



Staff Report

File #: 23-374

Version: 1

Date: 10/23/2023

Item #: 4.a.

TO: Mayor and City Council

THROUGH: Keith Stahley, City Manager

FROM: Kristin Retherford, Community and Urban Development Director

SUBJECT:

Proposed amendment to Salem Revised Code Chapter 900 (Sign Code) and Chapter 300 (Procedures for Land Use Applications and Legislative Land Use Proposals).

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Area(s): Safe and Healthy Community; Safe, Reliable and Efficient Infrastructure; Strong and Diverse Economy; Welcoming and Livable Community

SUMMARY:

The proposed code amendment to Salem Revised Code Chapter 900 (Sign Code) is needed to update, clarify, correct, and simplify development standards and definitions; remove sign variances, adjustments, and conditional uses; and delete old references to zones that have been previously eliminated.

ISSUE:

Shall the City Council advance Ordinance 16-23 to first reading for the purpose of amending Salem Revised Code Chapter 900 (Sign Code) and Chapter 300 (Procedures for Land Use Applications and Legislative Land Use Proposals)?

RECOMMENDATION:

Advance Ordinance Bill No. 16-23 for the purpose of amending Salem Revised Code Chapter 900 (Sign Code) and Chapter 300 (Procedures for Land Use Applications and Legislative Land Use Proposals) to first reading.

FACTS AND FINDINGS:

Procedural Findings

- 1) The proposed code amendment are amendments to the Unified Development Code (UDC), which are legislative land use decisions under SRC 110.085. Pursuant to SRC 300.1110(a)(2), the Planning Commission may initiate a legislative land use proceeding by the adoption of a resolution referring the matter to public hearing for review and recommendation to the City Council. On February 28, 2023, the proposed code amendment was initiated by the Planning Commission with the adoption of Resolution No. 23-01.
- 2) ORS 197.610 and OAR 660-018-0020 require that notice be provided to the Department of Land Conservation and Development (DLCDD) on any proposed amendment to a local land use regulation at least 35 days prior to the first public hearing. Notice to DLCDD was initially submitted on March 23, 2023, 54 days prior to the first public hearing before the Planning Commission.
- 3) A public hearing on the proposed code amendment was conducted by the Planning Commission on May 16, 2023.
- 4) 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." All required notices have been provided in accordance with the above requirements.
- 5) SRC 300.1110(e)(1)(B) requires that the City mail notice of a subsequent evidentiary public hearing in a legislative land use proceeding a minimum of 10 days prior to the first hearing. Public notice was provided for the hearing before the City Council on October 4, 2023, as required under SRC 300.1110(e)(1)(B), and public notice was published in the newspaper, as required under SRC 300.1110(e)(2), on October 12, 2023, and October 19, 2023.

Proposed Amendment

The proposed code amendments recommended by staff are generally summarized below. The proposed text of the amendments is found in Exhibit A to Ordinance Bill No. 16-23, which is included as **Attachment 1**. A memo which summarizes the proposed code changes to each section of the sign code is included as **Attachment 2**.

1) Definitions

The amendment proposes to add, remove, and/or clarify the following definitions:

- Added new definition for complex which will be used to replace existing definitions for shopping center, office complex and industrial complex.
- Added definition for emergency directional sign.
- Updated definitions for temporary signs, including balloon sign, banner sign, lawn sign, pennant sign, rigid sign, and sidewalk sign.

- Added new definition and illustration for primary building wall to clarify how maximum display area allowance is calculated.
- Removed definition of Sign Tower. This type of sign structure is rarely used and is proposed to be removed from the sign code.

2) *Prohibited Signs*

The proposed amendment adds the following new type of prohibited sign:

- Illuminated signs on parked motor vehicles, recreational vehicles, trailers, or other vehicles.

3) *Sign Permits and Exceptions from Permit Requirement*

The proposed amendment adds and clarifies the following:

- Clarifies that the following temporary signs are exempt from permit requirement: lawn signs, rigid signs, and sidewalk signs when located entirely on private property. All other temporary signs, including banners, balloons, and pennants require a temporary sign permit for display.
- The time period for sign permit extension requests has been increased from 90 days to 180 days, and the maximum number of sign permit extension requests has been increased from one to two.
- At the request of the Salem Fire Department, the maximum height for house and building numbers on buildings fronting arterial and parkway streets is being increased from six inches to ten inches to provide greater visibility.
- The sign code currently exempts non-illuminated signs that are painted or attached to the inside of a window. 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.
- Clarifies that the maximum height allowance for a freestanding directional sign is four feet.
- Adds a new allowance for art markers erected, maintained or authorized by public authority or by the Salem Public Art Commission identifying the art piece.
- Adds a new allowance for flags on poles and creating a maximum height allowance for a flagpole and size allowance for the flag in residential and non-residential zones.

4) *Sign Adjustments, Sign Variances, and Sign Conditional Uses*

The amendment proposes to remove sign adjustments, sign variances, and sign conditional use permits from Chapter 900. Currently, sign adjustments and sign variances have specific applicability requirements, limitations, and approval criteria. The proposed code amendment will remove these processes from Chapter 900 and instead sign standards could be adjusted or varied through the standard Adjustment (SRC Ch 245) or Variance (SRC Ch 250) allowances in the UDC. An applicant for an adjustment or variance to an applicable standard of the sign code would still have the burden of demonstrating the request is consistent with the applicable approval criteria

found in SRC 245.005(d) or SRC 250.005(d).

The sign conditional use in Chapter 900 is currently required to erect an electronic display sign in a residential zone and is most commonly used by schools and religious assembly uses. Conditions of approval typically limit the hours of operation for the sign, requiring the display to be turned off at night. This process is proposed for removal and in its place development standards have been added to the general illumination standards clarifying the hours of illumination and creating a new standard that will prevent an illuminated sign from being placed in a location that is visible within 100 feet of an adjacent residential zone.

5) *General Illumination Standards and Electronic Display Signs*

The amendment proposes the following changes to the general illumination standards and electronic display sign standards:

- A new prohibition is added for devices which use light to project an image onto a surface such as a wall or sidewalk.
- Adding and clarifying that wall signs, roof signs, and projecting signs that are visible within 100 feet of an adjacent residential zone shall not be externally or internally illuminated.
- Clarifies that in the PA, PC, PM, and PS zones, signs shall not be illuminated within 300 feet of a residential zone.
- Clarifies that illuminated signs are allowed in the PH zone on sites without emergency facilities, and that on sites with emergency facilities, only emergency directional signs shall be illuminated.
- The code amendment proposes to change the method for measuring brightness of electronic display signs from nits, which is a unit of measurement of lumens, or the intensity of a light source, to footcandles, which is a measurement of illumination that is used to describe the amount of light that reaches a surface. Changing the method of measuring brightness for electronic display signs to footcandles has the following advantages:
 - Provides a measurable standard for addressing light impact and appearance.
 - Provides a more effective measurement during ambient light conditions.
 - Luxmeter measuring devices are widely available, easy to use, and provide accurate measurements as opposed to a luminance spectrometer which are more difficult to operate and measure.
 - Footcandle method of measuring brightness is recommended by the International Sign Association.

6) *Freestanding Signs, Roof Signs and Wall Signs*

The proposed amendment clarifies and updates the following standards applicable to freestanding signs, roof signs, and wall signs:

- Clarification that no setback is required for freestanding signs adjacent to a street front

property line if authorization has been granted to place a freestanding sign in the special setback area.

- Updated standards for measuring maximum height allowance for roof signs on flat roofs.
- Updated standards for maximum projection allowance for wall signs located on an alley.
- Removed sign tower as a type of structure where wall signs may be placed.

The sign code currently does not distinguish between wall signs that are painted on an exterior building wall verse signs that are attached too or fixed to the wall. On occasion, applicants can run afoul of the sign code by creating large painted wall signs or murals that are intended to be displays of art. When regulated under the sign code, painted walls signs are subject to display area limitations of the underlying zone. City staff cannot make a distinction between works of art and displays meant for advertising businesses and services, meaning that the sign code cannot be used to create separate display area allowances based on content of the sign.

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. No changes are proposed to the sign code or Chapter 15 (Public Art) at this time.

7) *Outdoor Advertising Signs*

The proposed amendment clarifies and updates the following standards applicable to outdoor advertising signs:

- Clarification on how to measure the setback distance between an outdoor advertising sign and dwelling unit, and spacing and density requirements.
- The proposed amendment will remove outdoor advertising signs (billboards) as a permitted type of sign from the MU-III zone.
- Allow existing nonconforming outdoor advertising in MU-III zone to be rebuilt on the subject property.

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.

8) *Temporary Signs*

The proposed amendment clarifies and updates the following standards applicable to temporary signs:

- Provide updated definitions for each type of temporary sign, including: balloon sign, banner sign, lawn sign, pennant sign, rigid sign, and sidewalk sign.
- Clarify general development standards applicable to all temporary signs.
- Update permit applicability and display time limits for each type of temporary sign.
- Allow sidewalk signs to be placed on the public sidewalk in some cases for properties outside of the Downtown area.

9) *Permanent Signs in Each of the Zones and Overlay Zones*

The proposed amendment will reconfigure, update, and clarify the development standards applicable to permanent signs. The permanent sign sections will be reconfigured, and some zones and overlay zones that no longer exist will be removed from the sign code. The proposed amendment will group the permanent sign allowances for each zone into the following sections:

- Permanent signs in the Residential Agriculture (RA), Single Family Residential (RS), Multiple Family Residential (RMI, RMII, and RMIII), Neighborhood Hub (NH), and Exclusive Farm Use (EFU) zones.
 - Clarify signage allowance for residential uses, non-residential standalone uses, complexes, and individual uses within a complex.
 - For sites containing multiple dwelling units on a single lot, an additional wall sign allowance was added for each dwelling unit.
- Permanent signs in the Commercial Office (CO) and Fairview Mixed-Use (FMU) zones.
 - Clarify signage allowance for residential uses, non-residential standalone uses, complexes, and individual uses within a complex.
- Permanent signs in the Central Business District (CB), West Salem Central Business District (WSCB), SWMU (South Waterfront Mixed Use), MU-I and MU-II (Mixed Use), ESMU (Edgewater Second Street Mixed Use), and MU-R (Mixed Use Riverfront) zones.
 - Clarify signage allowance for residential uses, non-residential standalone uses, complexes, and individual uses within a complex.
 - Created an allowance for buildings with frontage along a designated Parkway or Freeway to have one additional wall sign on the wall facing a Parkway or Freeway not exceeding a display area of 32 square feet.

- Created an allowance for buildings that have frontage on a public alley to have an additional non-illuminated wall sign.
 - Reduction to the maximum height allowance for freestanding signs.
 - Reduction to the maximum display area allowance for wall signs and freestanding signs.
 - Updated standards for vehicle viewing signs.
- Permanent signs in the Retail Commercial (CR), General Commercial (CG), Mixed Use (MU-III), Employment Center (EC), Industrial Commercial (IC), Industrial Business Campus (IBC), Industrial Park (IP), and General Industrial (IG) zones.
 - Clarify signage allowance for residential uses, non-residential standalone uses, complexes, and individual uses within a complex.
 - Updated standards for vehicle viewing signs.
- Permanent signs in Public zones.
 - Expanded the allowance for freestanding signage in the PH (Public and Private Health Services) zone for sites with more than 300 feet and more than 1,000 feet of street frontage.
 - Created an allowance in the PH (Public and Private Health Services) zone for an unlimited number of illuminated emergency directional signs for development sites with emergency facilities provided the directional signs are set back a minimum of 150 feet from the nearest public street.
- Chemawa/I-5 Northeast Quadrant Gateway Overlay zone.
 - Reduction in display area allowance for wall signs visible from Interstate-5 from 150 square feet or ten percent of the gross face area of the wall, to 100 square feet or ten percent of the gross face area of the wall.
- Portland/Fairgrounds Road Overlay zone.
 - Removed prohibition for trailer reader board signs and wall signs on sign towers. Trailer reader board signs are not defined in the existing or proposed sign code, so this prohibition was removed. Sign towers are proposed to be removed as a type of sign and are therefore removed from this section.
 - Reduced the height and display area allowance for freestanding signs on development sites with less than 100 feet of street frontage.
 - Clarified signage allowance for non-residential standalone uses, complexes, and individual uses within a complex.
- Willamette Greenway Overlay zone, Market Street Interchange and signs in Historic districts and individual listed historic resources.
 - Minor language changes.

10) *Nonconforming, Unsafe, Abandoned, and Prohibited Signs*

The proposed amendment consolidates, reconfigures, and clarifies standards for removal of nonconforming, unsafe, and abandoned signs. An allowance was added for nonconforming signs to be reconstructed/relocated if moved for construction or repair of public facilities, including sidewalks, roads, and public utilities as long as the degree of nonconformity does not increase.

Public Comments

The following comments and concerns were raised in May 2023 during the Planning Commission review of the sign code update. Public comments are included in full as **Attachment 3**.

1) Testimony was received in opposition to the proposal to remove outdoor advertising signs as a permitted type of sign in the MU-III zone without granting the property owner or sign owner the ability to relocate on site and/or reconstruct existing outdoor advertising signs that would be made nonconforming by the enactment of the proposed code amendment.

- The proposed code amendment will remove outdoor advertising signs as a permitted type of sign in the MU-III zone. If the code amendment is enacted as proposed, existing outdoor advertising signs located on properties in the MU-III zone would become nonconforming. In general, 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. The Planning Commission has recommended 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.

2) Testimony was received in favor of creating an allowance for artists to be able to paint walls and fences to cover graffiti.

- The sign code currently does not distinguish between wall signs that are painted on an exterior building wall verse signs that are 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. Wall signs are not permitted on fences. City staff cannot make a distinction between works of art and displays meant for advertising businesses and services, meaning that the sign code cannot be used to create separate display area allowances based on content of the sign.

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. No changes are proposed to the sign code or Chapter 15 (Public Art) at this time.

3) Concerns were raised regarding the proliferation of temporary signs, particularly in public parks and in the public right-of-way.

- In Spring of 2021, the Planning Division created a new sign inspector position primarily

responsible for enforcement of the sign code. Since filling this position, the City has provided regular outreach and education to businesses and organizations on temporary sign allowances, and responds to citizen inquiries regarding improper placement of temporary signs. The Sign Inspector regularly removes temporary signs which are illegally placed or are otherwise prohibited by the sign code. Signs collected by the City are held for a period of 30 days to allow the owner to reclaim the sign, subject to a fee.

4) *Testimony was received in favor of allowing temporary signs that are meant for advertising open houses and neighborhood events to be placed in the right-of-way as a way of increasing community participation and engagement.*

- City staff is prohibited from regulating signage based on the content of the display, and therefore cannot create exemptions to location standards based on the content of the display. The sign code currently prohibits all temporary signs from being placed in the right-of-way, staff is not recommending any changes.

5) *Concerns were raised regarding the maximum display period for rigid signs, particularly that the one-year display period is not long enough for realtor signs used to advertise property for sale.*

- Under the current code, rigid signs are allowed to be displayed for one-year, this time limit renews each calendar year, meaning there is no effective maximum time limit for this type of display. Staff is not proposing any changes to the maximum display period.

6) *Questions and concerns were raised regarding illumination standards for electronic display signs, light pollution, and the environmental impacts of which illuminated signs contribute.*

- As discussed in Section 5 of the Facts and Findings above, the code amendment proposes to change the method used for measuring brightness of electronic display signs. The amendment seeks to adopt a method for measuring brightness that is easily measurable and enforceable by City staff. The scope of this code amendment did not include any further review of the environmental impacts of light pollution for which illuminated signs contribute.

A comprehensive review of the City's exterior lighting and general illumination standards, which apply to buildings, parking areas, streetlights, and which would include a review of the illumination standards for signage, could be conducted as part of a future Council initiated code amendment project.

Substantive Findings

SRC 110.085 establishes the following approval criteria for an amendment to the UDC to be approved:

- a. The amendment is in the best interest of the public health, safety, and welfare of the City; and
- b. The amendment conforms with the Salem Area Comprehensive Plan, applicable statewide planning goals, and applicable administrative rules adopted by the Department of Land Conservation and Development.

Findings demonstrating the proposal's conformance with the applicable approval criteria are included in Exhibit B to Ordinance Bill No. 16-23.

BACKGROUND:

The purpose of the sign code is to protect the health, safety, property, and welfare of the public; to improve the neat, clean, orderly, and attractive appearance of the community; to improve the effectiveness of signs in identifying and advertising businesses; to provide for safe construction, location, erection, and maintenance of signs; to prevent proliferation of sign clutter; to minimize adverse visual safety factors to travelers on public highways; to minimize adverse impacts on adjacent properties; and to achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

The Planning Division administers Salem Revised Code (SRC) Chapter 900, titled Sign Code. SRC Chapter 900 received its last major revision in 2012. In 2016, a resolution was adopted by the Planning Commission (PC Resolution No. 16-03) initiating an amendment to the sign code (CA16-05). The code amendment proposed eliminating the need for temporary sign permits, changing the method for measuring the brightness of electronic display signs, creating a new adjustment process, and other minor housekeeping changes to the sign code. First reading of Ordinance Bill No. 17-17 was conducted by the City Council on June 26, 2017, and public hearings were held on August 14, 2017, and August 28, 2017. However, due primarily to concerns regarding the lack of enforcement for temporary signs, the code amendment was abandoned. In September of 2019, the Planning Commission adopted a resolution (PC Resolution 19-02) to amend the Sign Code to allow more than one vehicle viewing sign (pre-ordering menu boards for drive-thrus) in a future sign code update.

A new effort to update the sign code began shortly after with the goal of providing a comprehensive review and clean-up of the sign code. A series of three work sessions were held with the Planning Commission in March, April and May of 2022 to discuss proposed updates to the Sign Code, and in February 2023 the Planning Commission adopted a resolution (PC Resolution 23-01) to initiate amendments to the Sign Code.

The proposed amendments to SRC Chapter 900 and SRC Chapter 300 are needed to update and clarify definitions and development standards for temporary and permanent signs, update standards applicable to vehicle viewing signs (menu boards for drive-through uses), remove current processes for sign adjustments, sign variances, and sign conditional uses, establishing a measurable brightness standard for illuminated and electronic display signs, and overall update and reorganization of the applicable standards for each zone and overlay zone.

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Planner III

Attachments:

1. Ordinance Bill No. 16-23
2. Code Amendment Highlights Memo
3. Public Comments