



ORDINANCE 2009-002

AN ORDINANCE AMENDING THE SIGN CODE SECTION OF THE SHERWOOD ZONING AND COMMUNITY DEVELOPMENT CODE (16.102) TO ADDRESS NON-CONFORMING SIGNS

WHEREAS, The City Council initiated an amendment to the Sherwood Zoning and Community Development Code (SZCDC) to consider modifications to the free standing sign standards via resolution 2008-056; and

WHEREAS, Upon review, the City of Sherwood's sign standards at the time would have required approximately half of the existing free standing signs to be removed by 2010 to comply with the non-conforming sign removal requirements in 16.102.010.5; and

WHEREAS, The City Council approved ordinance 2009-003 which limited the permitted height and size of signs resulting in additional non-conforming signs; and

WHEREAS, The City determined that many of the signs, while non-conforming, were not so contrary to community values that removal was necessary; and

WHEREAS, Amendments were developed and proposed to modify the non-conforming sign requirements so that signs that are non-conforming due to design or those that are under a certain height or size are not required to come into compliance within a specific period of time; and

WHEREAS, The proposed amendments were subject to full and proper review and a public hearing was held before the Planning Commission on December 3, 2008 and the Planning Commission voted to forward a recommendation of approval to the City Council on January 13, 2009; and

WHEREAS, The City Council held a public hearing on February 3, 2009 and continued the hearing to allow for greater outreach and public input and held a second public hearing on April 21, 2009; and

WHEREAS, After full consideration of the public input, Planning Commission recommendation, staff recommendation, and community values, the Council determines that the proposed changes to the non-conforming standards in SZCDC 16.102.010.5 meet the applicable Comprehensive Plan criteria and are consistent with regional and state standards.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

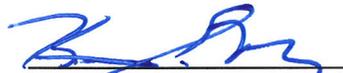
Section 1. Findings. After full and due consideration of the proposal, the Planning Commission recommendation, the record, findings, and the evidence presented at the public hearing, the Council adopts the findings of fact related to the modifications to the non-conforming sign standards contained Exhibit 1 and amends the text of the SZCDC regarding nonconforming signs contained in Exhibit 1-A.

Section 2. Approval. The proposed amendments for sign code (PA 08-03) identified in Exhibit 1-A, are hereby **APPROVED**.

Section 2 - Manager Authorized. The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to the Department of Land Conservation and Development and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.

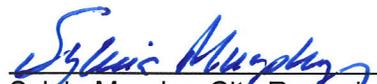
Section 3 - Effective Date. This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

Duly passed by the City Council this 21st day of April 2009.



Keith S. Mays, Mayor

ATTEST:



Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Folsom	<input checked="" type="checkbox"/>	_____
Clark	<input checked="" type="checkbox"/>	_____
Weislogel	<input checked="" type="checkbox"/>	_____
Henderson	<input checked="" type="checkbox"/>	_____
Grant	<input checked="" type="checkbox"/>	_____
Heironimus	<input checked="" type="checkbox"/>	_____
Mays	<input checked="" type="checkbox"/>	_____

Proposal: Update the sign code to further limit the height and size of free-standing signs city-wide with specific exceptions. Modify the non-conforming sign requirements so that signs that are non-conforming due to design or that are under a certain height or size are not required to come into compliance within a specific period of time. The Planning Commission held a hearing on December 9, 2008 and voted to forward a recommendation on January 13, 2009. The Planning Commission recommends that all non-conforming signs be exempt from the 5 year compliance requirement except those greater than 25 feet tall or 150 square feet in size.

I. BACKGROUND

- A. Applicant: This is a City initiated text amendment; therefore the applicant is the City of Sherwood.
- B. Location: The proposed amendment is to the text of the development code and, therefore does not apply to a specific location.
- G. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
- H. Public Notice and Hearing: Notice of the December 9, 2008 Planning Commission hearing on the proposed amendment was published in The Times on 11/27 and 12/4. Agency notice was provided and notice was posted in 5 public locations around town on 11/18/08. The February 3, 2009 City Council hearing date was stated at the Planning Commission hearing. The hearing was continued to March 17, 2009 and then again to April 21, 2009. After direction from Council for greater public outreach, notice of the April 21, 2009 Council hearing was mailed to each property owner on record for properties zoned commercial and industrial and business owners with businesses listed on any free standing sign 20 feet or taller.
- I. Review Criteria:
The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- J. Legislative background:
The sign ordinance was updated in 2004 via PA 04-01, Ordinance 2004-006. At that time, the height of signs was reduced from 45 feet down to a maximum of 35 feet (for commercial plazas) and the sign size was reduced from 750 square feet (with options to go larger in certain circumstances) down to 300 square feet per sign face. Ordinance 2004-006 also defined column signs, monument signs and prohibited pole signs. At that time, the non-conforming section stated that all non-conforming signs must be brought into compliance within 5 years. With the new standards, the non-conforming language was amended to exempt residential signs, church signs and public signs from the amortization requirement.

The sign code was amended further in 2005 via Ordinance 2005-002 (PA 04-05) to clarify that signs that were non-conforming as of the date that ordinance was passed must be brought into compliance within 5 years from that date and any sign erected after that date that were non-compliant (because permits were in process) would have to be brought into compliance within 5 years after they were constructed. Following the adoption of Ordinance 2005-002, the deadline for all non-conforming signs, except those erected after February 22, 2005, would be February 22, 2010.

In preparation of compliance action, the City conducted an inventory of all free-standing signs in the city to determine which would be required to be brought into compliance. The inventory revealed that, with the new definitions of signs regarding differences in design, of the 99 free-standing signs inventoried, approximately 45 were non-conforming. Of those, 38 were non-compliant due to design only. In addition, there was concern about whether the existing sign standards sufficiently represented the community values for aesthetics and community character. As a result, the City determined it necessary to evaluate whether the sign code and amortization requirements truly reflected the community goals. The Council passed Resolution 2008-056 to prohibit staff from accepting new free-standing sign permit applications for 90 days while the city looked more closely at the sign ordinance.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent request for comments to the standard agency notification list. The City received responses indicating that there were no concerns from: ODOT Rail, TVF&R, Washington County Kinder-Morgan and Metro

CWS provided the following comments: "The signs CWS puts up on Water Quality Facilities and Vegetated Corridors/Sensitive Areas I believe are exempted under 16.102.010 (3-H). If correct, then no further comments."

The City received no response from the following: ODOT, Tri-met, NW Natural Gas, DLCD, DEQ, BPA, Sherwood Public Works, Sherwood Engineering, Pride Disposal, PGE, TVWD and Washington County.

Public:

Prior to the Planning Commission hearing the Commission received the following:

A letter was submitted to the Planning Department from Pride Disposal. While this letter was provided to the Commission during work session meetings, a copy is included in this packet as Exhibit C-1.

A letter to Chair Allen was submitted by Jim Claus along with published materials for his review. A copy of the letter is included as Exhibit C-2. The published materials provided may be reviewed at City Hall.

At the Commission hearing, the Commission received written testimony as well as public comment. This testimony is also attached to this report as Exhibits C-3 through C-9.

Testimony submitted between the first City Council public hearing and April 9, 2009 is attached to this report as Exhibits G, H and I.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3

16.80.030.1 - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

Demonstrated Need

As discussed under the legislative background section of this report, the City determined there was a need to evaluate the sign standards. The Planning Commission held two work sessions to discuss the current sign standards and to see where Sherwood's standards were in relation to neighboring jurisdictions. The City evaluated the standards of Tigard, Tualatin, Lake Oswego, West Linn and Wilsonville to see how Sherwood's standards compared. The comparison demonstrates that Sherwood's standards for height and size exceed all other jurisdictions. The Planning Commission determined that it was not appropriate for the height and size of signs throughout the City to be the same for all commercial and industrial zones regardless of location. The City Council adopted modification to the sign code to reduce the permitted size of new signs to 6 feet tall and 36 square feet in size but recognized the need for larger signs in certain high traffic commercial locations.

The Commission closely reviewed the sign inventory compiled by staff (Exhibit E) as they provided direction to staff for development of the sign code amendments. It was recognized that while many signs were non-conforming as a result of Ordinance 2004-006 they were not so egregious that they must be removed immediately. The commission did not want, however, to modify the design standards developed with Ordinance 2004-006. For that reason, it was determined that an additional modification to the non-conforming section in the sign code was appropriate to exempt signs that were non-conforming due to design alone. In addition, because the amendments of Ordinance 2009-003 reduced the height and size permitted for signs, signs became non-conforming that were not previously non-conforming it was determined that signs under a certain height or size would also be exempt from the amortization requirement. The Commission determined that signs exceeding 25 feet in height or 150 square feet in size would be inconsistent with the aesthetic objectives and should continue to be regulated by the amortization clause.

Consistency with the Comprehensive Plan

The proposed sign code amendments are consistent with the objectives and policies of the Comprehensive Plan, specifically Part 2, Chapter 4 Community Design:

2. General Findings

- a. Community design and aesthetic quality must be consciously considered in the review of new developments in order to ensure that Sherwood continues to be an attractive and efficiently functioning urban area.
- b. The visual attractiveness of site and structures will enhance property values.
- c. Careful attention to site design can result in protection of natural and man-made features which contribute to the community's identity.
- d. Visual variety in the mass, form, height, texture and color is necessary to avoid the monotonous urban landscape resulting from urban sprawl.
- e. Since 1976, the Sherwood Design Review Board or the Planning Commission has taken effective action to further community design values in the development of sites and structures. Explicit reference to community design and aesthetics goals, objectives and strategies will serve to strengthen the basis for their continuing efforts.

3. General Objectives

- a. To establish community design and aesthetics as a planning consideration in evaluating new development.
- b. To develop and implement policy which will encourage appropriateness and compatibility of new development with the existing natural and man-made environment, existing community activity patterns and community development.
- c. To develop and implement policy which will minimize or eliminate adverse visual effects caused or perpetuated by the design and location of new development including but not limited to effects from:
 1. The scale, mass, height, area and architectural design of buildings and structures.
 2. Vehicular and pedestrian ways and parking areas.

3. Existing or proposed alteration of natural topographic features, vegetation and waterways.
4. Other developments or structures including, utility lines, storage, or service areas and advertising features which may interfere with sun and light exposure, views, vistas, privacy and general aesthetic value of the neighborhood and area.

4. Policies and Strategies

Policy 3 The natural beauty and unique visual character of Sherwood will be conserved.

Strategy:

Adopt a sign ordinance which regulates the number, size and quality of signs and graphics. Standardize and improve the quality of public signs and traffic signalization.

While the text amendments of Ordinance 2009-003 provided regulations regarding the construction of new signs, the City has determined that existing signs, for the most part, are not contrary to the community values. It is determined that certain existing signs are excessively tall or too large compared to the new standards and the community's values and therefore, should be brought into compliance as soon as possible. Additional non-conforming signs may remain until structurally altered or replaced. These changes will continue to preserve the character of Sherwood in commercial and industrial areas while not overburdening all businesses with a requirement to replace signs.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed sign code amendment would conflict with.

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no conflicts with this text change. Further, there are no known state goals or standards that the proposed sign code amendment would conflict with.

The process used is consistent with the Goal 1 and 2 requirements (and the development code). The Commission had two (2) work sessions that were open to the public. The hearings were noticed via postings in 5 locations around the city, at the City Hall counter, on the City's web site and notice publicized in The Times newspaper. There are no other relevant statewide planning goals.

FINDING: As demonstrated in the above analysis, there is a need for the proposed amendments to the sign standards of the development code and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.2 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The amendment will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends the City Council approve PA 08-03 relating to amendments to the non-conforming sign portion of the sign code.

V. EXHIBITS

- A. Proposed development code changes
- B. Sign Code Amendment summary table
- C. Public comments
 - 1. Pride Disposal
 - 2. Jim Claus
 - 3. Letter from Carol Keljo of Security Signs
 - 4. Letter from Patti King, Northwest Sign Council
 - 5. e-mail dated 12-8-08 (name withheld)
 - 6. Letter from Matt Grady, Gramor Development
 - 7. Testimony from John Alto
 - 8. Photos submitted by Matt Grady demonstrating signs consistent with proposed changes
 - 9. Copy of Scottsdale, CO sign code submitted by John Alto
- D. Comparison Table of nearby jurisdictions' sign standards
- E. Sherwood inventory of free standing signs
- F. Memo to Planning Commission from Julia Hajduk dated January 6, 2009 (including 2 attachments)
- G. 2/17/09 letter from Jim Claus submitted at 2/17/09 Council meeting
- H. 2/25/09 e-mail from Brian Cannard, Real Estate Manager of Home Depot
- I. 3/6/09 letter from Catherine Strauss, Attorney for Regency Centers

1. Sign Permits

A. Except as otherwise provided in this Section and Sections 16.102.040 through 16.102.070, a person may not construct, install, structurally alter or relocate any sign without first obtaining an administrative sign permit from the City as required by Chapter 16.72, including payment of the fee required by Section 16.74.010. In addition, all permitted illuminated signs are subject to the provisions of the State Electrical Code and any applicable permit fees. (Ord. 2005-002 § 5; 2002-1132)

Deleted: no

Deleted: shall

Deleted: and making

Deleted: shall be

2. Sign Application

Application for a sign permit shall be made upon forms provided by the City and shall include the following information:

A. Name, address and telephone number of the applicant. Name, address, telephone number and signature of the landowner.

B. Location of the building structure, lot or parcel to which or upon which the sign is to be attached or erected.

Deleted: or

C. A scaled drawing showing sign design including colors, dimensions, sign size, height above ground, method of attachment, construction and materials, type, source and intensity of illumination and the relationship to any building to which the sign will be attached.

D. A plot plan drawn to scale indicating the location of all buildings, property lines, existing signs, street lights, easements, and overhead power lines on the same premises.

E. Name, address and telephone number of the person or firm who will erect, construct and maintain the sign.

(Ord. 2004-006 § 3; 86-851)

3. Exceptions

The following signs do not require a sign permit but shall conform to all other applicable provisions of this Chapter:

Deleted: shall

A. Traffic signs installed per the Manual of Uniform Traffic Control Devices and other federal, state and local traffic sign regulations.

B. Nameplates not exceeding one (1) square foot in area.

C. A legally erected, painted or printed advertising sign, theater marquee or similar sign specifically designed for the use of replaceable copy.

Deleted: Messages on a

D. On-site painting, repainting, cleaning and normal maintenance and repair of a sign.

E. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

F. A sign that is accessory to a construction site and construction activities that does not exceed thirty-two (32) square feet in area, provided that such sign is removed within thirty (30) days from date of issuance of the final occupancy permit or within two (2) years, whichever is less.

Deleted: construction site

Deleted: denoting an architect, engineer, contractor, subdivision or development, not exceeding

G. Portable/Temporary Signs allowed per Sections 16.102.040 through 16.102.070.

H. Public utility signs and other signs required by law.

I. Signs on private property 3 square feet or less per sign face and under 3 feet tall when freestanding and installed to be readable on private property.

(Ord. 2002-1132 § 3; 86-851)

4. Violations

The City may order the removal of any sign erected or maintained in violation of the provisions of this Chapter. If the City orders the removal of a sign under this section, the City shall give ninety (90) days written notice to the owner of the sign or, if the owner of the sign cannot be notified, to the owner of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance. After ninety (90) days the City may remove the sign at cost to the owner of the building, structure or premises. All costs incurred by the City will be a lien against the land or premises on which the sign is located and may be collected or foreclosed in the same manner as similar liens. (Ord. 86-851 § 3)

Deleted: shall

Deleted: T

Deleted: such

5. Nonconforming Signs

a. Signs that do not conform to the provisions of this Chapter are regarded as non-conforming signs and shall be brought into compliance with this Code's standards.

Deleted: which

Deleted: shall be

b. Except as exempted in d below, a nonconforming sign in existence on the effective date of Ordinance 2005-002, shall be brought into compliance within five (5) years of the effective date of Ordinance 2005-002. A nonconforming sign erected after the effective date of Ordinance 2005-002 or made non-conforming by subsequent sign ordinance amendments, shall be brought into compliance within five years of the issuance of a building permit to construct the sign or adoption of the ordinance creating the non-conformity. A nonconforming sign that is not brought into compliance within five years shall be removed at the expense of the sign owner or, at the City's discretion, the owner of the property upon which it is located.

Deleted: ny

Deleted: Any

Deleted: as of

Deleted: ny

Deleted: ny

Deleted: its

c. Except as exempted in d below, a nonconforming sign that is structurally altered, relocated or replaced shall immediately be brought into compliance.

Deleted: A

Deleted: ny

d. A sign that is 45 feet tall or less and that is 300 square feet or less in size is exempt from the requirement to come into compliance within 5 years and may remain until: a.) structurally altered, relocated or replaced, or b.) until such time as the property on which it is located goes through a major re-development as determined by the Commission as part of a Type IV land use application. (Ord. 2005-002 § 5; 2004-006)

Deleted: which

Deleted: ny

Deleted: s

Deleted: are

Deleted: this section

6. Abandoned Signs

A person who owns or leases a sign shall remove the sign when the business advertised is discontinued or moves. The City shall give the owner of the building, structure or premises upon which an abandoned sign is located ninety (90) days written notice to remove the sign. After ninety (90) days the City may remove the sign at cost to the owner of the building, structure or premises. All costs incurred by the City may be a lien against the land or premises on which such sign is located and may be collected or foreclosed in the same manner as similar liens. (Ord. 86-851 § 3)

Deleted: ny

Deleted: and sign structure

Deleted: for removal of

Deleted: such

Deleted: 7. Additional Setbacks
Where the supporting member of any sign is permanently erected or affixed to