approved, denied, or modified:

1. Upon reaching a decision, the Planning Commission shall transmit to the City Council a copy of the proposed amendment, the minutes of the public hearing, the decision of the Planning Commission, and any other materials deemed necessary for a decision by the City Council;
2. Upon receipt of the decision of the Planning Commission, the City Council shall:
- (a) Adopt an ordinance effecting the proposed change as submitted by the Planning Commission, or
  - (b) Adopt an ordinance effecting the proposed change in an amended form, or
  - (c) Refuse to adopt the amendment through a vote to deny, or
  - (d) Call for a public hearing on the proposal, subject to the notice requirements stated in Section 17.72.025(A)(2). (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

- C. **Quasi-judicial hearings: A quasi-judicial public hearing may be held over on the Planning Commission's own motion or on the request of any participant in the hearing who requests an opportunity to present additional evidence, arguments, or testimony on the application.**

1. **Should a participant request an opportunity to present additional evidence, arguments, or testimony, the Planning Commission shall have the discretion to grant the request by either:**
- (a) **continuing the hearing to a specific date, time, and location, provided the date is at least seven (7) days after the date of the initial evidentiary hearing or,**

- (b) holding the record open for the submission of additional written evidence, arguments or testimony, provided that the record shall be left open for at least seven (7) days after the date of the initial evidentiary hearing.
- 2. A request for continuance or a request to keep the record open shall be granted provided that the request occurs before the conclusion of the initial evidentiary hearing and either:
  - (a) There is sufficient time under ORS 197.178, or
  - (b) The applicant requests or agrees to the extension of time.
- 3. Within 45 (forty-five) days following the public hearing on a quasi-judicial matter, and unless a continuance is announced, the Planning Commission shall make specific Findings of Fact. Based on the findings, the Planning Commission shall render a decision which shall either approve or deny the application, or approve the application in a different form.
- 4. Planning Commission decisions on the following applications shall be final unless an appeal is filed.
  - Appeal of Planning Director's Decision
  - Conditional Use Permit
  - Tentative Subdivision (with more than 10 lots)
  - Variance
  - Any application listed in Section 17.72.110 for which a public hearing is called.

Following the public hearing for all other quasi-judicial applications listed in 17.72.120, the Planning Commission shall make a recommendation to the City Council to approve or deny the application, or that the proposal be adopted or rejected, or that the application or proposal be approved in a different form.

- (a) If the decision of the Planning Commission recommends that an application be granted or that the proposal be adopted, or that the application be approved in a different form, the Planning Commission shall transmit to the City Council, a copy of the application, a scale drawing of the site, the minutes of the public hearing, the decision and findings of the Planning Commission, and any other materials deemed necessary for decision by the City Council.
- (b) If the decision of the Planning Commission recommends that the application be denied, or the proposal rejected, no further proceedings shall be held by either the Planning Commission or City Council, unless an appeal of the Commission's decision is filed.
- 5. Upon receipt of the decision of the Planning Commission to recommend approval the Council shall:
  - (a) Based on the material in the record and the findings adopted by Commission and transmitted to the City Council, adopt an ordinance effecting the proposed change, or;
  - (b) Call for a public hearing on the proposal subject to the notice requirements stated in Section 17.72.120 (D) and (E) (Ord. 4534 §2 and §4 (part), 1993; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.72.140 Mailed Notification.** The names and addresses of the property owners from the Yamhill County Assessor's Office most recent property tax assessment roll shall be used for the purposes of giving notice to affected parties. Failure of a person or persons to receive notice shall not impair the validity of the hearing. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

#### **Notice of and Effective Date of Decision**

**17.72.150 Notice of Decision.** Within five (5) working days after a decision has been rendered, the Planning Department shall provide written notice of the decision to all parties who participated (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.72.160 Effective Date of Decision.** Unless an appeal is filed, a decision made by the Planning Director or the Planning Commission shall become final 15 (fifteen) calendar days from the date that the notice of the decision is mailed. Unless an appeal is filed, a decision made by the City Council shall become final 21 (twenty-one) days from the date that the notice of decision is mailed. Annexation requests are subject to voter approval following the City Council's decision.

#### **Appeal**

**17.72.170 Appeal from Ruling of Planning Director.** The applicant, property owner, or other parties that participated, may appeal a decision of the Director to the Planning Commission within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the Planning Department and shall set forth in detail the basis for and issues raised in the appeal. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Director shall be final. If an appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the Planning Director and shall hold a public hearing on the appeal subject to the procedure stated in 17.72.130. Notice of a Planning Commission hearing on an appeal of a decision of the Planning Director shall take the form of that provided for in 17.72.100 (A).

**17.72.180 Appeal from Ruling of Planning Commission.** An action or ruling of the Planning Commission pursuant to this title may be appealed to the City Council within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. Written notice of the appeal shall be filed with the City Planning Department and shall identify the decision sought to be reviewed, including the date of the decision and a statement of interest from the person seeking review specifying that they were party to the initial proceedings. If the appeal is not taken within the 15 (fifteen) day period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall receive a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. Notice of a City Council hearing on an appeal of a decision of the Planning Commission shall take the form of that provided for the initial



application before the Planning Commission. (Ord. 4534 §3, 1993; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

**17.72.190 Appeal from Ruling of City Council. An action or ruling of the City Council may be appealed to the Land Use Board of Appeals (LUBA) within 21 (twenty-one) days of the date written notice of the decision is mailed.**

EXHIBIT B

Chapter 17.03

GENERAL PROVISIONS

Sections:

17.03.010	Title
17.03.020	Purpose
<b>17.03.030</b>	<b>Severability</b>
17.03.040	Interpretation—More Restrictive Provisions Govern
17.03.050	Compliance with Provisions Required
<b>17.03.060</b>	<b>Enforcement</b>
<b>17.03.070</b>	<b>Inspection and Right-of-Entry</b>
<b>17.03.080</b>	<b>Violation—Procedure—Penalty</b>
<b>17.03.090</b>	<b>Legal Proceedings as Alternative Remedy</b>

17.03.010 Title. The ordinance codified in Chapters 17.03 through ~~17.75~~ **17.72** of this title shall be known as "The McMinnville Zoning Ordinance of 1981." (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 through ~~17.75~~ **17.74** 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. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.030 Severability. Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, that judgment shall affect only that part held invalid and shall not impair the validity of the remainder of these regulations. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.03.030) has been moved from Chapter 17.75.020 (Administrative Provisions).~~

17.03.040 Interpretation—More Restrictive Provisions Govern. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by any other provisions of this title or of any other ordinance, resolution or regulation, the provisions which are more restrictive shall govern. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.050 Compliance with provisions required. A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied, or used only as this title permits. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.03.060 Enforcement. The Planning Director, or in his absence the Building Official, shall have the power and duty to enforce the provisions of this ordinance. An appeal from a ruling by him regarding the requirements of this ordinance may be made only to the Planning Commission. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.03.060) has been moved from Chapter 17.75.030 (Administrative Provisions)~~

17.03.070 Inspection and Right-of-Entry. Whenever they shall have cause to suspect a violation of any provision of this ordinance, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed in this ordinance, officials responsible for enforcement or administration of this ordinance, or their duly authorized representatives, may enter onto any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless a warrant authorizing entry and inspection for a zoning violation is first obtained from the court. A warrant shall not be issued unless good and sufficient grounds based upon reliable evidence is shown by the officials responsible for enforcement and administration of this ordinance. (A secured building means a building having doors and windows capable of locking, fully enclosed, and occupied.) No owner or occupant or agent thereof shall, after reasonable notice and opportunity to comply, refuse to permit such entry. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.03.070) has been moved from Chapter 17.75.040 (Administrative Provisions)~~

17.03.080 Violation—Procedure—Penalty.

- A. A uniform complaint, or citation to appear, may be issued to the owner or occupier of property being used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the zoning ordinance;
- B. A trial shall be heard before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence;
- C. A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than five hundred dollars for each day that the violation continues;
- D. A violation of this title shall be considered a separate offense for each day that the violation continues;
- E. In the event the owner/occupier fails to pay any fine imposed upon conviction of a violation, the court may issue a Show Cause Order to the individual so charged and require his presence in court to set forth the reasons for said failure to pay. If good and sufficient reasons do not exist, the court may request the City Council to adopt an ordinance making the amount a lien against the property. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.03.080) has been moved from Chapter 17.75.050 (Administrative Provisions).~~



17.03.090 Legal Proceedings as Alternative Remedy. In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or land is, or is proposed to be, used in violation of this title, the building or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate or remove the unlawful location, construction, maintenance, repair, alteration, or use. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). This section ~~(17.03.090) has been moved from Chapter 17.75.060 (Administrative Proceedings)~~

2. That Chapter 17.75 (Administrative Provisions) is deleted in its entirety

Chapter 17.75 (Administrative Provisions) is amended as follows:

1. That Section 17.75.010 is deleted in its entirety.
2. That Section 17.75.020 (Severability) is moved and renumbered to 17.03.030 (Severability).
3. That Section 17.75.030 (Enforcement) is moved and renumbered to 17.03.060 (Enforcement).
4. That Section 17.75.040 (Inspection and Right-of-Entry) is moved and renumbered to 17.03.070 (Inspection and Right-of-Entry).
5. That Section 17.75.050 (Violation—Procedure—Penalty) is moved and renumbered to 17.03.080 (Violation—Procedure—Penalty).
6. That Section 17.75.060 (Legal Proceedings as Alternative Remedy) is moved and renumbered to 17.03.090 (Legal Proceedings as Alternative Remedy).
7. That Section 17.75.070 is deleted in its entirety.
8. That Chapter 17.75 (Administrative Provisions) is deleted in its entirety.

EXHIBIT C

1. Provide for a new chapter (17.74, Review Criteria), which reads as follows:

**Sections:**

<u>17.74.010</u>	<u>Purpose</u>
<u>17.74.020</u>	<u>Comprehensive Plan Map Amendment and Zone Change - Review Criteria</u>
<u>17.74.030</u>	<u>Authorization to Grant or Deny a Conditional Use.</u>
<u>17.74.040</u>	<u>Placing Conditions on a Conditional Use Permit.</u>
<u>17.74.050</u>	<u>Compliance with Zone Standards - Exceptions.</u>
<u>17.74.060</u>	<u>Use Conveyed with Property - Termination Condition and Procedures.</u>
<u>17.74.070</u>	<u>Planned Development Amendment - Review Criteria</u>
<u>17.74.080</u>	<u>Administrative Variance - Limitations</u>
<u>17.74.090</u>	<u>Administrative Variance - Review Criteria</u>
<u>17.74.100</u>	<u>Variance-Planning Commission Authority</u>
<u>17.74.110</u>	<u>Conditions for Granting Variance.</u>
<u>17.74.120</u>	<u>Variance for Solar Collection Systems.</u>
<u>17.74.130</u>	<u>Use Conveyed with Property - Termination Condition and Procedures.</u>

17.74.010 Purpose The purpose of this chapter is to provide the approval criteria for the following applications:

- Comprehensive Plan Map Amendment
- Conditional Use Permit
- Planned Development Amendment
- Variance-Administrative
- Variance
- Zone Change (Planned Development)

17.74.020 Comprehensive Plan Map Amendment and Zone Change - Review Criteria. [Insert text from Section 17.72.035 (Resolutions of Intent to Rezone Review Criteria)]

17.74.030 Authorization to Grant or Deny Conditional Use. A conditional use listed in this ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this chapter. In the case of a use existing prior to the effective date of this

ordinance and classified in this ordinance as a conditional use, a change in the use or in lot area, or an alteration of any structure shall conform to the requirements for conditional uses. In judging whether or not a conditional use proposal shall be approved or denied, the Planning Commission shall weigh its appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- A. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies of the City;
- B. That the location, size, design, and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets; and to any other relative impact of the development;
- C. That the development will cause no significant adverse impact on the livability, value, or appropriate development of abutting properties of the surrounding area when compared to the impact of permitted development that is not classified as conditional;
- D. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants;
- E. The proposal will preserve environmental assets of particular interest to the community;

The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property values for speculative purposes. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.030) was moved from Chapter 17.66.010 (Conditional Uses).~~

17.74.040 Placing Conditions on a Conditional Use Permit. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which it finds necessary to avoid a detrimental environmental impact and to otherwise protect the best interest of the surrounding area or the community as a whole. These conditions may include, but need not be limited to, the following:

- A. Limiting the manner in which the use is conducted including restrictions on the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare, and odor;
- B. Establishing a special yard or other open space, lot area, or dimension;
- C. Limiting the height, size, or location of a building or other structure;
- D. Designating the size, number, location and nature of vehicle access points;
- E. Increasing the amount of street dedication, roadway width, or improvements within the street right-of-way;

- F. Designating the size, location, screening, drainage, surfacing, or other improvement of a parking area or truck loading area;
- G. Limiting or otherwise designating the number, size, location, height and lighting of signs;
- H. Limiting the location and intensity of outdoor lighting and requiring its shielding;
- I. Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance;
- J. Designating the size, height, location, and materials for a fence;
- K. Protecting and preserving existing trees, vegetation, water resource, wildlife habitat, or other significant natural resource;
- L. Such other conditions as will make possible the development of the City in an orderly and efficient manner in conformity with the intent and purposes set forth in this ordinance. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.040) was moved from Chapter 17.66.015 (Conditional Uses).~~

17.74.050 Compliance with Zone Standards-Exception. A conditional use shall comply with the standards of the zone in which it is located, except as these standards have been modified in authorizing the conditional use or as otherwise modified as follows:

- A. Setbacks. In a residential zone, yards shall be at least one-half the height of the principal structure. In any zone, yards greater than the standard of the zone in which the use is located may be required;
- B. Limitations on access to lots and on openings to buildings. The City may limit or prohibit vehicular access from a conditional use to a residential street not designated as an arterial street on an officially adopted street plan, and it may limit or prohibit openings in sides of a building or structure permitted as a conditional use within fifty feet of a residential zone if such openings will cause glare, excessive noise, or other adverse effects on adjacent residential properties;
- C. Utility substation or pumping substation. The minimum lot size of the zone in which a public utility facility is to be located may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site in a residential zone. Such uses shall be fenced and provided with landscaping as found necessary. (Ord. 4802 §2, 2004; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.050) was moved from Chapter 17.66.060 (Conditional Uses)~~

17.74.060 Use Conveyed with Property-Termination Condition and Procedures

- A. Subject to the provisions of this section, a conditional use shall become a property right and shall be conveyed to the benefit of the owner or other person(s) entitled to possession regardless of transfer of title or interest unless otherwise specified by the Planning Commission at the time of approval;
- B. Each conditional use permit issued after the effective date of this ordinance codified in this section shall be terminated if:



1. Construction or remodeling for the conditional use as approved has not been started within one year of the date specified on a development schedule approved with the conditional use, or in case no such development schedule was approved, within one year of the effective date of approval.
  2. Construction once commenced does not substantially progress for a one-year period.
  3. After completion of the construction or remodeling, the approved use as authorized by the permit lapses for any one-year period.
  4. There is a failure to meet any condition as may be specifically required by the Planning Commission at the time of approval of a conditional use;
- C. The Planning Director shall determine if a conditional use is in compliance with this section and any conditions imposed by the Planning Commission. At such time as a conditional use becomes subject to termination as provided in this section, the Planning Director shall notify, in writing, the legal owner of record or the occupant. The notice shall explain the reasons for which the conditional use will be terminated. Notice of termination will be delivered by registered mail. A receipt of delivery will be returned to the Planning Director;
- D. An action or ruling of the Planning Director pursuant to this section may be appealed to the Planning Commission within 30 (thirty) days after the recorded date of delivery of the notice of termination. In the event the notice is not deliverable or acceptance is refused or unclaimed, the 30 (thirty) days in which an appeal may be filed shall be computed from the date of mailing. The decision of the Planning Director is final if the appeal is not taken within the (30) thirty day period. If the appeal is filed, the Commission shall receive a report and recommendation thereon from the Planning Director and shall hold a public hearing on the appeal pursuant to Section 17.72.130. The conditional use shall be invalid during the appeal process;
- E. Upon termination of a conditional use, the property shall thereafter be used in accordance with the zoning ordinance and other applicable plans, ordinances, resolutions, rules, and regulations unless a conditional use or other action is subsequently approved. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). This section (17.74.060) was moved from Chapter 17.66.050 (Conditional Uses).

**17.74.070 Planned Development Amendment - Review Criteria. An amendment to an existing planned development may be either major or minor. Minor changes to an adopted site plan may be approved by the Planning Director. Major changes to an adopted site plan shall be processed in accordance with Section 17.72.120 (Applications - Public Hearing) and include the following:**

- A. **An increase in the amount of land within the subject site**
- B. **An increase in density including the number of housing units**
- C. **A reduction in the amount of open space**
- D. **Changes to the vehicular system which results in a significant change to the location of streets, shared driveways, parking areas and access.**

An amendment to an existing planned development may be authorized, provided that the proposal satisfies all relevant requirements of this ordinance, and also provided that the applicant demonstrates the following:

- A. There are special physical conditions or objectives of a development which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- B. Resulting development will not be inconsistent with the Comprehensive Plan objectives of the area;
- C. The development shall be designed so as to provide for adequate access to and efficient provision of services to adjoining parcels;
- D. The plan can be completed within a reasonable period of time;
- E. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area;
- F. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- G. The noise, air, and water pollutants caused by the development do not have an adverse effect upon surrounding areas, public utilities, or the city as a whole.

17.74.080 Administrative Variance Limitations. Limitations for an administrative variance are outlined below in Section 17.74.090. A request for an administrative variance beyond these limitations shall be submitted and processed as a variance application.

17.74.090 Administrative Variance-Review Criteria. The Planning Director may grant limited adjustments to the terms of this title as follows:

- A. Lot area: Maximum possible adjustment of one percent of the minimum lot area, but not more than 90 (ninety) square feet;
- B. Setbacks: Maximum adjustment of 10 (ten) percent of the required setback.
- C. These provisions shall be used sparingly and shall not be exceeded except by regular referral to the Planning Commission.
- D. Special conditions may be attached to adjustments if such conditions relate directly to the adjustments.

Subjects not allowable for adjustment are: number of dwelling units permitted, parking requirements, height of building, vision clearance area, density or use of property. ~~This section (17.74.090) was moved from Chapter 17.69.040 (Variances).~~

17.74.100 Variance-Planning Commission Authority. The Planning Commission may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title.

(Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.100) was moved from Chapter 17.69.010 (Variances).~~

17.74.110 Conditions for Granting Variance. A variance may be granted only in the event that the following circumstances substantially exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstance over which the applicant has no control;
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess;
- C. The variance would not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy;
- D. The variance requested is the minimum variance which would alleviate the hardship. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.110) was moved from Chapter 17.69.030 (Variances).~~

17.74.120 Variance for Solar Collection Systems. A setback variance may be granted by the Planning Commission for a solar energy collection system, active or passive, which is to be attached to an existing structure or accessory to an existing structure subject to compliance with the following conditions:

- A. Granting of the variance will in no way hinder access to public utilities or fire access;
- B. Granting of the variance will not unduly restrict solar access to surrounding properties;
- C. Granting of the variance will not unreasonably invade the privacy of adjoining properties;
- D. The variance requested is the minimum variance which would allow the construction of the system;
- E. The system must meet the minimum standards for tax credit certification from the Oregon Department of Energy;
- F. The system must be designed to provide no less than 10 (ten) percent of the total energy requirements for the principal use. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.120) was moved from Chapter 17.69.035 (Variances).~~

17.74.130 Use Conveyed with Property-Termination Condition and Procedures

- A. Subject to the provisions of this section, a variance shall become an integral part of the property and shall be conveyed to the benefit of the owner or other person(s) entitled to possession regardless of transfer of title or interest unless otherwise specified by the Planning Commission at the time of approval;
- B. Each variance issued after the effective date of the ordinance codified in this title shall be terminated if:

1. Any construction or remodeling relative to the variance as approved has not been started within one year of the date specified on a development schedule approved with the variance, or in case no such development schedule was approved, within one year of the effective date of approval;
  2. There is a failure to meet any condition as may be specifically required by the Planning Commission at the time of approval of the variance;
- C. The Planning Director shall determine if a variance is in compliance with this section and any condition imposed by the Planning Commission. At such time as a variance becomes subject to termination as provided by this section, the Planning Director shall notify in writing the legal owner of record or the occupant the grounds on which the variance will be terminated. Notice of termination will be delivered by registered mail. A receipt of delivery will be returned to the Planning Director;
- D. An action or ruling of the Planning Director pursuant to this section may be appealed to the Planning Commission within thirty days after the recorded date of delivery of the notice of termination. In the event the notice is not deliverable or acceptance is refused or unclaimed, the thirty days in which an appeal may be filed shall be computed from the date of mailing. Notice of appeal shall be in writing and filed with the Planning Department. The decision of the Planning Director is final if the appeal is not taken within the 30 (thirty) day period. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the Planning Director and shall hold a public hearing on the appeal pursuant to Section 17.72.130. The variance shall be invalid during the appeal process, and no work shall be undertaken during the appeal process;
- E. Upon termination of a variance, the property shall thereafter be used in accordance with the zoning ordinance and other applicable plans, ordinances, resolutions, rules, and regulations unless a variance or other action is subsequently approved. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968). ~~This section (17.74.130) was moved from Chapter 17.69.070 (Variances)~~

2.

E. That Chapter 17.66 is deleted in its entirety.

F. That Chapter 17.69 is deleted in its entirety.



## EXHIBIT D

### **Chapter 17.53 (Land Division Standards) is amended as follows:**

1. That Section 17.53.030 is deleted in its entirety.
2. That Section 17.53.051 is amended to read as follows:

17.53.051 Filing Procedures and Requirements. Any person proposing a property line adjustment shall prepare and submit to the Planning Department, two (2) copies of the materials described below, in accordance with the prescribed procedures and appropriate filing fee to the Planning Department application submittal procedures as stated in **Sections 17.72.020 through 17.72.070.** An application for a property line adjustment shall be filed on forms provided to the City and accompanied by the following [...]

3. That Section 17.53.053 is amended to read as follows:

17.53.053 Review and Tentative Approval Process. ~~The Planning Director shall make a decision within 20 (twenty) working days from the date that a complete property line adjustment application is received. Within this time, the Director may forward the application to City departments for review and comment.~~

- A. **An application for a property line adjustment shall be reviewed by the Director in accordance with the procedure listed in Section 17.72.100, [ . . . ]**
- D. ~~Notice of the Director's decision shall be sent to the applicant and the property owner and all other parties that may have participated in this land use proceeding. The applicant, property owner, or other parties that participated, may appeal the Director's decision within 15 (fifteen) calendar days of the date the written notice of the decision is mailed~~ **An appeal of the Director's decision shall follow the procedure listed in Section 17.72.170**
- E. [...]

4. That Section 17.53.060 is amended to read as follows:

17.53.060 Submission of Tentative Partition Plan. An application to partition land shall be **submitted in accordance with the application submittal procedures as stated in Chapter 17.72.020 through 17.72.070 and shall be** reviewed and approved under the following procedure:

- A. [...]
- B. ~~Upon determining that the application is complete, the Planning Department shall forward copies of the submitted application and tentative partition plan to affected agencies for review and comment. At this same time, notice of the~~

~~proposed partition shall be mailed to owners of property located within 100 feet of the boundaries of the subject property. Notified owners shall be allowed up to 14 (fourteen) days to provide written or oral comments to the Planning Department. Within 30 (thirty) days of the conclusion of this comment period, the Planning Director shall approve, approve with conditions, or deny the application. Upon receiving a complete application for a partition, notification and review shall be provided as stated in Section 17.72.110 (applications-Director's review with notification)[...]~~

C. [...]

3. ~~Notice of decision shall be mailed to the applicant, and to all persons who provided written comment. The applicant or any person who submitted written comments in response to the proposed partition may appeal the Director's decision within 15 (fifteen) calendar days of the date the written notice of the decision is mailed. For notice of decision, effective date of decision and the appeal process, refer to Chapter 17.72 (Applications and Review Process) [...]~~

5. That Section 17.53.070 is amended to read as follows:

17.53.070 Submission of Tentative Subdivision Plan. An application to subdivide land shall be **submitted in accordance with the application submittal procedures as stated in Sections 17.72.020 through 17.72.070 and shall be** reviewed and approved as follows:

A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material required to indicate his general program and objectives, and shall submit 25 (twenty-five) copies of the tentative plan and supplementary data to the Planning Director's office ~~at least 40 (forty) days prior to the Planning Commission meeting at which consideration of the plan is desired (see Section 17.53.073).~~ The tentative plan need not be a finished drawing, but shall show pertinent information to scale in order that the ~~Planning Commission~~ **review body** may properly review the proposed development. Additionally, condominiums shall be processed under the provisions of ORS 100. All subdivision developments shall comply with the requirements of the Oregon Fire Code.

6. That Section 17.53.071 is amended to read as follows:

17.53.071 Preliminary Review of Tentative Subdivision Plan. Upon receipt, the Planning Department shall distribute copies to appropriate officials and agencies designated by the City. In addition, coordination of the tentative plan should be made with affected county, state, and federal agencies, and all affected special districts. These officials and agencies shall be given a reasonable time to review the plan and to suggest any revisions that appear to be indicated in the public interest. **A tentative plan for a subdivision with up to 10 (lots) shall be reviewed by the Planning Director in accordance with Section 17.72.110 (applications, Director's review with notification). A tentative plan for a subdivision with more than 10 (ten) lots shall be subject to**

**Planning Commission review as required in Section 17.72.120 (applications – public hearings).**

7. That Section 17.53.073 (A) and (B) are amended to read as follows:

**17.53.073 Preliminary Approval of Tentative Subdivision Plan.**

- A. It shall be the responsibility of the Engineering Department and Planning Department to review a tentative plan to insure that it substantially conforms to the requirements of this chapter. The Planning Director may refuse to submit a tentative plan to the Commission if it is found that it does not substantially conform to the chapter requirements. ~~All decisions of the Planning Director may be appealed to the Planning Commission, the process of which is outlined in Chapter.~~
- B. Upon finding that a tentative plan substantially conforms to the requirements of this chapter, the Planning Director shall **either approve the plan or approve the plan with conditions (for subdivisions with up to 10 lots). When the plan is for a subdivision with more than 10 (ten) lots,** the plan along with the reports of appropriate officials and agencies shall be submitted to the Commission for review at its earliest practicable meeting.

8. That Section 17.53.073 (C) is deleted in its entirety.

9. That Section 17.53.073 (D) is amended to read as follows:

- D. **The decision of the Planning Director may be appealed to the Planning Commission as provided in Section 17.72.170. The decision of the Planning Commission may be appealed to the City Council as provided in Section 17.72.180.**

10. That Section 17.53.075 (D) is amended to read as follows:

1. **Agreement for Improvements.** Before **Director or** Planning Commission [...]

11. That Section 17.53.077 is amended to read as follows:

**17.53.077 Approval of Final Subdivision Plat.** If the City Engineer determines that the final plat for a subdivision **with more than 10 (ten) lots** conforms fully with all applicable regulations and standards, the City Engineer shall so advise the chairman of the Planning Commission [...] vested in the vice chairman.

**Final plats for a subdivision with ten lots or fewer shall be signed by the Planning Director and City Engineer upon finding that the plat conforms fully with all applicable regulations and standards.**

12. That Section 17.53.163 is amended to read as follows:

17.53.163 Variance Application. When necessary, the Commission may authorize conditional variances to the requirements of this chapter. The Commission shall hold at least one public hearing on a variance application. Procedures for the public hearing shall be the same as those described in **Section 17.72.130**. Public hearings for variances may be held simultaneously with tentative plan hearings when the same property is affected. Applications shall be made on forms provided by the Planning Department. Before a variance may be granted, the Commission shall first determine that the following circumstances substantially exist: [...]

13. That Sections 17.53.165, 17.53.167, 17.53.170, and 17.53.180 are deleted in their entirety.

**Chapter 17.56 (Large Format Commercial Development) is amended as follows:**

1. That Section 17.56.040 (A) – (D) is amended to read as follows:

17.56.040 Review Process.

- A. An application for design review of commercial development subject to the provisions of this ordinance shall be submitted to the Planning Department and shall be subject to the procedures listed in (B) through (D) below.
- B. Applications shall be submitted to the Planning Department for initial review for completeness **as stated in Section 17.72.040**. The application shall include:  
[...]
- C. **An application for design review shall be reviewed by the Planning Director as set forth in Section 17.72.100 (Applications and Permits-Director's Review).**
- D. A guideline or standard contained in this ordinance may be waived as a part of the design review process. If a waiver is requested, the applicant must explain in their application how the proposed design meets or exceeds the guidelines and standards of this chapter. A request for a waiver shall be reviewed by the Planning Director **and notification shall be provided as set forth in Section 17.72.110 (Applications-Director's Review with Notification)**. The Director shall base a decision to approve, approve with conditions, or deny a waiver request based on the following criteria:
  - ~~1. Applications shall be reviewed for completeness within 10 (ten) working days of their submittal.~~
  - ~~2. Applications determined to be incomplete will be returned (postmarked, if mailed) to the applicant within 20 (twenty) calendar days of their submittal, accompanied by a letter detailing the items that must accompany any resubmitted application~~
  - ~~3. Within 25 (twenty five) calendar days of the date the application was determined to be complete, the Planning Director shall review the application to determine if the proposal complies with the guidelines and standards set forth in this chapter.~~
    1. There is a demonstrable difficulty in meeting the specific requirement(s) of this chapter due to a unique or unusual aspect of the site, an existing structure, or the proposed use(s) of the site;
    2. There is demonstrable evidence that the alternative design shall accomplish the purpose of this chapter in a manner that is equal to or superior to a project designed consistent with the guidelines standards contained herein; and,
    3. The waiver requested is the minimum necessary to alleviate the difficulty of meeting the requirements of this chapter.
  - ~~4. Unless extended by the applicant or Director, the Director shall notify the applicant of his decision in writing within 30 (thirty) calendar days from the date the application was deemed complete. **Notification of the Director's decision shall be provided as set forth in Section 17.72.150 (Notice of Decision)**. A copy of the Director's letter shall be provided to the Building Official.~~
  - ~~5. An appeal of a decision by the Planning Director may be made to the Planning Commission within 15 (fifteen) calendar days of the Planning Director's decision~~



~~subject to the provisions of Section 17.72.170. If an appeal is filed, the Planning Commission shall receive a report and a recommendation from the Planning Director and shall hold a public hearing on the appeal at their next available meeting. Notice of an appeal hearing shall be published in a newspaper of general circulation in the City not less than five calendar days or more than 15 calendar days prior to the date of the public hearing.~~

2. That the "Application and Review Schedule" chart at the end of 17.56.040 D is deleted.

**Chapter 17.59 (Downtown Design Guidelines and Standards) is amended as follows:**

1. That Section 17.59.030 (A) – (F) is amended to read as follows:

17.59.030 Review Process.

- A. An application for a building permit for an activity subject to the provisions of this ordinance shall be submitted to the Planning Department and shall be subject to the procedures listed in (B) through (~~F~~ **E**) below.
- B. Applications shall be submitted to the Planning Department for initial review for completeness **as stated in Section 17.72.040**. The application shall include the following information:[...]
- C. ~~Applications determined to be incomplete will be returned to the applicant within twenty (20) days of their submittal, accompanied by a letter detailing the items that must accompany any resubmitted application.~~

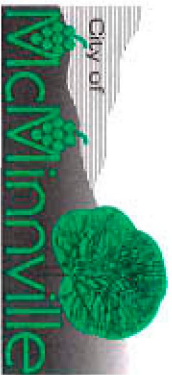
Review Process

1. **Applications shall be reviewed and notification shall be provided subject to the provisions of Section 17.72.110 (Applications-Director's Review with Notification)** ~~Within five (5) working days of a complete application's submittal, the Planning Director, or his/her designee, shall review the application for compliance with the design guidelines and standards as set forth in this ordinance. If the Planning Director, or his/her designee, finds the proposed activity to be in compliance with the requirements of this ordinance, a permit clearance form s/he shall be submitted~~ to the Building Department, which will indicate that the requirements of this ordinance have been satisfied.
  2. If the Planning Director, ~~or his/her designee,~~ finds the proposed activity to be in noncompliance with the requirements of this ordinance, he shall immediately issue a "notice of delay" to the Building Official and call for a meeting of the Historic Landmarks Committee to review the application.
    - a. The Historic Landmarks Committee shall meet within ~~twenty-one (21)~~ **twenty-five** days of the date the completed application was submitted to the Planning Department. The applicant shall be notified of the time and place of the review and is encouraged to be present, although their presence shall not be necessary for action on the plans. A failure to review within ~~twenty-one (21)~~ **twenty-five** days shall be considered an approval of the application [...]
- D. Waiver Process  
[...] A request for a waiver to the standards of this ordinance shall be reviewed by the McMinnville Historic Landmarks Committee, as described in Section 17.59.030(~~DC~~)(2).
- E. Appeal  
1. ~~An appeal of a decision by the Planning Director, or his/her designee, or Historic Landmarks Committee, including an appeal of conditions placed on the permit by the committee, may be made to the Planning Commission~~ **as outlined in Section 17.72.170.** ~~within ten (10) days of the applicable review body's decision. If the appeal is filed, the Planning Commission~~

~~shall receive a report and a recommendation from the review body and shall hold a public hearing on the appeal at their next regularly scheduled meeting. Notice of an appeal hearing shall be published in a newspaper of less than five days or more than fifteen days prior to the date of the public hearing. An action or ruling of the Planning Commission pursuant to this chapter may be appealed to the City Council following the procedures noted in 17.72.050. (Ord. 4797 §1, 2003).~~



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ATTN: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540