



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

9/16/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Fairview Plan Amendment
DLCD File Number 002-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, September 30, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: John Gessner, City of Fairview
Gloria Gardiner, DLCD Urban Planning Specialist

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FORM 2 Notice of Adoption

THIS FORM **MUST BE MAILED TO DLCD**
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE STAMP	DEPT OF
	SEP 10 2009
	LAND CONSERVATION AND DEVELOPMENT
	For DLCD Use Only

Jurisdiction: City of Fairview Local file number: 08-34-ZA

Date of Adoption: 9/2/2009 Date Mailed: 9/8/09

Date original Notice of Proposed Amendment was mailed to DLCD: 11/20/2008

- | | |
|-------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input checked="" type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Adopt new regulations authorizing the use of A-board signs.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

The proposed amendment included a number provisions concerning signage in Fairveiw Village that were not adopted

Plan Map Changed from: n/a to: _____

Zone Map Changed from: n/a/ to: _____

Location: n/a/ Acres Involved: _____

Specify Density: Previous: n/a/ New: _____

Applicable Statewide Planning Goals: 1 & 2

Was and Exception Adopted? YES NO

DLCD File No.: 002-08 (17243) [15710]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? **Yes** **No**

If no, do the statewide planning goals apply? **Yes** **No**

If no, did Emergency Circumstances require immediate adoption? **Yes** **No**

Affected State or Federal Agencies, Local Governments or Special Districts:

City only

Local Contact: **John Gessner** Phone: **(503) 674-6205** Extension: _____

Address: **1300 NE Village Street** City: **Fairview**

Zip Code + 4: **97024-** Email Address: **gessnerj@ci.fairview.or.u**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE
(8-2009)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRVIEW, OREGON, AMENDING FAIRVIEW MUNICIPAL CODE TITLE 19 AND TITLE 12 ESTABLISHING REGULATIONS FOR A-BOARD SIGNS AND GOVERNING PLACEMENT OF OBSTRUCTIONS IN THE PUBLIC RIGHTS-OF-WAY.

WHEREAS, the use of A-board signs is prohibited under FMC 19.140.110(D); and

WHEREAS, the City Council adopted Resolution 09-2009 establishing interim regulations for A-board signs and authorizing their use at the request of the Fairview Village business community; and

WHEREAS, with creation of the interim regulations, it was expected that the City Council would adopt an A-board sign ordinance; and

WHEREAS, there has been significant opportunity for stakeholder and public involvement. The Planning Commission held meetings on November 25, 2008, December 9, 2008, January 13, 2009, and February 24, 2009. The matter was also heard by the City Council on January 12, 2009, February 4, 2009, and April 18, 2009. Stakeholder testimony provided at these meetings was been considered in the preparation of this ordinance; and

WHEREAS, notice of the Planning Commission's July 14, 2009, public hearing on A-Board code amendments was provided as required by law; and

WHEREAS, the proposed sign code regulations are consistent with criteria for amendments to the Fairview Development Code; and

WHEREAS, amendment to Chapter 15.25 Structures Obstructing Public Rights-of-way are needed for the establishment of standards for placing A-Board signs in public-rights-of-way as well as establishing permit requirements for such placement; and

WHEREAS, Chapter 15.25 Structures Obstructing Public Rights-of-way has cumbersome enforcement provisions that no longer serve current enforcement practices and therefore warrant streamlining and simplification; and

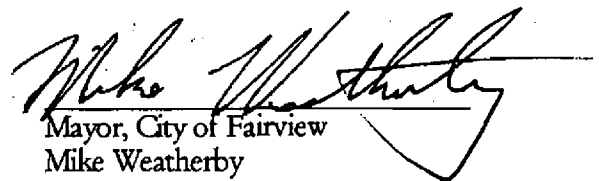
WHEREAS, moving provisions of Chapter 15.25 to Title 12 Streets, Sidewalks, and Public Places improves the organization and convenience of the Fairview Municipal Code.

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

- Section 1. 19.170.160 Sidewalk A-board Signs is repealed
- Section 2. 19.140.110(D)(6) - Prohibition of A-board signs in Village Zones is repealed.
- Section 3. 19.170.100 Prohibited Signs is amended as shown in Attachment 1.


- Section 4. 19.170.170 Abatement of Prohibited, Substandard and Dangerous Signs is repealed and new code language is adopted as shown in Attachment 1.
- Section 5. 19.170.160 governing A-Board Signs is adopted as shown in Attachment 2.
- Section 6. Chapter 15.25 Structures Obstructing Public Rights-of-Way is repealed and the new Chapter 12.45 Structures Obstructing Public Rights-of-Way is adopted as shown in Attachment 3.
- Section 7. This ordinance shall be effective from and after 30-days of its adoption.

Motion adopted by the City Council of the City of Fairview this 2nd day of September 2009.



Mayor, City of Fairview
Mike Weatherby

ATTEST



Recorder, City of Fairview
Joseph Gall

ATTACHMENT 1

Ordinance 08-2009

Underlined words to be inserted

19.170.100 Prohibited signs.

It shall be unlawful for any person to install, display or maintain any sign or advertising structure falling within any of the following descriptions:

A. Hazardous Signs. The following signs or advertising structures are identified as hazardous, either directly through their structural design or indirectly through distracting or confusing features or functions that are visible from a right-of-way, private roadway, or other property:

1. Moving signs, or any sign which has any visible moving part or visible mechanical movement of any description, including movement created by normal wind currents. Clocks and barber poles are exceptions.

2. Flashing signs, or any signs which achieve apparent movement through electrical pulsations, including strobe lights and bead lighting.

3. Signs that substantially obstruct free and clear vision of the traveling public at the intersection of any street or driveway.

4. Signs that interfere with the traveling public's perception of traffic controls, including signs that use the words "stop," "look," "danger," or any other word, phrase, character symbol or graphic that is reasonably likely to distract or confuse vehicle operators.

5. Signs that incorporate reflective-type bulbs, or par spot bulbs, or directly visible bulbs of greater than 25 watts capacity. Electronic message center signs are exceptions.

6. Signs that incorporate white or blue neon tubing that exceed 300 milliamperes rating, or other neon tubing that exceed 120 milliamperes rating.

7. Signs that incorporate fluorescent tubing that exceeds an illumination equivalent of 800 milliamperes rating, or a spacing of less than nine inches, center to center.

8. Temporary readerboards, portable readerboards, A-board or sandwich signs, or any other portable signs capable of blocking public right-of-way that are not expressly permitted in this title.

9. Signs that obstruct in any way a fire escape, stairway or standpipe, or interfere with human exit through a window or any room located above the first floor of any building, or any door required exit from a building, or required light or ventilation source.

10. Signs in the public right-of-way, other than government owned or managed signs, unless otherwise specifically allowed herein.

B. Other Prohibited Signs. The following signs or advertising structures are identified as having unnecessary and adverse visual impact on the community:

1. Roof signs, fin signs, or any sign structure that is attached to a building that does not conform to the sign standards contained in the remainder of this section.

2. Temporary signs, bench signs, banners, pennants, wind signs, balloon signs, flags or any other temporary sign structure that does not conform to the sign standards contained in the remainder of this section.

3. Nonconforming signs that have been modified in a manner which is not consistent with this section.

4. Billboard signs except as provided by FMC 19.170.060, 19.170.070 and 19.170.150.
(Ord. 6-2001 § 1)

19.170.170 Abatement of prohibited, substandard and dangerous signs.

Every prohibited sign as set forth under Section 19.170.100 and those found to be unsafe are subject to immediate abatement by the City. Every sign identified by the city as being an abandoned and/or nonconforming sign is substandard and subject to abatement proceedings as set forth under Section 15.25.040.

ATTACHMENT 2

Ordinance 08-2009

Adopt New Section 19.170.160 A-Board Signs as follows:

A. Intent

The intent of these regulations is to allow A-board signs in mixed use, commercial, and multifamily districts under certain conditions, to assist businesses by providing commercial exposure and identification while protecting against sign clutter, reducing potential sign conflict between businesses, maintaining an attractive commercial streetscape, providing adequate pedestrian access, ensuring that curbside parking is usable, and providing public safety.

B. Permit Required.

A permit is required prior to placing an A-Board sign on private property or within the public right of way an approved right-of-way permit. A-board permits are not transferrable. In the event a business closes or is sold, a new operation in the business space or the new business operator must apply for a new A-board sign permit.

C. A-Board Sign Permit Requirements

A-board sign applications will be processed within 10 business days of receipt. An A-board sign may not be placed until all of the following requirements have been met:

1. Submission of a complete application form, supporting materials, and application fee.
2. For signs to be located in the public right of way, a signed indemnification form as provided by the City and an approved right-of-way permit in accordance with Chapter 15.25.
3. A permit authorizing placement of the sign has been issued by the Community Development Director or designee.

D. Enforcement

Use of an A-board sign without an approved permit or in a manner that is inconsistent with these regulations is a violation of the Fairview Municipal Code. Repeated violation of these regulations at a particular site may result in a six month revocation of the permit. No permit shall be revoked without the Community

Development Director or designee first providing written notice to the permit holder that a repeat violation may result in revocation of the permit. This section does not limit enforcement through standard enforcement provisions of the Fairview Municipal Code.

E. Prohibitions.

1. A-board signs may not be used in residential districts except when in association with legal non-conforming businesses.
1. A-board signs may not be used in association with home occupations.
2. Lights and attraction getting devices such as balloons, streamers, and flags may not be attached to an A-board sign.
4. A-board signs shall not be placed in a location that interferes with parking or vehicle circulation.

F. A-board Sign Standards

1. One A-board sign per storefront is allowed whether located on private property or within the public right-of-way.
2. The size of the A-board sign shall not exceed 24" wide by 42" standing height when the sign boards are in the open-standing position.
3. A-board signs must be located or otherwise secured to prevent property damage or personal injury due to movement of the sign by wind or other physical force.
4. A-board sign placement must meet clear vision requirements of Fairview Municipal Code Chapter 19.162.020(O) for clear vision areas.
5. The area of the A-board is exempt from the total allowed sign area for the site.

G. Placement in Public Right of Way.

1. One A-board sign may be placed within a public right-of-way adjacent to premises by the person in control of those premises. A-board signs may only be displayed in front of premises at which a business is being conducted. A-board signs may only be placed outdoors during business hours of the business for which the sign was approved.
2. A minimum 5 feet of unobstructed sidewalk clearance must be maintained. A-frame signs may be not placed on a sidewalk that is too narrow to maintain the required 5-foot minimum clearance. A-board signs may not be placed on

the paved portion a public street. A-board signs shall not be placed in a location that interferes with parking.

H. Placement on Private Property

1. A-board signs may be placed on private property located in mixed-use, commercial, and multifamily zoning districts. A-board signs may be used in residential districts only in association with legal non-conforming businesses.
 2. A-board signs may only be displayed in front of the premises at which a business is being conducted. A-board signs may be placed outdoors only during business hours of the business for which the sign was approved.
 3. A minimum 5 feet of unobstructed sidewalk clearance must be maintained. A-frame signs may be not placed on a sidewalk that is too narrow to maintain the required 5-foot minimum clearance.
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ATTACHMENT 3

Ordinance 08-2009

Adopt New Chapter 12.45 Structures Obstructing Public Rights-of-Way as follows:

Sections:

- 12.45.010 Specific Nuisance Prohibited.
- 12.45.020 Exceptions.
- 12.45.030 Enforcement.
- 12.45.040 Abatement - General Procedures.
- 12.45.050 Abatement - Emergency Situations.
- 12.45.060 Appeal and Hearing Procedures - General Requirements.
- 12.45.070 Appeal and Hearing Procedures - Review of Decision.
- 12.45.080 Abatement by owner - Required.
- 12.45.090 Abatement by city - Assessment.
- 12.45.100 Waiver of Assessment.
- 12.45.110 Liens against Property.
- 12.45.120 Penalties.

12.45.010 Specific Nuisance Prohibited.

It shall be unlawful to erect, install, construct, maintain, repair, alter or otherwise allow the installation, setting out or maintenance of any building, or other structure, sign, fence, site distance obstructions or other obstruction within or upon a duly dedicated or platted street, alley or other public right-of-way in the city of Fairview, which shall be deemed a nuisance

12.45.020 Exceptions.

The following features are allowed in the right-of-way subject to obtaining a right-of-way permit unless expressly exempt from permit requirements under other provisions of the Fairview Municipal Code:

- A. Above and below ground municipal and franchise utility structures including pipes, conduits, manholes, signs, fire hydrants, utility poles and vaults.
- B. Mailboxes
- C. Signs authorized to be placed in the right of way by an approved sign permit and right of way permit
- D. Public safety and traffic control devices
- E. Public transit facilities when authorized under an approved right of way permit.
- F. Residential refuse containers when placed in the right of way for no more than three consecutive days.
- G. Commercial refuse containers when placed in the right of way under an approved right of way permit.
- H. Structures associated with an approved street closure when located within the area of the approved closure.
- I. Government owned or managed signs.
- J. Items similar to the above as determined by the Public Works Director.

12.45.030 Enforcement.

This chapter shall be enforced by the Public Works Director or designate.

12.45.040 Abatement – General Procedures.

A. In the event it is determined by the Public Works Director that a right-of-way obstruction nuisance exists as defined in FMC 12.45.010, the Public Works Director shall give written notice to the property owner of record whose property is immediately contiguous or adjacent to the nuisance and demand abatement within 10 days from the date of the written notice or such lesser time to protect public health, safety and welfare.

B. In the event the person responsible for the creation or maintenance of the nuisance cannot be satisfactorily determined and/or in the event a property owner cannot be satisfactorily determined, a posting of said notice to abate the nuisance shall be placed upon the adjacent property concerned and shall be deemed sufficient and adequate notice to said person and/or property owner, as the case may be. In all cases where a nuisance as defined in this chapter exists, a notice to abate the same shall be posted on the premises affected.

C. The notice shall conform with FMC 8.10.070(B).

D. The notice required shall be furnished in a manner best calculated to give actual notice. Notice may be given by certified mail or by personal delivery to the premises concerned. In any event the city official giving notice shall make a return of service indicating the date and manner in which the notice was given.

12.45.050 Abatement - Emergency Situations.

A. In an emergency, the Public Works Director may order the immediate abatement of a nuisance or immediately abate the nuisance as set forth under FMC 8.10.080.

12.45.060 Appeal and Hearing Procedures – General Requirements.

A. Any person receiving notice under FMC 12.45.040 may request a hearing by writing the Public Works Director within seven days of the date of notice.

B. The Public Works Director shall, upon receipt of request for a hearing, notify the municipal court and thereafter shall, consistent with the terms of FMC 2.27.070, notify the person requesting the hearing as to the hearing's time and place.

C. The person requesting the hearing and the Public Works Director shall have the rights accorded parties under Chapter 2.27 FMC. Any party may be represented by legal counsel.

D. After the hearing, the judge shall issue and mail a copy of the order determining the question to the person requesting the hearing, the Public Works Director and other designated persons.

E. If the municipal court finds a nuisance, as defined in this Chapter, to exist the order shall set a date for abatement to be accomplished by the owner.

G. If the municipal court determines that there was a wrongful abatement under FMC 12.45.050, the judge may order the Public Works Director to make reasonable restitution.

12.45.070 Appeal and Hearing Procedures – Review of Decision.

Review of any action of the municipal court taken under this chapter and the rules adopted herewith shall be taken solely and exclusively in the manner set forth in Oregon Revised Statutes Sections 34.010 through 34.100.

12.45.080 Abatement by owner - Required.

Failure of the owner to abate the nuisance within 10 days as provided by FMC 12.45.040, or within the time set by the municipal court under FMC 12.45.060 shall be an additional violation of this chapter.

12.45.090 Abatement by city - Assessment.

A. If an owner fails to abate a nuisance as required under this chapter, the Public Works Director shall, prior to abating anything made a nuisance under this chapter, file an action against the owner pursuant to Chapter 2.27 FMC and obtain an order therefrom authorizing the abatement.

B. If the city abates the nuisance, an accurate record of the abatement costs shall be kept and shall include a surcharge of 40 percent of the cost of the abatement for administrative overhead and the costs associated with bringing the action under Chapter 2.27 FMC. A billing for the amount of the costs shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the city within 15 days from the date of the billing.

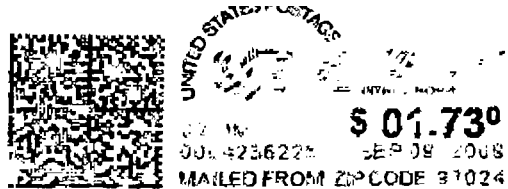
12.45.110 Liens against property.

A. The Public Works Director may cause a lien to be filed against the concerned property if payment is not made as provided in FMC 12.45.090. B. The lien provided for in subsection A of this section shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of the property.

B. The lien provided for in subsection A of this section shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

12.45.120 Penalties.

Any person who shall violate any provision of this chapter as herein set forth shall be deemed guilty of a misdemeanor and upon conviction before the municipal judge be subject to a fine of not more than \$250.00 for each violation thereof. Each day or portion of a day such violation continues or occurs shall be deemed a separate violation.



City of Fairview
1300 NE Village Street
Fairview, OR 97024

Attention: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301 - 2540

