



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

www.mcminnvilleoregon.gov

EXHIBIT 4 - STAFF REPORT

DATE: October 19, 2017
TO: McMinnville Planning Commission
FROM: Chuck Darnell, Associate Planner
SUBJECT: G 8-17 Sign Amortization Extension – Proposed Zoning Text Amendment

Report in Brief:

This is a public hearing to review and consider a proposed zoning text amendment to Section 17.62.110(C) of the McMinnville Zoning Ordinance. The proposed zoning text amendment is related to the amortization process for certain types of existing nonconforming signs.

Background:

In November 2008, the McMinnville City Council adopted a sign ordinance (Ordinance 4900). This ordinance included an amortization process which required that certain types of nonconforming signs come into compliance with the updated sign standards. The original deadline for nonconforming signs to be brought into compliance was eight (8) years from the adoption of the ordinance, and that deadline was extended by the City Council in October 2016 (Ordinance 5013) to December 31, 2017. The main reason for the extension to the end of 2017 was to provide Planning Department staff with adequate time to inventory the city and provide property owners with signs that would be subject to the amortization process with a 6 month notification of the requirement to come into compliance.

Notices of potential sign noncompliance were prepared by the Planning Department and mailed to property owners with potentially nonconforming signs that would be subject to the amortization process. These notices were provided to property owners in June 2017. Since that time, Planning Department staff has responded to many inquiries about the amortization process and concern from property owners on the impacts of the required updates.

On September 12, 2017, McMinnville Industrial Promotions provided a presentation to the McMinnville City Council, which focused on the impacts of the amortization process and the overall intent of the City's requirement that nonconforming signs be updated. After discussion, the Council directed Planning Department staff to extend the amortization deadline by one year to allow for a conversation on the overall sign standards and process for updates to nonconforming signs.

Discussion:

The purpose of the extension of the amortization deadline is to allow time for the City of McMinnville to evaluate the current sign standards and amortization process to ensure that the outcomes of the sign standards and amortization process meet the intent of the Signs chapter and the overall community's

Attachments:

Attachment A - Decision, Findings of Fact and Conclusionary Findings for the Approval of Legislative Amendments to Chapter 17.62 (Signs).

desires in regards to the updating of nonconforming signage. In addition, the City of McMinnville will use the additional time to complete research and ensure that the amortization process is legally permissible and is not in violation of any other regulations, including state statute, federal law, or other private property rights. The City will also ensure that the requirements of the amortization process have not been deemed invalid by any court of competent jurisdiction.

Based on the City Council direction, staff is proposing to amend Section 17.62.110(C) of the McMinnville Zoning Ordinance to extend the amortization deadline to the end of 2018. The proposed amendment is provided below, as well as in the decision document attached to this staff report. Text to be deleted is identified with a ~~bold strikeout~~ font and text to be added is identified with a **bold underlined** font.

McMinnville Zoning Ordinance (Ordinance 3380)
Chapter 17.62.110 (Nonconforming Signs) – (C) Amortization

- C. Amortization. Any freestanding, roof, or animated sign which was lawfully established before January 1, 2009, 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~~**2018**, or at the time of occurrence of any of the actions outlined in provision ‘A’ above.

Fiscal Impact:

Minor impacts to Planning Department budget and impacts on staff capacity as additional notices will need to be mailed to property owners with existing nonconforming signs that are subject to the amortization process.

Commission Options:

- 1) Close the public hearing and recommend that the City Council **APPROVE** the application, per the decision document provided which includes the findings of fact.
- 2) **CONTINUE** the public hearing to a specific date and time.
- 3) Close the public hearing, but **KEEP THE RECORD OPEN** for the receipt of additional written testimony until a specific date and time.
- 4) Close the public hearing and **DENY** the application, providing findings of fact for the denial in the motion to deny.

Recommendation/Suggested Motion:

The Planning Department recommends that the Planning Commission make the following motion recommending approval of G 8-17 to the City Council:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE CITY OF McMINNVILLE, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE G 8-17 AND THE ZONING TEXT AMMENDMENT AS RECOMMENDED BY STAFF.

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Attachments:

Attachment A – Decision, Findings of Fact, and Conclusionary Findings for the Approval of Legislative Amendments to Chapter 17.62 (Signs)



ATTACHMENT A

**CITY OF MCMINNVILLE
PLANNING DEPARTMENT**
231 NE FIFTH STREET
MCMINNVILLE, OR 97128

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DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.62 (SIGNS).

DOCKET: G 8-17

REQUEST: The City of McMinnville is proposing to amend Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance to update provisions related to the deadline of the amortization of certain types of existing nonconforming signs. The amendment will extend the deadline for bringing nonconforming signs that are subject to the amortization process into compliance with current sign standards. The extended deadline will provide time for the City of McMinnville to evaluate the amortization program for consistency with the intent of the Signs chapter and to ensure that the amortization process is legally permissible and does not violate any state or federal law or infringe on any property rights.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Chuck Darnell, Associate Planner

DATE DEEMED COMPLETE: September 13, 2017

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: October 19, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY: McMinnville City Council

DATE & TIME: November 28, 2017. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

COMMENTS: This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition have been provided.

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 8-17) to the McMinnville City Council.

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DECISION: APPROVAL
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City Council: _____
Scott Hill, Mayor of McMinnville

Date: _____

Planning Commission: _____
Roger Hall, Chair of the McMinnville Planning Commission

Date: _____

Planning Department: _____
Heather Richards, Planning Director

Date: _____

APPLICATION SUMMARY:

The City of McMinnville is proposing to amend Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance to update provisions related to the deadline of the amortization of certain types of existing nonconforming signs. The amendment will extend the deadline for bringing nonconforming signs that are subject to the amortization process into compliance with current sign standards. The extended deadline will provide time for the City of McMinnville to evaluate the amortization program for consistency with the intent of the Signs chapter and to ensure that the amortization process is legally permissible and does not violate any state or federal law or infringe on any property rights.

ATTACHMENTS:

1. Amendments to Chapter 17.62 (Signs)

COMMENTS:

This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition were received.

Additional Testimony

No notice was provided to property owners for this application. As of the date this report was written,

FINDINGS OF FACT

1. The City of McMinnville is proposing to amend Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance to update provisions related to the deadline of the amortization of certain types of existing nonconforming signs. The amendment will extend the deadline for bringing nonconforming signs that are subject to the amortization process into compliance with current sign standards. The extended deadline will provide time for the City of McMinnville to evaluate the amortization program for consistency with the intent of the Signs chapter and to ensure that the amortization process is legally permissible and does not violate any state or federal law or infringe on any property rights.
2. This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development. No comments in opposition have been provided.
3. Public notification of the public hearing held by the Planning Commission was published in the October 10, 2017 edition of the News Register. No comments in opposition were provided by the public prior to the public hearing.

CONCLUSIONARY FINDINGS:**McMinnville's Comprehensive Plan:**

The following Goals and policies from Volume II of the McMinnville Comprehensive Plan of 1981 are applicable to this request:

- GOAL X 1: TO PROVIDE OPPORTUNITIES FOR CITIZEN INVOLVEMENT IN THE LAND USE DECISION MAKING PROCESS ESTABLISHED BY THE CITY OF McMINNVILLE.

Attachments:

Attachment 1 – Amendments to Chapter 17.62 (Signs)

Policy 188.00: The City of McMinnville shall continue to provide opportunities for citizen involvement in all phases of the planning process. The opportunities will allow for review and comment by community residents and will be supplemented by the availability of information on planning requests and the provision of feedback mechanisms to evaluate decisions and keep citizens informed.

Finding: Goal X 1 and Policy 188.00 are satisfied in that McMinnville continues to provide opportunities for the public to review and obtain copies of the application materials and completed staff report prior to the McMinnville Planning Commission and/or McMinnville City Council review of the request and recommendation at an advertised public hearing. All members of the public have access to provide testimony and ask questions during the public review and hearing process.

McMinnville's City Code:

The following Sections of the McMinnville Zoning Ordinance (Ord. No. 3380) are applicable to the request:

Chapter 17.03 – General Provisions:

17.03.020 Purpose. The purpose of the ordinance codified in Chapters 17.03 (General Provisions) through 17.74 (Review Criteria) of this title is to encourage appropriate and orderly physical development in the city through standards designed to protect residential, commercial, industrial, and civic areas from the intrusions of incompatible uses; to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services; to provide adequate open space, desired levels of population densities, workable relationships between land uses and the transportation system, adequate community facilities; and to provide assurance of opportunities for effective utilization of the land resources; and to promote in other ways public health, safety, convenience, and general welfare.

Finding: Section 17.03.020 is satisfied by the legislative amendment in that the extension of the amortization deadline will provide time for the City of McMinnville to determine whether the amortization process meets the intent of the Signs chapter of the McMinnville Zoning Ordinance, thereby ensuring that the amortization process promotes the general welfare of community members in the city.

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.

Finding: Section 17.03.020 is satisfied by the legislative amendment in that the extension of the amortization deadline will provide time for the City of McMinnville to complete research and ensure that the requirements of the amortization process have not been deemed invalid by any court of competent jurisdiction.

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.

Finding: Section 17.03.040 is satisfied by the legislative amendment in that the extension of the amortization deadline will provide time for the City of McMinnville to complete research and ensure that the requirements of the amortization process are not in violation of any other regulations, including state statute, federal law, or other private property rights.

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Attachment 1 – Amendments to Chapter 17.62 (Signs)

Chapter 17.62

SIGNS

(as adopted by Ord. 4900, Nov. 5, 2008)

Sections:

- 17.62.010 Purpose
- 17.62.020 Scope
- 17.62.030 Definitions
- 17.62.040 Exempted Signs
- 17.62.050 Prohibited Signs
- 17.62.060 Temporary Signs
- 17.62.070 Permanent Signs
- 17.62.080 Sign Permits
- 17.62.090 Landmark and Abandoned Signs
- 17.62.100 Construction and Maintenance Standards
- 17.62.110 Nonconforming Signs
- 17.62.120 Exceptions
- 17.62.130 Enforcement

[...]

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, 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~~**2018**, or at the time of occurrence of any of the actions outlined in provision 'A' above.

[...]