

ORDINANCE NO. 5052

AN ORDINANCE AMENDING TITLE 17 (ZONING) OF THE MCMINNVILLE CITY CODE, SPECIFIC TO CHAPTER 17.06 AND CHAPTER 17.62, TO UPDATE DEFINITIONS AND THE REGULATION OF NONCONFORMING SIGNS

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

The McMinnville City Council adopted Ordinance 5013 on November 8, 2016 and Ordinance 5044 on November 28, 2017 that, in part, extended the deadline for bringing nonconforming signs into compliance to allow for a thorough examination of the existing nonconforming signs in the city and to research the existing amortization process for nonconforming signs; and

Planning Department staff and the City Attorney reviewed the amortization process and then drafted amendments and prepared an application (G 2-18) for zoning text amendments to amend Chapter 17.06 and Chapter 17.62 of the McMinnville City Code to remove the amortization process and incorporate other requirements for updating nonconforming signs; and

A public hearing was held before the McMinnville Planning Commission on March 15, 2018, after due notice had been provided in the local newspaper on March 6, 2018. At the March 15, 2018, Planning Commission public meeting, after the application materials and a staff report were presented and testimony was received, the Commission closed the public hearing. After deliberation, the Planning Commission voted to recommend approval of G 2-18 to the McMinnville City Council; and

The City Council, being fully informed about said request, found that the requested amendments conformed to the applicable Comprehensive Plan goals and policies, as well as the McMinnville Zoning Ordinance based on the material submitted by the Planning Department and the findings of fact and conclusionary findings for approval contained in Exhibit A; and

The City Council having received the Planning Commission recommendation and staff report, and having deliberated;

NOW, THEREFORE, THE COMMON COUNCIL FOR THE CITY OF MCMINNVILLE ORDAINS AS FOLLOWS:

1. That the Council adopts the Decision, Findings of Fact and Conclusionary Findings, as documented in Exhibit A for G 2-18; and
2. That Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance are amended as provided in Exhibits B - C. Text that is added is shown in **bold underlined** font while text that is removed is shown in ~~strikeout~~ font.
3. That this Ordinance shall take effect 30 days after its passage by the City Council:
Passed by the Council this 24th day of April 2018, by the following votes:

Ayes: _____

Nays: _____

MAYOR

Attest:

Approved as to form:

CITY RECORDER

CITY ATTORNEY



**CITY OF MCMINNVILLE
PLANNING DEPARTMENT
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DECISION, FINDINGS OF FACT AND CONCLUSIONARY FINDINGS FOR THE APPROVAL OF LEGISLATIVE AMENDMENTS TO CHAPTER 17.06 (DEFINITIONS) AND 17.62 (SIGNS) OF THE MCMINNVILLE ZONING ORDINANCE TO UPDATE THE REQUIREMENTS FOR NONCONFORMING SIGNS.

DOCKET: G 2-18

REQUEST: The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

LOCATION: N/A

ZONING: N/A

APPLICANT: City of McMinnville

STAFF: Chuck Darnell, Associate Planner

DATE DEEMED COMPLETE: February 21, 2018

HEARINGS BODY: McMinnville Planning Commission

DATE & TIME: March 15, 2018. Meeting held at the Civic Hall, 200 NE 2nd Street, McMinnville, Oregon.

HEARINGS BODY: McMinnville City Council

DATE & TIME: April 24, 2018. 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, McMinnville Fire Department, Police Department, Engineering Department, Building Department,

Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. Their comments are provided in this decision document.

DECISION

Based on the findings and conclusions, the Planning Commission recommends **APPROVAL** of the legislative zoning text amendments (G 2-18) to the McMinnville City Council.

////////////////////////////////////
DECISION: APPROVAL
////////////////////////////////////

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 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.

ATTACHMENTS:

1. Amendments to Chapter 17.06 (Definitions)
2. 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, McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. The following comments have been received:

None Received To Date

Additional Testimony

No notice was provided to property owners for this application. As of the date this report was written, no public testimony has been received by the Planning Department.

FINDINGS OF FACT

1. The City of McMinnville is proposing to amend Chapter 17.06 (Definitions) and Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The proposed zoning text amendments are related to nonconforming signs and the process for which nonconforming signs are required to come into compliance with the current sign standards in the McMinnville Zoning Ordinance. The amendments will result in the removal of the existing amortization process, which required that all nonconforming signs come into compliance by December 31, 2018. In place of the amortization process, the proposed amendments will introduce other triggers for bringing nonconforming signs into compliance with the current sign standards.
2. This matter was referred to the following public agencies for comment: Oregon Department of Land Conservation and Development, McMinnville Fire Department, Police Department, Engineering Department, Building Department, Parks Department, City Manager, and City Attorney; McMinnville Water and Light; McMinnville School District No. 40; Yamhill County Public Works; Yamhill County Planning Department; Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas. No comments in opposition have been provided.

- Public notification of the public hearing held by the Planning Commission was published in the March 6, 2018 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.

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 amendments in that the proposed amendments incorporate requirements for the updating of nonconforming signs at times when improvements or investments are being made to the property in question. The amendments remove the amortization process that required the automatic updating of nonconforming signs by a certain date in the future. The amortization process applied to all properties with nonconforming signs regardless of whether any changes or investments were being made to the property. The amendments incorporate new situations or triggers that would require nonconforming signs to come into compliance, which still protects the general welfare of the city and provides for workable relationships between land uses and the

transportation system. The amendments are also consistent with the purpose of the Signs Chapter (Chapter 17.62), which is described in more detail below.

Chapter 17.62 – Signs:

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville’s unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate amortization and incentive policies.

Finding: Section 17.62.010 is satisfied in that the proposed amendments still provide a process through which nonconforming signs will be updated to come into compliance with the sign standards in Chapter 17.62 (Signs) of the McMinnville Zoning Ordinance. The updating of the nonconforming signs protects the aesthetic appeal of McMinnville, and improves the visual qualities of McMinnville’s streetscape through equitable sign standards. The removal of the amortization process and incorporation of other situations and triggers to bring nonconforming signs into compliance provides for a balance with the needs of businesses in McMinnville. The proposed amendments would not require an automatic update of nonconforming signs by a certain date in the future, but would rather require that nonconforming signs be updated when improvements or investments are being made to the property in question.

CD:sjs

Chapter 17.06

DEFINITIONS

(as adopted by Ord. 4952, March 13, 2012)

Sections:

- 17.06.010 Generally.
- 17.06.015 General Definitions.
- 17.06.020 Special Definitions.
- 17.06.025 Airport Overlay Zone Regulated Definitions.
- 17.06.030 Flood Area Zone Related Definitions.
- 17.06.035 Landscaping Related Definitions.
- 17.06.036 Marijuana Activity Related Definitions.
- 17.06.040 Sign Related Definitions.
- 17.06.045 Tree Related Definitions.
- 17.06.050 Wireless Communication Facilities Related Definitions.
- 17.06.060 Historic Preservation Related Definitions

[...]

17.06.040 Sign Related Definitions. For the purpose of Signs (Chapter 17.62), the following definitions shall apply.

Abandoned Sign – **A sign that advertises a business or event that has been closed for more than thirty (30) days** ~~a sign or sign structure where either: a) the sign is no longer used by the property or sign owner; Discontinuance of sign use may be shown by cessation of use of the property where the sign is located; or b) the a sign **that** has been damaged, and repairs and restoration are not started within **sixty days (60)** forty five (45) days of the date the sign was damaged, or are not **completed within 180 days** diligently pursued, once started.~~

[...]

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

17.62.010 Purpose. The City Council finds that signs provide an important medium through which individuals and businesses may convey a variety of messages. However, left completely unregulated, signs can become a threat to public safety and a traffic hazard as well as an obstruction to the aesthetic appeal of McMinnville’s unique landscape.

The standards contained in this chapter are primarily intended to balance the needs of businesses and individuals to convey their messages through signs, and the right of the public to be protected against the unrestricted proliferation of signs and their effect on public and traffic safety and the aesthetic qualities of the City such as vistas and gateways. In an attempt to achieve that balance, the purpose of this chapter is to:

- A. Improve the visual qualities of McMinnville’s streetscape environment through the use of equitably applied sign height, size, and location standards;
- B. Provide minimum, consistent, and enforceable sign standards by regulating sign location, size, height, illumination, construction, and maintenance;
- C. Minimize visual clutter caused by signs by limiting their numbers and duration of use;
- D. Protect citizen safety by prohibiting hazardous signs;
- E. Ensure compliance with state and federal laws regarding advertising by providing rules and standards that are content neutral; and
- F. Provide for near term and longer term improvements to signage through the use of appropriate ~~amortization and incentive~~ policies.

[...]

17.62.110 Nonconforming Signs.

- A. The following ~~provision~~ **actions** 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.

- 1. Any alteration of a nonconforming sign that requires a building permit;**
- 2. Any alteration of a structure or building on the property that requires a building permit and a certificate of occupancy;**
- 3. Additions or expansions of 25 percent or more of the overall square footage of a structure or building on the property;**
- 4. Any change to a property that requires a building permit of which the value of the building permit improvements is 25 percent or more of the real market value of the buildings on the property within a 24 month period, as determined by the Yamhill County Assessor's Office in the most recent tax year;**
- 5. Abandonment of a nonconforming sign.**

- B. All temporary or portable signs not in compliance with the provisions of this code ~~chapter~~ 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, 2018, 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 no later than six months 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 Director; or~~
 - ~~3. Submitting an application for an administrative variance pursuant to Section 17.72.020 to the Planning Director; 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. (Ord. 5044 §2, 2017; Ord. 5013 §1, 2016)~~

[...]