

ORDINANCE NO. 5013

An Ordinance amending Chapter 17.62 of the McMinnville Zoning Ordinance to add provisions related to the amortization process for nonconforming signs and to remove content-based sign regulations.

RECITALS:

The McMinnville City Council adopted Ordinance 4900 on November 5, 2008 creating Chapter 17.62 of the McMinnville zoning ordinance, that, in part, established an amortization process to bring nonconforming signs into compliance by December 5, 2016; and

Chapter 17.62 of the McMinnville zoning ordinance prescribed a city process of notification for bringing non-conforming signs into compliance by December 5, 2016, but due to staffing limitations and department resources, the notification process was not performed in a timely manner; and

On September 21, 2016, the Planning Commission directed the Planning Department to initiate a legislative zoning ordinance amendment to extend the amortization deadline and to develop exceptions as well as provide property owners with opportunities to appeal notifications of sign noncompliance; and

The Planning Department developed an updated timeframe to allow for successful implementation of the amortization process and provide property owners with adequate time to bring nonconforming signs into compliance; and

In addition, the Planning Department completed a thorough review of Ordinance 4900 to determine whether the sign regulations were content neutral, in response to the ruling of the United States Supreme Court case *Reed v. Town of Gilbert*, and identified amendments to remove content based regulations; and

The draft amendments to Chapter 17.62 were presented to the Planning Commission at a public hearing held on October 20, 2016, after due notice had been published in the "News Register" and after due notice was provided to the Oregon Department of Land Conservation and Development (DLCDC) not less than 35 days prior to the public hearing; and

Following the close of the public hearing and subsequent deliberation, the Commission voted unanimously to forward a recommendation to the City Council for approval of the proposed amendments to Chapter 17.62 of the McMinnville Zoning Ordinance as presented by staff, with two revisions as recommended by the Commission.

Now, Therefore, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE
ORDAINS AS FOLLOWS:

1. The provisions set forth in the Attached Exhibit 1, which are incorporated by this reference, are hereby adopted.
2. This Ordinance shall take effect on December 8, 2016.

Passed by the Council this 8th day of November 2016, by the following votes:

Ayes: Drabkin, Hill, Jeffries, Menke, Ruden, Yoder

Nays: _____

Approved this 8th day of November, 2016.

Effective Date: December 8th, 2016.



COUNCIL PRESIDENT

Attest:

Approved as to form:



CITY RECORDER



CITY ATTORNEY

Exhibit 1

PROPOSED AMENDMENTS TO THE MCMINNVILLE MUNICIPAL CITY CODE

New proposed language is represented by **bold underline font**, deleted language is represented by ~~strikethrough font~~.

Section 17.62.070(F) (Permanent Sign Regulations)

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- F. ~~Menu Board~~**Drive-up Service** Signs. ~~Freestanding menu board signs are~~**Additional freestanding signs are** permitted on properties ~~for~~**with** businesses that employ drive-up service. One such ~~menu board sign~~, not to exceed 36 square feet in area or six feet in height, is allowed per drive-up order station. In addition, one secondary ~~menu board sign~~, a maximum of 15 square feet in area and five feet in height, is allowed per drive-up order station. Any freestanding ~~menu board~~**sign** that has copy facing toward a public street shall be located a minimum of thirty (30) feet from that street's property line. Wall mount ~~menu board~~ signs shall be exempt from this requirement. (Ord. 4935 §1, 2011; Ord. 4912 §3 2009)

Section 17.62.110 Nonconforming Signs

- A. The following provision will require that a nonconforming sign be brought into compliance with this chapter: physical modification of a nonconforming sign or any action on a nonconforming sign that requires a building permit. This does not include replacement of a sign face without modification of the frame or general sign maintenance and repair.
- B. All temporary or portable signs not in compliance with the provisions of this code shall be removed or made compliant immediately following adoption of this ordinance.
- C. Amortization. Any freestanding, roof, or animated sign which was lawfully established before **January 1, 2009**,~~the adoption date of this ordinance~~, but which does not conform with the provisions of this ordinance, shall be removed or brought into conformance with this ordinance **by no later than December 31, 2017**,~~within eight (8) years from the date of its adoption~~, or at the time of occurrence of any of the actions outlined in provision 'A' above.
- D. **Notice of Sign Noncompliance.** Notice of sign noncompliance will be mailed to affected property owners **prior to taking enforcement action pursuant to Section 17.62.130 of this chapter. For those signs impacted by 17.62.110 (C) of this chapter, notice of noncompliance will be mailed to affected property owners**~~following the adoption of this ordinance and again no later than six months~~~~one year~~~~prior to the end of the amortization period~~, **and again prior to taking enforcement action pursuant to Section 17.62.130 of this chapter.**
- E. **Appealing a Notice of Noncompliance. Any owner of property on which a nonconforming sign is located may appeal a Notice of Sign Noncompliance issued pursuant to Section 17.62.110(D) within 60 days of the mailing date of such Notice by:**
1. **Submitting evidence of sign compliance to the Planning Department. The Planning Director shall determine whether the evidence submitted proves sign compliance, and the Director has the authority to dismiss a Notice of Sign Noncompliance. All decisions made by the Director may be appealed to the Planning Commission; or**
 2. **Submitting an application for an Exception pursuant to Section 17.62.120 to the Planning Department; or**

3. Submitting an application for an administrative variance pursuant to Sections 17.72.020 to the Planning Department; or
 4. Submitting an application for a variance pursuant to Section 17.72.020 to the Planning Department.
- F. The failure to appeal a Notice of Noncompliance pursuant to the provisions of this Section, shall preclude the owner from raising any issue addressed by Section 17.62.120 (B) or (C) as a defense to the enforcement of this ordinance.

Section 17.62.120 Exceptions

- A. Applications for an Exception shall be heard by theThe Planning Commission, which may authorize exceptions from the requirements of this chapter where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this chapter would cause an undue or unnecessary hardship as set forth in subsections (B) and (C) of this Section, except that no exception shall be granted pursuant to subsection (B) of this Section to allow a sign or a type of signage which is prohibited by Section 17.62.050 of this chapter. In granting an exception the Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood or otherwise achieve the purposes of this chapter.
- B. An exception may be granted if the property owner establishes that:
1. An exception is necessary to prevent an unnecessary hardship due to factors such as topography, location, surrounding development, lot shape or lot size; and
 2. The granting of the exception will not result in material damage or prejudice to other property in the vicinity; and
 3. The request will not be detrimental to community standards and the appearance of the city.
- C. An exception may be granted if the property owner establishes that the strict enforcement of the ordinance will either:
1. Deny the owner of all economically viable use of the property on which the sign is located; or
 2. Substantially interfere with the owner's use and enjoyment of the property on which the sign is located.
- D. ~~B.~~ Exceptions shall not be granted for the convenience of the applicant or for the convenience of regional or national businesses which wish to use a standard sign size.
- E. ~~C.~~ The City Council shall stand as an appeal board. An appeal from a ruling of the Commission must be filed within fifteen (15) days of the date said ruling is rendered.