

Office Use Only:
File No. SE 2-17
Date Received 8-24-17
Fee 910.60
Received by \$10.00

# 231 NE Fifth Street o McMinnville, OR 97128 (503) 434-7311 Office o (503) 474-4955 Fax www.mcminnvilleoregon.gov

### **Sign Standards Exception Application**

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Applicant Infor					
				A-4-1	☐ Other
Applicant Name	See attucked	HIPEd	response	_ Phone_	
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Address				_	
City, State, Zip					
Contact Email			3	_	
Property Owne	er Information				
Property Owner Nan (If different than above)	me			_ Phone_	
Contact Name					
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Site Location a			)		
Property Address					
Assessor Map No. R4 Total S					
Subdivision			Block	·	Lot
Comprehensive Plan	n Designation		Zonin	g Designat	ion

	detail how your request differs from the requirement(s).
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E) to	plain how this request is necessary to prevent an unnecessary hardship due to factors such a pography, location, surrounding development, lot shape or size
E	cplain how the granting of this exception will not result in material damage or prejudice to othe operty in the vicinity
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	ter 17.62 (Signs) substantially interfere with the owner's use cated?
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In addition to this completed application, the applicant me	ust provide the following:
A site plan (drawn to scale, with a north direction clearly showing the location of the sign, building distances from property lines, access, and other to the sign standards.	ngs, lot dimensions, and adjacent street(s),
☑ Other data or information which would help subst	antiate or clarify your request.
Payment of the applicable review fee, which can page.	n be found on the Planning Department web
I certify the statements contained herein, along respects true and are correct to the best of my known to the statements contained herein, along respects true and are correct to the best of my known to the statements of the statement of t	
	8/21/17
Applicant's Signature	Date
Property Owner's Signature	Date

Typed Response for "Sign Standards Exception Application"

#### **Applicant/Owner Information:**

Jonathan Aliabadi (Agent) 7011 Koll Center Parkway #150, Pleasanton CA 94566 650-906-1264

#### Site Location:

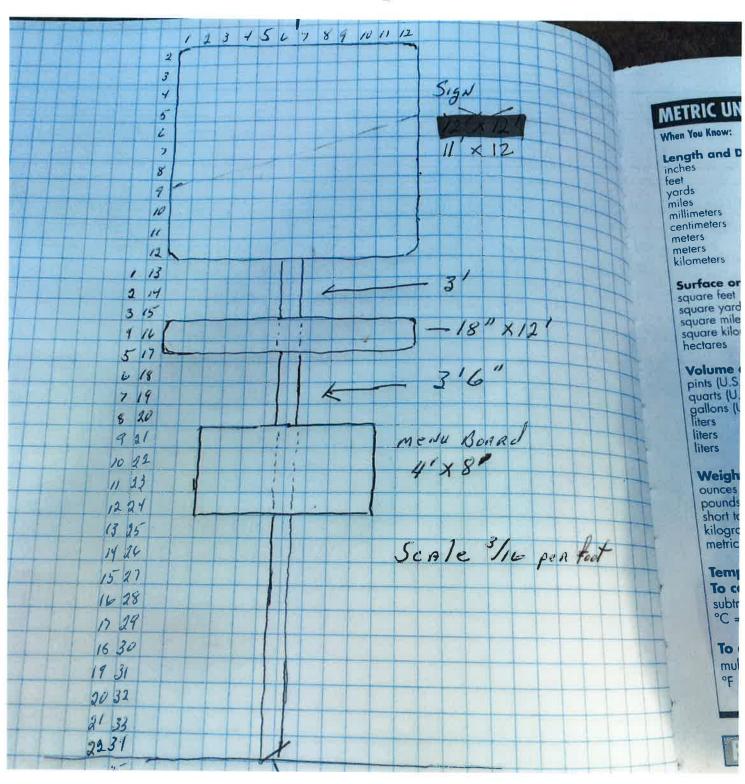
Burger King located at 2250 N. Hwy 99 W McMinnville OR, 97128

The exceptions from Chapter 17.62 that are being requested include 17.62.120 B and C. The current freestanding "Burger King" signage exceeds the 20 feet height requirement established in Section 17.62.070(C)(1) of the McMinnville Zoning Ordinance. For your consideration, the request for an exemption is being made based on the following:

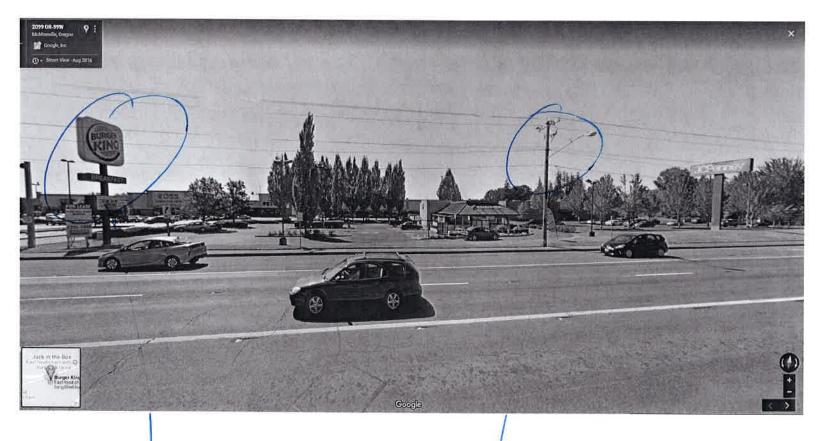
- 1. Based on the drawings provided, the Burger King restaurant has been in operation since the late 1980s. As such, the location of the existing signage has been and continues to be an integral part of local advertising for the business. Alteration to the signage would result in hardship in this regard. In terms of topographical considerations, the location presents various challenges that would result in hardship. Please see attached sign dimensions and photographs. The vertical space on the sidewalk frontage is completely obstructed by the existence of power lines. Moving the sign further back would require the parking lot, landscaping, trees, and plants to be removed. It would also likely negatively impact the intended flow of traffic for the entire shopping center. Furthermore, the sign would be obstructed by the large trees situated in the middle of the parking lot. Alternatively, moving the sign in the direction of the JC Penny sign would pose even more topographical issues. The sign would be obstructing the Burger King itself, defeating the purpose of the sign. Also, the parking light on the right side of the Burger King frontage represents the property line. Moving a sign to this location would require the parking lights to be removed. In the interest of customer safety, parking areas need to be well lit and visible. This location would also cause the existing JC Penny sign to be obstructed. The Burger King is also set back from the street due to the limitations of the lot size. As such, signage is required for advertising and marketing purposes.
- 2. The existing signage does not result in any material damage to other properties or businesses in the vicinity, as it is offset and does not block any other businesses from view.
- 3. As stated in #1, the Burger King restaurant has been in operation since the late 1980s. This predates the 2008 adoption of Ordinance No. 4900. As such, the existing signage is not detrimental to any community standards. In regards to appearance, the signage is well maintained, cleaned, and updated, as required by Burger King Corporation operational standards for independent Franchisees. Furthermore, as outlined in #1, the various topographical challenges of this property would cause unnecessary hardship if the exception is

not granted. Movement of the sign is not a feasible option, and the owners would be denied economically viable use of the property.

- 4. The strict enforcement of Chapter 17.62 would negatively impact the economic viability of the property for the property owner. As stated in #1, the existing signage is an integral part of local advertising for the business. Strict enforcement of the ordinance could potentially result in reduced traffic and sales for the business. This negatively impacts multiple parties, including the property owner, business owner, and employees.
- 5. The strict enforcement of Chapter 17.62 would negatively impact the business owner for several reasons:
- a. The location has undergone a complete overhaul and remodel, which was approved by both McMinnville Planning/Building Department and Burger King Corporation. Alterations to the sign would place Franchisee in legal dispute with Burger King Corporation, as the approved site plan would be drastically different at the time of inspection.
- b. Customer traffic has already been negatively impacted by remodeling and construction activities. The business relies heavily on the existing signage to drive customer traffic back to the newly remodeled restaurant. Any alterations to the sign would negatively impact traffic to this location.

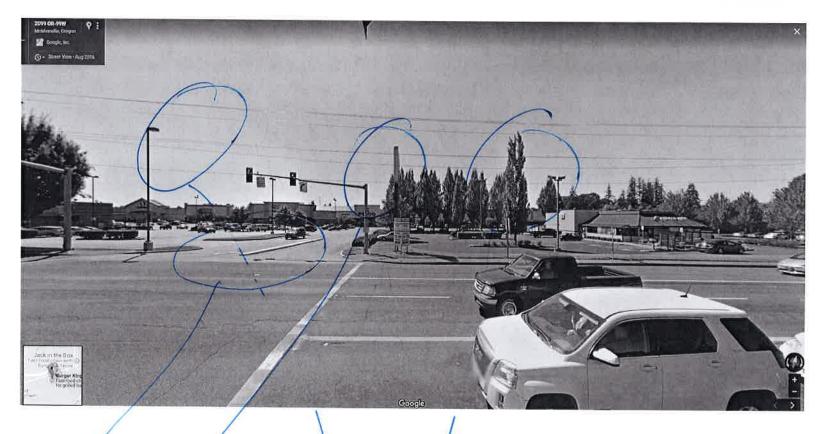






Power Lines

Signage behind power lines.

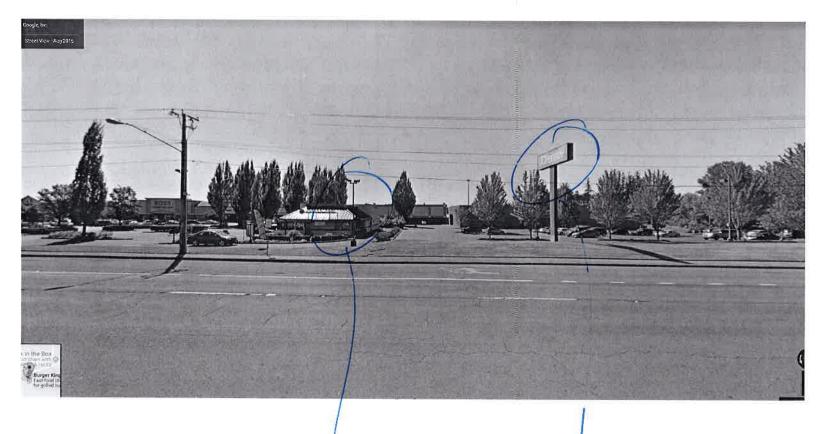


Flow of trathic to shopping center

Signage

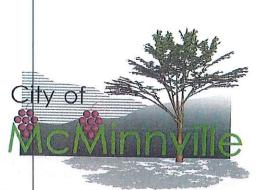
Trees in center of parking lot.

Power Lines



Parting light in question rear property line.

JC Penny sign



## PLANNING DEPARTMENT, 231 NE Fifth Street, McMinnville, Oregon 97128 www.mcminnvilleoregon.gov

June 30, 2017

BIG ISLAND MARINA LLC PO BOX 707 BEAVERCREEK OR 97004

Re: Notice of Potential Sign Noncompliance

To Whom It May Concern:

In November of 2008, the McMinnville City Council adopted Ordinance No. 4900, regulating signage within the McMinnville city limits (codified at Chapter 17.62 of the McMinnville Zoning Ordinance). Ordinance No. 4900, required that permanent signs failing to conform with the adopted standards (e.g., exceed conformance with the standards by not later than December 31, 2016. In November of 2016, the City Council extended the deadline for signs to come into conformance to **December 31, 2017.** 

City staff is developing an inventory of signs that are potentially not compliant with the sign code, so that we could work with property owners to bring all noted signs into compliance by December 31, 2017. You are receiving this notice because one or more of your signs (freestanding, roof or animated signs) on your property has been identified as potentially not being compliant with the sign code. Attached to this letter is a flyer with the relevant sections of the city's sign code describing what are compliant freestanding, roof and animated signs.

Specific to the signage on your property at 2250 NE Highway 99W (Tax Lot R4415BB00900), the following identified nonconforming signage (photos attached further below) must be brought into conformance with the sign standards by December 31, 2017.

• The freestanding "Burger King" sign: It appears that this sign may exceed the height and size limits outlined in Section 17.62.070 (C)(1) of the McMinnville Zoning Ordinance. This section states that no sign on your property may be taller than 20 (twenty) feet in height and 125 square feet in surface area.

If you believe that your sign is not in violation of the sign code, or you would otherwise like to appeal the application of the code to your sign, you may appeal this notice of noncompliance within 60 days of the mailing cate of the notice (August 29). You may appeal the notice of noncompliance by:

BIG ISLAND MARINA LLC June 30, 2017

Re: Notice of Potential Sign Noncompliance

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1. Submitting evidence of sign compliance to the Planning Department; or

 Submitting an application for an Exception pursuant to Section 17.62.120 of the McMinnville Zoning Ordinance; or

3. Submitting an application for an Administrative Variance pursuant to Section 17.72.020 of the McMinnville Zoning Ordinance: or

4. Submitting an application for a Variance pursuant to Section 17.72.020 of the McMinnville Zoning Ordinance.

There are specific criteria that must be met in order to receive an Exception, Administrative Variance, or Variance. Those criteria, as well as all of the sign standards, can be found in Chapters 17.62 and 17.74 of the McMinnville Zoning Ordinance, which is located on our website at the link below and is provided in excerpts as an attachment to this letter.

http://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning/page/1341/zoningordinance.pdf

We would like to work with you to bring your sign into compliance and would be happy to talk through your options and discuss the changes that will be required to your nonconforming signage to make it compliant. If you have any questions regarding the City's sign standards, require additional assistance, or feel that you have received this notice in error, please feel free to call me at (503) 434-7330 or stop by the Planning Department office, which is located at 231 NE 5<sup>th</sup> Street.

I very much appreciate your cooperation in this matter.

Sincerely,

Chuck Darnell Associate Planner

CD:sjs

BIG ISLAND MARINA LLC

June 30, 2017
Re: Notice of Potential Sign Noncompliance

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#### Permanent Sign Regulations

17.62.050 Prohibited Signs. The following signs are prohibited: [...] J. Roof signs.

17.62.070 Permanent \$ign Regulations. Permanent signs may be erected and maintained only in compliance with the following specific provisions: [...]

- C. Commercial (C-1, C-2, and C-3) and Industrial (M-L, M-1, and M-2) zones. Signs in the commercial and industrial zones may be directly or indirectly lit and shall meet all setback requirements of its zone.
  - 1. Freestanding Signs: Each site or multi-tenant complex is allowed one (1) permanent freestanding sign not to exceed forty-eight (48) square feet in area and six (6) feet in height. In addition, each site or multi-tenant complex is allowed one (1) additional permanent freestanding sign per 500 feet of frontage, not to exceed three (3) per site or multi-tenant complex, each not to exceed 125 square feet in area and twenty (20) feet in height if located on Highways 99W or 18 and sixteen (16) feet in height if located elsewhere.
  - 2. Mounted Signs: There is no limit on the area of permanent mounted signs except as provided in 17.62.070(D)(5).
- D. Supplemental permanent sign provisions.
  - 1. No signs are permitted within a public right-of-way unless authorized by a public agency.
  - 2. Signs shall be erected in an upright position and placed perpendicular to a horizontal surface conforming to the line from horizon to horizon.
  - 3. Maximum square footage restrictions include changeable copy and exclude accessory and incidental signs.
  - 4. Minimum clearance for projecting, canopy, and hanging signs when over a walkway or access area is eight (8) feet.
  - 5. Projecting and hanging signs may extend no more than six (6) feet from a building's façade. No projecting or hanging sign may be over thirty-six (36) square feet in area.
  - 6. Sign setbacks are measured from the nearest property line to the nearest portion of the sign. In addition to the specific setbacks noted above, all signs shall meet the clear-vision requirements of Sections 17.54.050(F) and 17.54.080(A) and (B).
- E. Electronic changeable dopy signs are subject to the following standards:
  - 1. One (1) electronic changeable copy sign is permitted per site or multi-tenant complex and shall only be allowed as part of a permanent freestanding or wall sign.
  - 2. The electronic changeable copy portion of a freestanding sign may be no higher than twelve (12) feet above grade.
  - 3. The electronic changeable copy portion of a sign may not exceed twenty-four (24) square feet in area.
  - 4. Electronic changeable copy signs must be set at least ten (10) feet from all property lines.
  - 5. The electronic changeable copy portion of a sign will have its area calculated at a rate two (2) times that of other signs.
  - 6. On sites or multi-tenant complexes on which an electronic changeable copy sign is located, temporary signage is limited to that described in Section 17.62.060(B)(2) and (3).

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#### **Exception Process and Review Criteria**

#### 17.62.120 Exceptions.

- A. Applications for an Exception shall be heard by the 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 established 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. 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. 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. (Ord. 5013 §1, 2016)

#### Administrative Variance Application and Review Criteria

<u>17.72.020 Application Submittal Requirements</u>. 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.

#### Attachment - Relevant Sign Ordinance Regulations

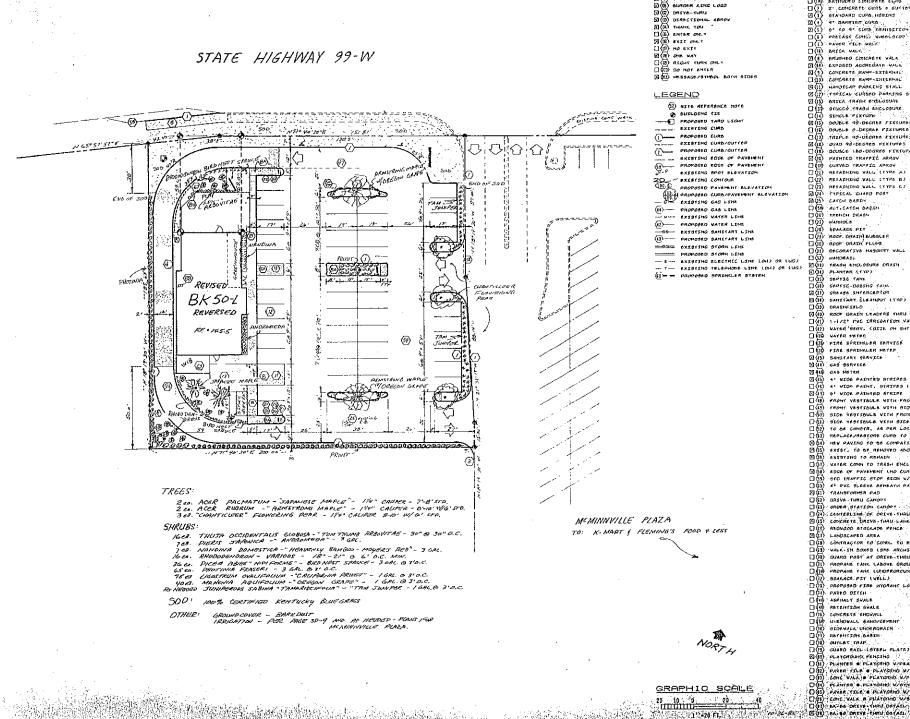
#### Page 5

- 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.

17.74.100 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.

<u>17.74.110 Conditions for Granting Variance</u>. 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.



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Introduction Charles

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ON SITE SIGN NOTES

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