



Oregon

Theodore R. Kulbongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/27/2012

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

FROM: Plan Amendment Program Specialis

SUBJECT: City of McMinnville Plan Amendment
DLCD File Number 005-11

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 10, 2012

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged

Cc: Ron Pomeroy, City of McMinnville
Angela Lazarean, DLCD Urban Planner
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

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

In person electronic mailed

DATE STAMP

DEPT OF

JAN 23 2012

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of McMinnville**

Local file number: **G 3-11**

Date of Adoption: **12/13/2011**

Date Mailed: **1/20/2012**

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

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".

The City of McMinnville adopted amendments and updates to Chapter 17.67 (Home Occupations) of the McMinnville Zoning Ordinance

Does the Adoption differ from proposal? Please select one

Yes. Proposed wording for Chapter 17.67.040(E) was changed from the draft language to "Any use that involves the use of hazardous substances or materials which might create a fire hazard or danger to neighboring properties as may be determined by the Fire Department."

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **N/A**

Acres Involved:

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...

35-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. 005-11 (18957) [16911]

DLCD file No. _____

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

Local Contact: **Ron Pomeroy**

Phone: (503) 434-7311 Extension:

Address: **231 NE Fifth Street**

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

City: **McMinnville**

Zip: **97128-**

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

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working 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 the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

ORDINANCE NO. _____

An Ordinance amending chapter 17.67 (Home Occupations) of the McMinnville Zoning Ordinance (ORD No. 3380) by adding new text and providing clarity to existing provisions.

RECITALS

The Home Occupation Chapter (17.67) of the McMinnville Zoning Ordinance (ORD No. 3380) was adopted in 1981 and has not been modified since adoption. Certain portions of that chapter are now in need of clarification for ease of administration and to ensure that this chapter remains internally consistent with the review process outlined in Chapter 17.72 of the Zoning Ordinance (Applications and Review Process).

The Planning Commission held a public hearing on October 20, 2011, at 6:30 p.m. on the draft amendments after due notice had been given in the local newspaper on October 12, 2011. At the conclusion of this hearing and based on the testimony received, the Planning Commission recommended that the proposed amendments to the Home Occupations chapter (17.67), as recommended by staff, be approved; now, therefore,

THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

Section 1. That Section 17.67 (Home Occupations) of the McMinnville Zoning Ordinance (ORD. No. 3380) be amended as provided in Attachment A of this ordinance.

Section 2. That this ordinance shall be subject to the terms and conditions of Ordinance 3823, entitled "Initiative and Referendum," for a period of 30 (thirty) days.

Passed by the Council this 13th day of December, 2011, by the following votes:

Ayes: Hill, Jeffries, May, Menke, Yoder

Nays: _____


Approved this 13th day of December, 2011.



MAYOR

Approved as to form:

Attest:



CITY RECORDER



CITY ATTORNEY

ATTACHMENT "A"

Chapter 17.67

HOME OCCUPATIONS

Sections:

- 17.67.010 Home occupation—Purpose.
- 17.67.020 Application—Approval.
- 17.67.030 Home occupation standards.
- 17.67.040 Prohibited Uses
- 17.67.050 Home occupation complaint procedures.
- 17.67.060 Standards for judging objections.
- 17.67.070 Action by Commission—Home occupation complaints.

17.67.010 Home occupations—Purpose. The home occupation provision is included in recognition of the needs of many people who are engaged in small scale business ventures which could not necessarily be sustained if it were necessary to lease commercial quarters for them or which, in the nature of the home occupation, cannot be expanded to full-scale enterprises.

It is the intent of this ordinance that full-scale commercial or professional operations, which would ordinarily be conducted in a commercial or industrial district continue to be conducted in such district and not at home. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.67.020 Application—Approval. Application for a home occupation permit shall be submitted as required by Section 17.72.020. A permit for a home occupation shall be reviewed by the Planning Director consistent with the procedures provided in Section 17.72.100. Approval of the permit shall be subject to the following conditions:

- A. If the Planning Director finds that the standards noted in Section 17.67.030 have been met and approval of the permit would create no adverse impact on the immediate neighborhood or the surrounding area, the Director will, within 21 days of the date of the application, issue a renewable and revocable permit, upon payment of the appropriate fee, for a one-year period;
- B. Permits may be renewed for one-year periods upon payment of the appropriate fee, provided that the permit has not been terminated under the provisions of Sections 17.67.050 of this ordinance. Permits may also be terminated for failure to pay the renewal fee by the

anniversary date of the permit. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.67.030 Home occupation standards. A home occupation shall mean that any occupation or profession may be carried on by a member of the family residing on the premises, provided that the following conditions are satisfied:

- A. No signage is displayed other than that which is permitted by Section 17.62.040 (Signs);
- B. There is no display that will indicate from the exterior that the building is being used for any purpose other than a dwelling;
- C. Outdoor storage or display of materials, equipment, or merchandise related to the occupation shall be prohibited;
- D. There are no paid employees beyond those residing at the residence listed as the site of the home occupation;
- E. All work being performed at the site must be done within the confines of a building and no noise, odor, dust, smoke or other evidence of the home occupation permeates beyond the confines of the property;
- F. The permit holder must reside at the location listed as the site of the home occupation;
- G. The use does not generate traffic which exceeds the numbers which would normally be found in the neighborhood. The Planning Director may impose other conditions as necessary in order to mitigate impacts related to traffic or clientele. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.67.040 Prohibited Uses. The following prohibited uses include, but are not limited to:

- A. Motor vehicle sales;
- B. Vehicle repair, body work, or painting;
- C. Storage and/or sale of fireworks;
- D. Junk and salvage operations;
- E. Any use that involves the use of hazardous substances or materials which might create a fire hazard or danger to neighboring properties as may be determined by the Fire Department;
- F. Parking of more than one business-related vehicle on-site.

17.67.050 Home occupation complaint procedures.

- A. Complaints will be investigated by the Planning Department. If the alleged violation is determined to exist by the Department, the permit holder will be notified of the violation of the standards or conditions by certified letter, and the time period in which the violation must be corrected. If the alleged violation has not been corrected within 15 days of the date of the letter, or as may otherwise be specified, the Planning Department shall have cause to revoke said permit. Notice of

termination of the permit shall be provided by certified mail to the permit holder;

- B. Upon termination of the permit by the Planning Department, an appeal of the decision may be made to the Planning Commission as provided in Section 17.72.170 of this ordinance;

17.67.060 Standards for judging objections. Standards for judging objections to a home occupation shall include, but not be limited to the following:

- A. Generation of excessive traffic;
- B. Monopoly of on-street parking spaces;
- C. Frequent deliveries and pickups by motor freight trucks;
- D. Noise in excess of that created by normal residential use (either in terms of volume or hours of occurrence);
- E. Smoke, fumes, or odors in excess of those created by normal residential use;
- F. Failure to meet the conditions listed in Section 17.67.030 Home Occupation Standards;
- G. Other offensive activities not in harmony with a residential neighborhood. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.67.070 Action by Commission—Home occupation complaints. The Commission, upon hearing the evidence, may:

- A. Approve the use as it exists;
- B. Require the use to be terminated; or
- C. Impose appropriate restrictions, such as limiting hours of operation, establishing a phase-out period, or other measures insuring compatibility with the neighborhood. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968)



230 NE Second Street, McMinnville, Oregon 97128

RETURN SERVICE REQUESTED



DEPT OF

JAN 23 2012

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

**LAND CONSERVATION
AND DEVELOPMENT**

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