

Questions and Answers

1) *Nonconforming signs*

What are nonconforming signs?

Nonconforming signs are signs that were legally constructed and in conformance with applicable sign development standards at the time it was installed, but currently are no longer in compliance with all applicable standards such as display area or height due to updates or changes to the sign code which may have changed those allowances. Another common way that signs become nonconforming are through dedication of public right-of-way, also changes to the classification of abutting streets, both of which may change the location and setback distance for a sign.

What can you do with a nonconforming sign?

Signs, particularly freestanding signs can have a relatively long lifespan, and it is not uncommon for a business or property owner in City limits to have a nonconforming sign. The sign code currently allows nonconforming signs to remain for their entire lifespan. They may be repaired and maintained, and may have the advertising copy changed as businesses and owners change over time. The sign code also currently allows nonconforming signs that are damaged by accident, including vehicle impacts, tree fall, or other cause, to be reconstructed provided that the cost to reconstruct the sign does not exceed 50% of the cost to reconstruct an entirely new sign. If the cost of the reconstruction exceeds this amount, the nonconforming status would be terminated.

What changes are being proposed?

The proposed amendment will add a new allowance for nonconforming signs to be reconstructed/relocated if they are required to be moved for construction or repair of public facilities, including sidewalks, roads, and public utilities as long as the degree of nonconformity does not increase. The most common scenario that staff encounters involves signs with a nonconforming setback, this proposed change will make it easier for signs to be reconstructed and relocated.

The proposed amendment will also make it easier for nonconforming signs to be structurally altered. A common scenario that staff encounters is requests for new or replacement sign faces which involve structural alteration of the sign. Currently the code allows nonconforming signs to be structurally altered only in cases where the alteration is necessary for structural safety of the sign. The proposed amendment would allow for a structural alteration for a nonconforming sign as long as the alteration does not result in a change to the display area, height, and setback of the nonconforming sign, and that the cost does not exceed 50 percent of the replacement cost of the sign.

2) *What will happen to existing signs if the code amendment is passed?*

The majority of existing signs would still be in conformance with the sign code and in some cases, some businesses may even find additional signage allowances or more flexibility in the placement of a sign. However, in some cases, the proposed changes to the sign code will result in reductions to allowable display surface and height allowances for permanent signs, and will likely make some existing permanent signs nonconforming, particularly signs with a larger display area. As discussed in Section 1, the sign code has provisions for nonconforming signs which allow them to remain for their lifetime, with provisions for repair, maintenance and change of advertising copy. The City will not require permanent signs that would be made nonconforming by this amendment to be removed or replaced.

3) *How does the proposed amendment impact signs placed on the inside of a window?*

The sign code currently exempts non-illuminated signs that are painted or attached to the inside of a window for commercial and industrial zones. Signs painted or attached to the inside of a window are not currently permitted in mixed-use zones. The proposed amendment would add the window sign exemption to mixed-use zones; however, in keeping with the goal of promoting pedestrian-oriented development in vibrant mixed-use zones, the proposed amendment will add a new standard limiting the maximum display area allowance for signs on the interior of a window when the window is on a building façade within 30 feet of a public street to no more than 20 percent for any window. City Council may choose to adopt this standard, modify it, or keep the existing exemption unchanged. Alternatives are outlined below:

- 1) Adopt staff recommendation to include the new limit on amount of window area that can be covered within 30 feet of a street.
- 2) Apply the proposed limit of no more than 20 percent for any window within 30 feet of a public street *only to mixed-use zones*, not commercial or industrial zones.
- 3) Adopt the standard but modify the 20 percent window coverage standard to something like 25 percent, for example.
- 4) Continue to not regulate this, including in the mixed-use zones.

Existing window signs that would be made nonconforming by any amendment to this section may remain as nonconforming signs for their lifetime. If they are removed, the nonconforming status would be terminated. The City Council could add a sunset clause for these signs, requiring their removal within a certain period of time. Staff is not currently proposing that.

4) *What would the proposed amendment mean for existing outdoor advertising signs (billboards) in the MU-III zone?*

The Our Salem project, approved by the City Council in August 2022, resulted in updates to zoning and comprehensive plan map designations for several properties within the City, and removed some overlay zones, including the South Gateway Overlay Zone. Outdoor advertising signs were previously prohibited in the South Gateway Overlay Zone. With the Our Salem project a large number of properties in the former South Gateway Overlay Zone were rezoned to MU-III (Mixed Use) and several properties which were previously prohibited from erecting outdoor advertising signs are now eligible for this type of sign.

The proposed code amendment will remove outdoor advertising signs as a permitted type of sign in the MU-III zone. Existing outdoor advertising signs located on properties in the MU-III zone would become nonconforming. Nonconforming signs may continue to be used until the nonconforming status of the sign is terminated. A nonconforming sign may be repaired and maintained, structurally altered, or enlarged, and may be reconstructed under certain circumstances.

In response to testimony received, the proposed amendment incorporates the Planning Commission recommendation that outdoor advertising signs also be allowed to be relocated on the same development site provided that the new outdoor advertising sign otherwise complies with all applicable development standards. This addition allowance for relocating and reconstructing nonconforming outdoor advertising signs would only apply in the MU-III zone. Nonconforming outdoor advertising signs located in any other zone will continue to have the same nonconforming rights for the lifetime of the sign, which would allow for the repair and maintenance of the sign, change of advertising copy, and allowance for structural repair when necessary for public safety. But once the nonconforming outdoor advertising sign is removed, it could not be replaced or reconstructed.

City Council may choose to adopt the recommendations in the staff report and prohibit new outdoor advertising signs, modify the recommendation, or keep the existing code unchanged and allow outdoor advertising signs as a permitted sign type in the MU-III zone.

5) *What type of outreach did staff do to prepare the proposed amendment? What type of public notice was provided?*

In 2022, a series of three work sessions were held with the Planning Commission to discuss proposed updates to the sign code for the purpose of gathering public feedback. Notice for the work sessions was provided to the public, including neighborhood associations, sign industry representatives, and the 4,000+ people on the Planning Division email outreach list which includes the Chamber of Commerce, the Homebuilders Association of Marion and Polk County and Mid-Valley Association of Realtors.

In May 2023, a public hearing was conducted by the Planning Commission, notice of the public hearing was provided to the public, including neighborhood associations, sign industry representatives, and the 4,000+ people on the Planning Division email outreach list. Public testimony was received at the initial public hearing with the Planning Commission, and has been attached to the City Council staff report.

In addition, because the proposed code amendment restricts the development of new Outdoor Advertising signs (billboards) on property zoned MU-III, ORS 227.186 requires written individual notice to the owner of each affected property. This notice is commonly referred to as a "Ballot Measure 56 notice." In accordance with the above requirements, notice of the proposed code amendment was provided to every affected owner of property in the MU-III zone (approximately 484 owners).

6) *Why is art regulated under the sign code?*

Per Chapter 900 a sign is defined as any structure, board, poster, placard, or device which contains or comprises a display designed, used, or intended to attract the attention of the public. In addition to sign displays carrying words like a business name or phrase, sign displays can also include brand logos, symbols, images, or graphic elements. This is a broad definition, meaning virtually any object placed in a location visible to the public that is intended to attract attention could be classified as a sign, which is where the sign code intersects with public art and murals.

City staff cannot make a distinction between works of art and displays meant for advertising businesses and services. A common scenario encountered by staff is murals. The sign code currently does not distinguish between wall signs that are painted on an exterior building wall verse signs such as cabinets and raceways that are physically attached too or fixed to the wall. When regulated under the sign code, painted walls signs are subject to display area limitations of the underlying zone. The sign code cannot be used to regulate signage based on the content of the display, such as creating a larger display allowance for works of art. Any attempt by staff to apply the sign code differently based solely on the content of the display could violate constitutional rights to freedom of speech.

Public murals that are original works of visual art are allowed and encouraged in the city through the public mural program which is administered by the Salem Public Art Commission. The Public Arts Commission also approves public art installations, including sculptures. Public art and public murals that receive approval from the Public Arts Commission are not subject to the sign code. No changes are proposed to the sign code or Chapter 15 (Public Art) at this time.