



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: September 21, 2015

Jurisdiction: City of Newberg

Local file no.: DCA-14-001

DLCD file no.: 002-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/18/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-14 {22506}
Received: 9/18/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Newberg

Local file no.: **DCA-14-001**

Date of adoption: 9/8/15

Date sent: 9/18/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 10/8/14

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

The adopted code amendment is about 80% the same as the proposal. What is different is that the city also adopted code language allowing some portable signs in the right-of-way, within certain limitations (only applies to right-of-way under city jurisdiction).

Local contact (name and title): Steve Olson, Associate Planner

Phone: 503-537-1215

E-mail: steve.olson@newbergoregon.gov

Street address: 414 E. First St

City: Newberg

Zip: 97132-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this |
| change. | | | |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Newberg Development Code 15.05.030 (Definitions), 15.435.030 (Permit required), 15.435.080 (Umbrella signs), 15.435.090 (Portable signs), 15.435.100 (Temporary signs for events), 15.435.105 (Sign permit program for portable signs on private property), 15.435.110 (Signs within the public right-of-way).

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: ODOT, Yamhill County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

The staff report that accompanied the ordinance to the City Council on 9/8/15.



ORDINANCE No. 2015-2782

AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE REGARDING TEMPORARY AND PORTABLE SIGNS

RECITALS:

1. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding temporary and portable signs on July 21, 2014, under City Council Resolution No. 2014-3161.
2. After proper notice, the Newberg Planning Commission held a hearing on November 13, 2014, to consider the amendment. The Commission considered testimony and continued the public hearing to their next scheduled meeting on December 11, 2014.
3. On December 11, 2014, the Planning Commission considered additional testimony, deliberated, and continued the hearing to January 8, 2015.
4. On January 8, 2015, the Planning Commission considered additional testimony, deliberated, and continued the hearing to February 12, 2015.
5. On February 12, 2015, the Planning Commission considered additional testimony, deliberated, and approved Planning Commission Resolution No. 2015-305.
6. On May 4, 2015, after proper notice, the City Council opened the hearing on the sign code amendment, and continued it without discussion to July 6, 2015, to allow the Planning Commission and staff additional time to coordinate with ODOT and Yamhill County.
7. On July 6, 2015, the City Council continued the hearing to September 8, 2015, to allow additional time for coordination with ODOT and Yamhill County.
8. On August 13, 2015, after proper notice, the Planning Commission reopened their public hearing to consider new information, and adopted Resolution No. 2015-308. This resolution replaced Resolution No. 2015-305, and recommended that the City Council adopt amendments to the Newberg Development Code regarding temporary and portable signs.
9. On September 8, 2015, the Newberg City Council held a hearing on the proposed sign code amendment, considered testimony, and deliberated.

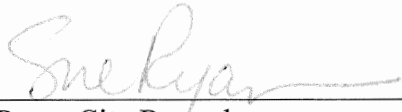
THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that amending the regulations for temporary and portable signs would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "B" are hereby adopted and by this reference incorporated.

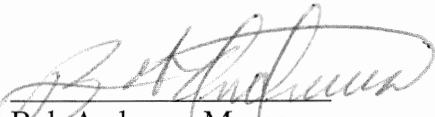
➤ **EFFECTIVE DATE** of this ordinance is: October 7th, 2015.

ADOPTED by the City Council of the City of Newberg, Oregon, this 8th day of September, 2015, by the following votes: **AYE:** 7 **NAY:** 0 **ABSENT:** 0 **ABSTAIN:** 0



Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of September, 2015.



Bob Andrews, Mayor

List of Exhibits:

Exhibit "A": Development Code Text Amendments

Exhibit "B": Findings

**Exhibit “A” to Ordinance 2015-2782
Development Code Amendments –File DCA-14-001
Temporary and Portable Signs**

1. The Newberg Development Code shall be amended as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

15.05.030 Definitions.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Building face” means an exterior wall of a building that generally faces one direction and that is visible from the public right-of-way. A building face is broken by a change in building direction of 60 degrees or more, except for minor extensions or indentations that are shorter than 50 percent of the building frontage (see Appendix A, Figure 15).

“Building frontage” means the longest horizontal distance between lines perpendicular to a building face (see Appendix A, Figure 15).

“Flag” means fabric that is attached to a pole on one end only that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

“Flag display” means one or more flags attached to a permanently affixed single pole.

“Readerboard” means a portable sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. “Readerboard” does not include animated signs, nor does it include signs where less than 20 percent of the sign area can be so changed or rearranged.

“Sign” means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. “Sign” includes banners, flags, balloons with graphics, letters, or advertising, and murals.

“Sign, animated” means a sign that has a display that changes more than once in any 10-minute period.

“Sign area” means the area of a sign which is computed by means of the smallest square, circle, rectangle, triangle, or combination of the smallest square, circle, rectangle, or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this code and is clearly incidental to the display itself. The sign area for a sign with more than one face shall be computed by adding the area of all sign faces visible from any one point. When two sign faces are placed back to back or at an angle of less than 45 degrees to one another so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than

42 inches apart, the sign area shall be computed by the measurement of the largest face (see Appendix A, Figure 16).

“Sign, attached” means any sign attached to any part of a building, as contrasted to a freestanding sign.

Attached signs are of two types:

1. Minor Attached. A sign not to exceed six square feet in area (three square feet in residential zones) that does not extend above the roof line of the building it is attached to.
2. Major Attached. All other attached signs.

“Sign, freestanding” means any sign supported by structures or supports that are anchored in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.
2. Major Freestanding. All other freestanding signs.

“Sign, portable” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

“Sign, public” means any sign that is placed within public right-of-way by or under direction of a governmental agency.

“Sign, temporary” means a portable sign that is limited by law to placement for a specified period of time.

15.435.010 Purpose.

A. The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well-planned and constructed signs can contribute to the community’s success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

B. These regulations are designed:

1. To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.
2. To enhance the attractiveness of Newberg as a place to conduct business.
3. To enable the identification of places of residence and business.
4. To allow freedom of expression.
5. To reduce distractions and obstructions from signs which would adversely affect safety.
6. To reduce the hazards from improperly placed or constructed signs. [Ord. 2499, 11-2-98. Code 2001 § 151.590.]

15.435.020 Applicability and exemptions.

A. All signs placed or maintained anywhere within the city shall comply with the standards of this chapter, with the exception of the following:

1. Public signs.
2. Signs that are required to be placed by law and that are no more than 50 percent larger than the minimum size required by law or, if there is no minimum size specified, signs with lettering height no more than four inches.
3. Signs painted on or attached to windows that do not cover more than 50 percent of the surface of that window.
4. Signs located entirely within a building and not on a window.
5. Signs not legible from the public right-of-way.

B. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following issuance of such permit.

C. Nothing in this chapter shall be construed to allow placement of a sign on a property without the authority of the property owner. [Ord. 2499, 11-2-98. Code 2001 § 151.591.]

15.435.030 Permit required.

A. Except as follows, no person or entity shall place any sign within the city without first obtaining a permit from the director.

B. The following do not require sign permits, but must otherwise comply with the standards of this chapter:

1. Minor freestanding signs.
2. Minor attached signs.
3. Temporary signs.
4. Portable signs.
5. Flag display (one allowed on each street frontage)

65. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following the issuance of such permit. [Ord. 2499, 11-2-98. Code 2001 § 151.592.]

15.435.040 General requirements – All signs.

A. All signs shall comply with the standards contained in the current edition of the Oregon Structural Specialty Code. If the standards of that code and this development code conflict, this development code shall prevail. All signs shall be kept in repair and in a proper state of preservation as required under the current edition of the Oregon Structural Specialty Code.

B. No sign shall have bright or flashing lights shining on a public way that blind or impair the vision of drivers. No sign shall be constructed such that it may be confused with any traffic sign, signal or device.

C. In the C-3 zone, animated signs are prohibited.

D. All signs shall comply with the vision clearance standards of NMC 15.410.060.

E. Signs located in the airport overlay subdistrict shall comply with the height and visual interference restrictions of that district. [Ord. 2731 § 3, 10-18-10; Ord. 2565, 4-1-02; Ord. 2561, 4-1-02; Ord. 2499, 11-2-98. Code 2001 § 151.593.]

15.435.080 Minor attached signs, ~~and~~ awning signage, and umbrella signage.

A. Minor Attached Signs.

1. Spacing. No two minor attached signs on one building that are both visible from any one point shall be closer than 25 feet.
2. Size.
 - a. Residential Zones. Minor attached signs shall not exceed three square feet in area.
 - b. Other Zones. Minor attached signs shall not exceed six square feet in area.
3. Height. Minor attached signs shall not extend above the roof line of the building they are attached to.
4. Projections.
 - A. C-3 Zone. Minor attached signs may project no more than three feet into a public right-of-way, but no closer than two feet from the curb line. The lower edge of any minor attached sign shall be at least eight feet above ground level. This requirement supersedes the relevant sign standards in the current edition of the Oregon Structural Specialty Code.
 - b. Other Zones. The same projection is allowed as for major attached signs, NMC 15.435.070.

B. Awning Signage. Awnings are encouraged along the frontage of buildings in the C-3 district.

1. C-3 Zone. Back-lit translucent awnings are not allowed. Lettering may appear on curved surfaces, but shall be limited to the lowest 12 inches of the awning (measured vertically from the lowest edge). Freestanding letters mounted on top of the front vertical surface are also allowed, though they shall not exceed eight inches in height.
 - a. Other minor attached signs may be attached to or suspended from an awning or canopy, provided they are less than six square feet in size.
 - b. The lower edge of any awning shall be at least eight feet above ground level. This requirement supersedes the relevant sign standards in the Uniform Sign Code.
 - c. Signage is not allowed on any awning surfaces that are not specifically permitted in this section.
2. Other Zones. Awning signs in other zones shall be regulated as either minor or major attached signs.

C. Umbrella Signage. Signs on umbrellas are allowed without a sign permit but are limited to the lowest 12 inches of the umbrella (measured along the umbrella surface from the lowest edge). Umbrella signs shall comply with all other municipal code requirements.

15.435.090 Portable signs.

A. Number. Not more than one portable sign may be located on any one street frontage, except temporary signs allowed per NMC 15.435.100.

B. Size.

1. Residential Zones.

a. Residential Uses. One portable sign not to exceed six square feet.

b. All Other Permitted Uses. One portable sign not to exceed six square feet if located in the front yard, or 16 square feet if located elsewhere on the property.

2. Other Zones. The one portable sign may not exceed 12 square feet if located in the front yard, or 40 square feet if located elsewhere on the property.

C. Design. No portable sign shall be permanently affixed to any structure or the ground. No portable sign shall be attached to a tree, ~~or~~ utility pole, traffic sign, street sign, or any publicly-owned pole, post, wire or cable, except as authorized by the city. All signs shall be designed to be removed quickly. No portable sign shall be animated or internally illuminated. No readerboard shall be used as a portable sign, except as a temporary sign as permitted NMC 15.435.100.

D. Location. No portable sign shall be located within the public right-of-way except as allowed under NMC 15.435.110.

E. Height. The height of a portable sign shall not exceed the maximum height of buildings in that zone. [Ord. 2499, 11-2-98. Code 2001 § 151.598.]

15.435.100 Temporary signs for events.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below. Pennants, streamers, and inflatable objects may be used during these events.

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event. An unlimited number of temporary signs are allowed during a grand opening event.

B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain ~~up to~~ no more than two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right-of-way.

C. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event. An unlimited number of temporary signs are allowed during the event. The applicant shall notify the city in writing of the beginning and ending dates prior to the Other Event.

D. Flags. ~~Displays. One flag display is permitted on each street frontage.~~ An unlimited number of ~~displays~~ is flags are permitted on any legal holiday or Newberg city council designated festival Memorial Day, Presidents Day, Independence Day, Veterans Day, Labor Day, Flag Day, Peace Officers Day, the Friday of the Camellia Festival, the Friday of the Old Fashioned Festival, or on any festival day designated by the Newberg City Council.

15.435.105 Sign Permit Program for Portable Signs on private property

A. Purpose: The purpose of the sign permit program is to allow additional temporary and portable signage for properties within the C-2, C-3, and Institutional zones than is otherwise allowed by the municipal code.

The goal of the permit program is to allow additional signage on private property with a coordinated appearance.

B. Process: Applications for a permit under the sign permit program will be reviewed under a Type I process. Signage allowed under the permit must be well-maintained both physically and operationally. Signage under the permit that is found to not be well-maintained may result in the permit being revoked. Permits may be obtained for up to one year. Permits may be renewed, as long as they continue to meet the permit requirements. Only a property owner or their designee is allowed to obtain a permit under the sign permit program. A property owner is allowed one sign permit per property.

C. Criteria: The following criteria must be met for permit approval under the sign permit program:

1. Number of signs per property: 1 per 100 feet of street frontage in C-2 zone; 1 per 15 feet of street frontage, with a maximum of 4 signs total within the C-3 zone; and, 1 per 100 feet of street frontage within the Institutional zone. If more than one business is located on a property, at least one sign per business is allowed, as long as the business occupies a discrete space and possesses its own business license.
2. Size and location of signs: Maximum total signage for all temporary and portable signs under a sign permit shall be 1 square foot per 1 foot of street frontage. Maximum size allowed for any specific sign will be based on the location of the sign, up to a maximum of 40 square feet. The farther the distance a sign is from the front property line, the greater size that will be allowed for a specific sign. Maximum size for signage within the first 10 feet from the property line is 10 square feet. For every additional 10 feet from the property line, the maximum square footage for a sign will be an additional 10 square feet larger. Example: if a sign is between the front property line and 10 feet from the property line, then maximum sign size is 10 square feet; if a sign is between 10 feet and 20 feet from the property line, then the maximum sign size is 20 square feet in size, and so on.
3. Coordinated appearance: Every sign approved under an individual sign permit must have a cohesive, coordinated appearance. Signs must meet three of the following five criteria: similar size, colors, shape, materials, and/or font.

15.435.110 Signs within the public right-of-way.

A. Public signs are allowed ~~permitted~~ in the public right-of-way as allowed ~~permitted~~ by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on resoluted highways. In 2015, the resoluted highways in Newberg were: On First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a resoluted highway the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way. Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C B. For lots in the C-3 and C-4 zones, the one allowed portable sign per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in 15.435.110B, provided it meets the following standards:

1. The sign may not be less than two feet nor more than four feet high. The sign must also conform to 15.410.060 if it is within the clear vision zone.
2. The sign may not be located within the vehicular path.
3. If located on a sidewalk, the sign must leave a clear access path area of at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA wheelchair ramp.
4. If the sign is located adjacent to a striped on-street parking area, the sign must be located adjacent to the stripe.
5. The sign may not be located within three feet of a fire hydrant.
6. The sign owner must have the sign removed ~~be removed~~ during ~~nonbusiness~~ hours when the business being advertised is closed, ~~or hours the adjoining property is uninhabited~~. In addition, signs must not be present between the hours of 2 AM and 5 AM.
7. The person placing the sign in the right of way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way ~~shall grant permission~~ for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be attached to the sign, and may be attached to the inside surface of an A-frame sign.
8. If more signs than are allowed by this code are ~~than one sign~~ is located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F E) of this section.
9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

C. For lots in other zones, one portable sign per street frontage may be allowed in the public right-of-way, provided:

1. The applicant first obtains a sign permit from the director approving the location of the sign. Approval is at the sole discretion of the director. The permit shall be affixed to the sign.
2. The standards of subsections (B)(1) through (B)(6) of this section are met.

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in 15.435.110B provided:

1. The standards of subsection C above shall be met with the exception of subsection (C)(6).

2. Signs may be displayed only during the following hours:

Monday: 6am to 10pm
Tuesday: 6am to 10pm
Wednesday: 6am to 10pm
Thursday: 6am to Midnight
Friday: 24 hours
Saturday: 24 hours
Sunday: Midnight to 10pm

In addition, no sign may be displayed for more than 4 consecutive days.

3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) above shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

4. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in B above.

E. D. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F E. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city public and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

**Exhibit “B” to Ordinance 2015-2782
Findings –File DCA-14-001
Temporary and Portable Signs**

Newberg Development Code § 15.435.010 PURPOSE.

(A) The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

(B) These regulations are designed:

- (1) To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.*
- (2) To enhance the attractiveness of Newberg as a place to conduct business.*
- (3) To enable the identification of places of residences and business.*
- (4) To allow the freedom of expression.*
- (5) To reduce distractions and obstructions from signs which would adversely affect safety.*
- (6) To reduce the hazards from improperly placed or constructed signs.*

Newberg Comprehensive Plan

H. THE ECONOMY

GOAL: *To develop a diverse and stable economic base.*

POLICIES:

1. General Policies

- p. The City shall strive to develop and promote a high quality of life in the community in order to attract and retain a diverse and highly skilled workforce.*
- q. The City shall foster an environment of business innovation so that the community may remain economically competitive.*

J. URBAN DESIGN

GOAL 1: *To maintain and improve the natural beauty and visual character of the City.*

POLICIES:

1. General Policies

- g. *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

3. Commercial Areas Policies

- c. *The City shall maintain sign regulations to help create a business environment that is attractive to customers and citizens. The City and appointed committees shall seek to eliminate signs that detract from the aesthetics of commercial areas and that violate adopted sign design regulations. (Ordinance 98-2499, November 2, 1998).*

Findings: As stated in the above policies, visual appearance and economic vitality are both very important to the community. Signs are by their nature designed to be visible and are therefore a significant part of the city's visual appearance. Sign regulations are necessary to control the visual impact of signs. Local businesses and institutions need sufficient signage to communicate with the public and help their businesses or organizations prosper. The proposed code regulations would allow more temporary and portable signs with a permit than is currently allowed, which would aid local businesses and institutions but could have a negative visual impact if unlimited. However, the criteria that must be met to obtain a permit will ensure that the signs allowed under the permit will meet the goals of the Newberg Development Code regarding the purpose of sign regulations. Also, the code changes regarding the use of other signage (pennants, streamers, inflatable objects, flags) clarify how and when these types of temporary signs are to be used. The proposed development code amendment therefore conforms to the Newberg Comprehensive Plan by balancing the goals of protecting the visual character of Newberg and fostering a strong economic environment.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 8, 2015

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2015-2782 No.

SUBJECT: Amend the Newberg Development Code regarding temporary and portable signs

Contact Person (Preparer) for this Motion: Steve Olson, Associate Planner
Dept.: Community Development
File No.: DCA-14-001

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL NOT APPLICABLE

RECOMMENDATION:

Adopt Ordinance No. 2015-2782, amending the Newberg Development Code regarding temporary and portable signs to create a sign permit program for portable signs that would allow additional signs on private property, clarify other sections of the sign code, and allow additional portable signs in the right-of-way outside of the downtown area.

EXECUTIVE SUMMARY:

- A. SUMMARY:** The proposed Development Code amendments would do the following:
- Create a portable sign permit program that will allow additional portable signs with a coordinated appearance on private property in the C-2, C3, and Institutional zones.
 - Add new code language to address the use of pennants, streamers, and inflatable objects, to allow some signs on umbrellas, and to clarify the use of temporary signs during events.
 - Add new code language allowing some portable signs in the public right-of-way outside of the downtown (C-3) area, and clarifying where portable signs are allowed on downtown sidewalks.
 - Makes several minor changes to code language regarding temporary and portable signs to clarify the intent of the code.

B. BACKGROUND:

- On October 7, 2013, the City Council adopted Resolution No. 2013-3080, establishing a Temporary and Portable Sign Ad-Hoc Committee. The committee's charge was: "The committee will make a determination as to what, if any, changes to the current Development Code regarding temporary and portable signs may be desirable. If the committee determines changes may be warranted, the committee is to draft recommended Development Code amendments for consideration of adoption by the city council. Such recommended changes shall meet two criteria: improve the likelihood the intended message will reach its target audience; while at the same time, meet the spirit and intent of the purpose of the sign regulations as stated in Section 15.435.010 of the Newberg Development Code."
- The purpose of the city's sign regulations per the Newberg Development Code is:
15.435.010 Purpose.
A. The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well-planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial

and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

- The committee met many times to discuss potential code changes. They met with local business owners, and toured the city to see how signs were being used “on the ground.” They developed new code language for a sign permit program for temporary signs, and recommended several other changes to clarify the sign code and make it more flexible.
- On July 21, 2014, the City Council considered the recommendations of the Temporary and Portable Sign Ad-Hoc Committee. The Council accepted the recommendations with a few minor comments, and initiated a development code amendment process through Resolution No. 2014-3161.
- On November 13, 2014, the Planning Commission held a legislative hearing to consider the development code amendment and take public testimony. The Commission continued the hearing on December 11, 2014, took public testimony, deliberated, and continued the hearing to January 8, 2015. On January 8, 2015, the Commission took public testimony, deliberated, and continued the hearing to February 12, 2015.
- The Planning Commission generally agreed with the Ad-Hoc Committee’s recommendations, and was interested in making additional clarifications to the sign code language. The Commission was also interested in changing the code so that properties outside of the downtown area would be allowed to place temporary signs in the right-of-way. On February 12, 2015, the Planning Commission took public testimony, deliberated, and adopted Resolution No. 2015-305, which recommended that the City Council adopt the proposed amendments to the Development Code.
- The Oregon Department of Transportation (ODOT) and Yamhill County had not had a chance to comment on the proposal to allow portable signs in the right-of-way outside of downtown, so staff forwarded the Planning Commission Resolution No. 2015-305 to those agencies for comment. Most of the public right-of-way in Newberg is under city jurisdiction, but some streets along the edges of the city are still under Yamhill County jurisdiction. State Highways 99W, 219 and 240 within the city are under ODOT’s jurisdiction, so ODOT controls what is allowed within the right-of-way. Yamhill County replied that County policy does not allow private signs in the right-of-way, although their code enforcement focuses on signs that create safety problems. ODOT replied that they do not permit private signs in the right-of-way; however, there was an exception for some streets in the downtown area which are “resoluted” highways, where the City controls the right-of-way behind the curb (the sidewalks) and ODOT controls from curb to curb.
- Based on the ODOT and Yamhill County comments, staff brought the sign code amendment back to the Planning Commission for discussion. The Planning Commission reopened the public hearing on August 13, 2015, took additional public testimony, and adopted Resolution No. 2015-308, which revised the code amendment to reflect the agency and public comments, and replaced Resolution No. 2015-305.

C. PROCESS: A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. Important dates related to this application are as follows:

1. 7/21/14: The Newberg City Council initiated the Development Code amendment.

2. 11/13/14: After proper notice, the Planning Commission held a legislative hearing to consider the item, took public comment, and continued the hearing to December 11, 2014.
3. 12/11/14: The Planning Commission reopened the hearing, took public testimony, began deliberations, and continued the hearing to January 8, 2015.
4. 1/8/15: The Planning Commission reopened the hearing, took public testimony, resumed deliberations, and continued the hearing to February 12, 2015.
5. 2/12/15: The Planning Commission reopened the hearing, took public testimony, resumed deliberations, and approved Resolution No. 2015-305.
6. 5/4/15: After proper notice, the City Council opened the hearing on the sign code amendment, and continued it without discussion to July 6, 2015 to allow the Planning Commission and staff additional time to coordinate with ODOT and Yamhill County.
7. 7/6/15: Staff had not yet received final comments from ODOT, so the City Council continued the hearing to September 8, 2015.
8. 8/13/15: The Planning Commission reopened their public hearing to consider new information, and adopted Resolution No. 2015-308. This resolution replaced Resolution No. 2015-305, and recommended that the City Council adopt amendments to the Newberg Development Code regarding signs.
9. 9/8/15: The City Council will hold a hearing on the sign code amendment and consider adopting Ordinance No. 2015-2782.

D. PUBLIC COMMENTS/ISSUES: Many public comments were received during the Planning Commission hearings. The main issues are addressed below, and the full comments are included in Attachment 2.

1. **Holidays and flags:** The Planning Commission recommended a list of holidays on which an unlimited number of flags would be permitted.
2. **Umbrellas:** The Planning Commission recommended allowing some signs on umbrellas without a permit (the lowest 12 inches of the umbrella, measured from the bottom edge).
3. **Temporary signs during events:** The Planning Commission recommended new code language to: clarify the use of pennants, streamers and inflatable objects; clarify the number of signs allowed during events; and clarify when notice to the city of an event was required.

4. **On private property - Portable sign permit program:** The Planning Commission agreed with the proposal from the Ad Hoc Committee, and recommended code language to create a permit program for portable signs on private property. Current rules limit portable signs to one per frontage, without a permit. The sign permit program would allow additional portable signs on private property if they met certain standards:
 - a. The property owner must obtain an annual permit for the signs, and must maintain the signs in good condition.
 - b. Must meet the size and number limits in the sign permit program.
 - c. The portable signs approved under the portable sign permit must have a coordinated appearance (Signs must meet three of the following five criteria: similar size, colors, shape, materials, and/or font).

5. **Portable signs in the public right-of-way:** The Planning Commission was interested in allowing portable signs in the right-of-way outside of the downtown area, and clarifying the requirements for portable signs on downtown sidewalks.

Yamhill County comments: Yamhill County does not allow private signs in the public right-of-way, although their code enforcement focuses on signs that create safety hazards.

ODOT comments: ODOT does not allow private signs in the public right-of-way, and recommended that the following code language be included:

Temporary and/or portable signs for other than traffic control and motorist advisories are not permitted within state highway right-of-way administered by the Oregon Department of Transportation.

ODOT did some additional research on the right-of-way in the Newberg downtown area, and found that there were a few sections of “resoluted” highway downtown where ODOT only manages the right-of-way from curb to curb (a resoluted highway is a State highway on city streets). The city manages the sidewalks behind the curb on these sections of “resoluted” highway, and can allow portable signs on these sidewalks.

(see map on next page)

ODOT ROW map – downtown area. Blue lines show the resolute highway where the city can allow portable signs on the sidewalks. Blue lines extend on First Street from Harrison St. to River St., on Main St. from First St. to Illinois St., and on College St. from First St. to Vermillion Street. Portable signs are prohibited by ODOT on Hancock Street sidewalks, except where College Street and Main Street intersect Hancock. Portable signs are prohibited in all ODOT right-of-way outside of the downtown area.



Based on the public comments and agency comments, the Planning Commission recommended changing the development code to:

- i. Clarify where portable signs could be placed on the sidewalk downtown (in order to ensure that the sidewalk remained usable for pedestrians and met ADA requirements), and to require that the person placing the sign on the sidewalk obtain written approval from the adjacent property owner (if they are placing the sign in front of someone else’s property).
- ii. The Planning Commission kept the code requirement that the portable signs must be taken in when the business being advertised is closed for the day. Their concern was that signs left out overnight would create tripping hazards on the sidewalk. The primary purpose of the sidewalk is for pedestrian travel.
- iii. The Planning Commission did not add any requirements for the code enforcement officer to notify a sign owner before confiscating it. They believed the code enforcement officer needed to have some discretion on when to act on signs in the right of way.
- iv. The Planning Commission incorporated the ODOT comments above into the recommended code language for portable signs on downtown sidewalks

- v. The Planning Commission recommended adding new code language to allow portable signs in the public right-of-way outside of the downtown area, with a clarification based on Yamhill County and ODOT regulations.

FISCAL IMPACT: No fiscal impact is expected.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

Signs are necessary for business vitality and visibility, and provide useful information for customers. Unregulated signs can lead to visual clutter, and have a negative impact on the visual character of the community. The Planning Commission has attempted to balance those goals, and revise the development code to protect the economic vitality and visual appearance of the community.

ATTACHMENTS:

Ordinance No. 2015-2782 with

Exhibit “A”: Proposed Development Code Text Amendment

Exhibit “B”: Findings

1. Planning Commission Resolution No. 2015-308
2. Public Comments/Correspondence Received
3. City Council Resolution No. 2014-3161, initiating the code amendment
4. Report from Temporary and Portable Sign Ad-Hoc committee



PLANNING COMMISSION RESOLUTION 2015-308

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL AMEND THE NEWBERG DEVELOPMENT CODE REGARDING THE USE OF TEMPORARY AND PORTABLE SIGNS

RECITALS

1. The Newberg City Council adopted Resolution 2014-3161 on July 21, 2014, which initiated amendments to the Newberg Development Code.
2. After proper notice, the Newberg Planning Commission held a hearing on November 13, 2014 to consider the amendment. The Commission considered testimony and continued the public hearing to their next scheduled meeting on December 11, 2014.
3. On December 11, 2014, the Planning Commission considered additional testimony, deliberated, and continued the hearing to January 8, 2015.
4. On January 8, 2015 the Planning Commission considered additional testimony, deliberated, and continued the hearing to February 12, 2015.
5. On February 12, 2015 the Planning Commission deliberated and adopted Resolution 2015-305, including a recommendation to allow portable signs in the right-of-way outside downtown.
6. Staff forwarded the resolution to Yamhill County and the Oregon Department of Transportation for comments, as both have jurisdiction over some rights-of-way within city limits. Both agencies commented.
7. After proper notice, the Newberg Planning Commission reopened the hearing to consider adopting Planning Commission Resolution 2015-308, which would replace Resolution 2015-308.

The Newberg Planning Commission resolves as follows:

1. The Commission recommends that the City Council adopt the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.

2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.

Adopted by the Newberg Planning Commission this 13th day of August, 2015.



Planning Commission Chair

ATTEST:



Planning Commission Secretary

List of Exhibits:

- Exhibit "A": Development Code Text Amendments
- Exhibit "B": Findings

**Exhibit “A” to Planning Commission Resolution 2015-308
Development Code Amendments –File DCA-14-001
Temporary and Portable Signs**

Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in strikethrough.

15.05.030 Definitions.

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Building face” means an exterior wall of a building that generally faces one direction and that is visible from the public right-of-way. A building face is broken by a change in building direction of 60 degrees or more, except for minor extensions or indentations that are shorter than 50 percent of the building frontage (see Appendix A, Figure 15).

“Building frontage” means the longest horizontal distance between lines perpendicular to a building face (see Appendix A, Figure 15).

“Flag” means fabric that is attached to a pole on one end only that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

“Flag display” means one or more flags attached to a permanently affixed single pole.

“Readerboard” means a portable sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. “Readerboard” does not include animated signs, nor does it include signs where less than 20 percent of the sign area can be so changed or rearranged.

“Sign” means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. “Sign” includes banners, flags, balloons with graphics, letters, or advertising, and murals.

“Sign, animated” means a sign that has a display that changes more than once in any 10-minute period.

“Sign area” means the area of a sign which is computed by means of the smallest square, circle, rectangle, triangle, or combination of the smallest square, circle, rectangle, or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this code and is clearly incidental to the display itself. The sign area for a sign with more than one face shall be computed by adding the area of all sign faces visible from any one point. When two sign faces are placed back to back or at an angle of less than 45 degrees to one another so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of

the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of the largest face (see Appendix A, Figure 16).

“Sign, attached” means any sign attached to any part of a building, as contrasted to a freestanding sign. Attached signs are of two types:

1. Minor Attached. A sign not to exceed six square feet in area (three square feet in residential zones) that does not extend above the roof line of the building it is attached to.
2. Major Attached. All other attached signs.

“Sign, freestanding” means any sign supported by structures or supports that are anchored in the ground and that are independent from any other building or structure. Freestanding signs are of two types:

1. Minor Freestanding. A freestanding sign that is less than or equal to six square feet in area (three square feet in residential zones) and three feet in height.
2. Major Freestanding. All other freestanding signs.

“Sign, portable” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flags, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

“Sign, public” means any sign that is placed within public right-of-way by or under direction of a governmental agency.

“Sign, temporary” means a portable sign that is limited by law to placement for a specified period of time.

15.435.010 Purpose.

A. The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well-planned and constructed signs can contribute to the community’s success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

B. These regulations are designed:

1. To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.
2. To enhance the attractiveness of Newberg as a place to conduct business.
3. To enable the identification of places of residence and business.
4. To allow freedom of expression.
5. To reduce distractions and obstructions from signs which would adversely affect safety.
6. To reduce the hazards from improperly placed or constructed signs. [Ord. 2499, 11-2-98. Code 2001 § 151.590.]

15.435.020 Applicability and exemptions.

A. All signs placed or maintained anywhere within the city shall comply with the standards of this chapter, with the exception of the following:

1. Public signs.
2. Signs that are required to be placed by law and that are no more than 50 percent larger than the minimum size required by law or, if there is no minimum size specified, signs with lettering height no more than four inches.
3. Signs painted on or attached to windows that do not cover more than 50 percent of the surface of that window.
4. Signs located entirely within a building and not on a window.
5. Signs not legible from the public right-of-way.

B. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following issuance of such permit.

C. Nothing in this chapter shall be construed to allow placement of a sign on a property without the authority of the property owner. [Ord. 2499, 11-2-98. Code 2001 § 151.591.]

15.435.030 Permit required.

A. Except as follows, no person or entity shall place any sign within the city without first obtaining a permit from the director.

B. The following do not require sign permits, but must otherwise comply with the standards of this chapter:

1. Minor freestanding signs.
2. Minor attached signs.
3. Temporary signs.
4. Portable signs.
5. Flag display (one allowed on each street frontage)

65. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following the issuance of such permit. [Ord. 2499, 11-2-98. Code 2001 § 151.592.]

15.435.040 General requirements – All signs.

A. All signs shall comply with the standards contained in the current edition of the Oregon Structural Specialty Code. If the standards of that code and this development code conflict, this development code shall prevail. All signs shall be kept in repair and in a proper state of preservation as required under the current edition of the Oregon Structural Specialty Code.

B. No sign shall have bright or flashing lights shining on a public way that blind or impair the vision of drivers. No sign shall be constructed such that it may be confused with any traffic sign, signal or device.

C. In the C-3 zone, animated signs are prohibited.

D. All signs shall comply with the vision clearance standards of NMC 15.410.060.

E. Signs located in the airport overlay subdistrict shall comply with the height and visual interference restrictions of that district. [Ord. 2731 § 3, 10-18-10; Ord. 2565, 4-1-02; Ord. 2561, 4-1-02; Ord. 2499, 11-2-98. Code 2001 § 151.593.]

15.435.080 Minor attached signs, and awning signage, and umbrella signage.

A. Minor Attached Signs.

1. Spacing. No two minor attached signs on one building that are both visible from any one point shall be closer than 25 feet.
2. Size.
 - a. Residential Zones. Minor attached signs shall not exceed three square feet in area.
 - b. Other Zones. Minor attached signs shall not exceed six square feet in area.
3. Height. Minor attached signs shall not extend above the roof line of the building they are attached to.
4. Projections.
 - a. C-3 Zone. Minor attached signs may project no more than three feet into a public right-of-way, but no closer than two feet from the curb line. The lower edge of any minor attached sign shall be at least eight feet above ground level. This requirement supersedes the relevant sign standards in the current edition of the Oregon Structural Specialty Code.
 - b. Other Zones. The same projection is allowed as for major attached signs, NMC 15.435.070.

B. Awning Signage. Awnings are encouraged along the frontage of buildings in the C-3 district.

1. C-3 Zone. Back-lit translucent awnings are not allowed. Lettering may appear on curved surfaces, but shall be limited to the lowest 12 inches of the awning (measured vertically from the lowest edge). Freestanding letters mounted on top of the front vertical surface are also allowed, though they shall not exceed eight inches in height.
 - a. Other minor attached signs may be attached to or suspended from an awning or canopy, provided they are less than six square feet in size.
 - b. The lower edge of any awning shall be at least eight feet above ground level. This requirement supersedes the relevant sign standards in the Uniform Sign Code.
 - c. Signage is not allowed on any awning surfaces that are not specifically permitted in this section.
2. Other Zones. Awning signs in other zones shall be regulated as either minor or major attached signs.

C. Umbrella Signage. Signs on umbrellas are allowed without a sign permit but are limited to the lowest 12 inches of the umbrella (measured along the umbrella surface from the lowest edge).
Umbrella signs shall comply with all other municipal code requirements.

15.435.090 Portable signs.

A. Number. Not more than one portable sign may be located on any one street frontage, except temporary signs allowed per NMC 15.435.100.

B. Size.

1. Residential Zones.

a. Residential Uses. One portable sign not to exceed six square feet.

b. All Other Permitted Uses. One portable sign not to exceed six square feet if located in the front yard, or 16 square feet if located elsewhere on the property.

2. Other Zones. The one portable sign may not exceed 12 square feet if located in the front yard, or 40 square feet if located elsewhere on the property.

C. Design. No portable sign shall be permanently affixed to any structure or the ground. No portable sign shall be attached to a tree, or utility pole, traffic sign, street sign, or any publicly-owned pole, post, wire or cable, except as authorized by the city. All signs shall be designed to be removed quickly. No portable sign shall be animated or internally illuminated. No readerboard shall be used as a portable sign, except as a temporary sign as permitted NMC 15.435.100.

D. Location. No portable sign shall be located within the public right-of-way except as allowed under NMC 15.435.110.

E. Height. The height of a portable sign shall not exceed the maximum height of buildings in that zone. [Ord. 2499, 11-2-98. Code 2001 § 151.598.]

15.435.100 Temporary signs for events.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below. Pennants, streamers, and inflatable objects may be used during these events.

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event. An unlimited number of temporary signs are allowed during a grand opening event.

B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain ~~up to~~ no more than two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right-of-way.

C. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event. An unlimited number of temporary signs are allowed during the event. The applicant shall notify the city in writing of the beginning and ending dates prior to the Other Event.

D. Flags. ~~Displays. One flag display is permitted on each street frontage.~~ An unlimited number of displays is flags are permitted on any legal holiday or Newberg city council designated festival Memorial Day, Presidents Day, Independence Day, Veterans Day, Labor Day, Flag Day, Peace Officers Day, the Friday of the Camellia Festival, the Friday of the Old Fashioned Festival, or on any festival day designated by the Newberg City Council.

15.435.105 Sign Permit Program for Portable Signs on private property

A. Purpose: The purpose of the sign permit program is to allow additional temporary and portable signage for properties within the C-2, C-3, and Institutional zones than is otherwise allowed by the municipal code. The goal of the permit program is to allow additional signage on private property with a coordinated appearance.

B. Process: Applications for a permit under the sign permit program will be reviewed under a Type I process. Signage allowed under the permit must be well-maintained both physically and operationally. Signage under the permit that is found to not be well-maintained may result in the permit being revoked. Permits may be obtained for up to one year. Permits may be renewed, as long as they continue to meet the permit requirements. Only a property owner or their designee is allowed to obtain a permit under the sign permit program. A property owner is allowed one sign permit per property.

C. Criteria: The following criteria must be met for permit approval under the sign permit program:

1. Number of signs per property: 1 per 100 feet of street frontage in C-2 zone; 1 per 15 feet of street frontage, with a maximum of 4 signs total within the C-3 zone; and, 1 per 100 feet of street frontage within the Institutional zone. If more than one business is located on a property, at least one sign per business is allowed, as long as the business occupies a discrete space and possesses its own business license.
2. Size and location of signs: Maximum total signage for all temporary and portable signs under a sign permit shall be 1 square foot per 1 foot of street frontage. Maximum size allowed for any specific sign will be based on the location of the sign, up to a maximum of 40 square feet. The farther the distance a sign is from the front property line, the greater size that will be allowed for a specific sign. Maximum size for signage within the first 10 feet from the property line is 10 square feet. For every additional 10 feet from the property line, the maximum square footage for a sign will be an additional 10 square feet larger. Example: if a sign is between the front property line and 10 feet from the property line, then maximum sign size is 10 square feet; if a sign is between 10 feet and 20 feet from the property line, then the maximum sign size is 20 square feet in size, and so on.
3. Coordinated appearance: Every sign approved under an individual sign permit must have a cohesive, coordinated appearance. Signs must meet three of the following five criteria: similar size, colors, shape, materials, and/or font.

15.435.110 Signs within the public right-of-way.

A. Public signs are allowed ~~permitted~~ in the public right-of-way as allowed ~~permitted~~ by the governmental agency responsible for the right-of-way.

B. Temporary and/or portable signs for other than traffic control and motorist advisories are not allowed within state highway right-of-way administered by the Oregon Department of Transportation except on resoluted highways. In 2015, the resoluted highways in Newberg were: On First Street from Harrison Street to River Street, on Main Street from First Street to Illinois Street, and on College Street from First Street to Vermilion Street. On a resoluted highway the city manages the portion of the right-of-way behind the curb and can permit portable signs on the sidewalk. Portable and/or temporary signs are not allowed by ODOT on Hancock Street except within the College Street or Main Street rights-of-way. Portable and/or temporary signs are not allowed within county road right-of-way administered by Yamhill County.

C. B. For lots in the C-3 and C-4 zones, the one allowed portable sign per street frontage may be located, without permit, in the public right-of-way fronting that lot except as stated in 15.435.110B, provided it meets the following standards:

1. The sign may not be less than two feet nor more than four feet high. The sign must also conform to 15.410.060 if it is within the clear vision zone.
2. The sign may not be located within the vehicular path.
3. If located on a sidewalk, the sign must leave a clear access path ~~area~~ of at least five feet wide measured horizontally across the main part of the sidewalk and may not be located on an ADA wheelchair ramp.
4. If the sign is located adjacent to a striped on-street parking area, the sign must be located adjacent to the stripe.
5. The sign may not be located within three feet of a fire hydrant.
6. The sign owner must have the sign removed ~~be removed~~ during ~~nonbusiness~~ hours when the business being advertised is closed. ~~or hours the adjoining property is uninhabited~~. In addition, signs must not be present between the hours of 2 AM and 5 AM.
7. The person placing the sign in the right of way must obtain written permission from the owner, or their designee, of the property abutting the right-of-way ~~shall grant permission~~ for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner's lot. The written permission must be attached to the sign, and may be attached to the inside surface of an A-frame sign.
8. If more signs than are allowed by this code are ~~than one sign~~ is located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (F E) of this section.
9. Portable and/or temporary signs are not allowed by ODOT on sidewalks along Hancock Street except within the College Street and Main Street rights-of-way.

C. For lots in other zones, ~~one portable sign per street frontage may be allowed in the public right-of-way, provided:~~

- ~~1. The applicant first obtains a sign permit from the director approving the location of the sign. Approval is at the sole discretion of the director. The permit shall be affixed to the sign.~~
- ~~2. The standards of subsections (B)(1) through (B)(6) of this section are met.~~

D. For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way except as stated in 15.435.110B provided:

1. The standards of subsection C above shall be met with the exception of subsection (C)(6).

2. Signs may be displayed only during the following hours:

Monday: 6am to 10pm
Tuesday: 6am to 10pm
Wednesday: 6am to 10pm
Thursday: 6am to Midnight
Friday: 24 hours
Saturday: 24 hours
Sunday: Midnight to 10pm

In addition, no sign may be displayed for more than 4 consecutive days.

3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (C)(7) above shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

4. Portable and/or temporary signs are not allowed in the right-of-way along Highway 99W, Highway 240 or Highway 219 except as noted in B above.

E. D. No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

F E. Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the city public and subject to confiscation by city employees. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. Identifying information on the sign shall be prima facie evidence that the individual or entity so identified is the violator. [Ord. 2706 § 1 (Exh. A(2)), 10-6-08; Ord. 2564, 4-15-02; Ord. 2499, 11-2-98. Code 2001 § 151.600.]

Penalty: See NMC 15.05.120.

**Exhibit "B" to Planning Commission Resolution 2015-305
Findings –File DCA-14-001
Temporary and Portable Signs**

Newberg Development Code § 151.590 PURPOSE.

- (A) *The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.*
- (B) *These regulations are designed:*
- (1) *To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.*
 - (2) *To enhance the attractiveness of Newberg as a place to conduct business.*
 - (3) *To enable the identification of places of residences and business.*
 - (4) *To allow the freedom of expression.*
 - (5) *To reduce distractions and obstructions from signs which would adversely affect safety.*
 - (6) *To reduce the hazards from improperly placed or constructed signs.*

Newberg Comprehensive Plan

H. THE ECONOMY

GOAL: *To develop a diverse and stable economic base.*

POLICIES:

1. General Policies

- p. *The City shall strive to develop and promote a high quality of life in the community in order to attract and retain a diverse and highly skilled workforce.*
- q. *The City shall foster an environment of business innovation so that the community may remain economically competitive.*

J. URBAN DESIGN

GOAL 1: *To maintain and improve the natural beauty and visual character of the City.*

POLICIES:

1. General Policies

"Working Together For A Better Community-Serious About Service"

Z:\WP5FILES\FILES.DCA\DCA-14-001 Temporary and Portable Signs\PC staff reports\PC.Resolution 2015-308 as adopted.doc

- g. *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

3. Commercial Areas Policies

- c. *The City shall maintain sign regulations to help create a business environment that is attractive to customers and citizens. The City and appointed committees shall seek to eliminate signs that detract from the aesthetics of commercial areas and that violate adopted sign design regulations. (Ordinance 98-2499, November 2, 1998).*

Findings: As stated in the above policies, visual appearance and economic vitality are both very important to the community. Signs are by their nature designed to be visible and are therefore a significant part of the city's visual appearance. Sign regulations are necessary to control the visual impact of signs. Local businesses and institutions need sufficient signage to communicate with the public and help their businesses or organizations prosper. The proposed code regulations would allow more temporary and portable signs with a permit than is currently allowed, which would aid local businesses and institutions but could have a negative visual impact if unlimited. However, the criteria that must be met to obtain a permit will ensure that the signs allowed under the permit will meet the goals of § 151.590 of the Newberg Development Code regarding the purpose of sign regulations. Also, the code changes regarding the use of other signage (pennants, streamers, inflatable objects, flags) clarify how and when these types of temporary signs are to be used. The proposed development code amendment therefore conforms to the Newberg Comprehensive Plan by balancing the goals of protecting the visual character of Newberg and fostering a strong economic environment.

From: Robert Soppe <compprobsolv@gmail.com>
Sent: Wednesday, August 12, 2015 11:35 AM
To: Steve Olson
Subject: Public testimony for tomorrow night's PC meeting

Steve:

Please include the following as part of public testimony regarding DCA-14-001, the amendment to the Portable and Temporary Sign Code to be heard by the Planning Commission on 8/13/2015.

I am following up on the email that is in your August 13 packet to help simplify and clarify the question about Portable Signs During Events. With a brief effort I suspect you'll agree that the Code is not clear. I'm providing Code language that I think will make it clear for different options of what you think is appropriate.

The code of interest I 15.435.100 "Temporary signs during events". I'm copying the proposed version from your Agenda for your convenience:

15.435.100 Temporary signs for events.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below. Pennants, streamers, and inflatable objects may be used during these events.

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event.

B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain up to two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right-of-way.

C. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event.

D. Flags. Displays. ~~One flag display is permitted on each street frontage. An unlimited number of displays is~~ flags are permitted on any legal holiday or Newberg city council designated festival Memorial Day, Presidents Day, Independence Day, Veterans Day, Labor Day, Flag Day, Peace Officers Day, the Friday of the Camellia Festival, the Friday of the Old Fashioned Festival, or on any festival day designated by the Newberg City Council.

I would like you to consider how you interpret the Code for the following scenarios:

Grand Opening Event:

How many temporary signs are allowed during a Grand Opening Event (not counting a temporary electronic message center)?

(Note that there is no specific mention of ANY additional temporary signs being allowed during the event.)

Election Event:

How many temporary signs are allowed during an Election Event?

Other Events:

How many temporary signs are allowed during Other Events (not counting a temporary electronic message center)?

(Note that there is no specific mention of ANY additional temporary signs being allowed during the event.)

Flag Displays:

How many temporary signs are allowed during the listed days?

(Note that there is no specific mention of ANY additional temporary signs being allowed during this period.)

I would argue that if the Commissioners don't all have the same answers for the three questions listed above or that it is inconsistent with Staff's interpretation as stated in the Discussion Box in your Agenda, then this indicates how the revised (and existing) Code isn't clear and should be changed.

Staff has cleaned this up significantly by adding "Pennants, streamers, and inflatable objects may be used during these events". If the intent is to allow unlimited temporary signs (including pennants, streamers, and inflatable objects) during all four exceptions, then I would say that this addition suffices and no more consideration is needed. (I see a conflict with the language of (B) but will leave that for the Commission.) I would question, though, why the Commission would want to allow unlimited temporary signs during Election Events or dates where unlimited flags are allowed. Following the interpretation that Staff provided in your Agenda ("Staff has read the code section below as allowing an unlimited number of temporary signs during the events listed below") it seems that this is exactly how Staff has interpreted the Code.

Does the Planning Commission really want to allow unlimited temporary signs during the 104-day period around elections and also during flag days? I suspect not.

Fortunately, the solutions are fairly simple. If an explicit statement about the number of temporary signs allowed is added to each of 15.425.100A-D then it will be clear. Specifically:

- 1) At the end of 15.425.100(A) add "An unlimited number of temporary signs are allowed during a grand opening event".
- 2) At the end of 15.425.100(B) change "may contain up to two" to "may contain no more than two". (I think the Code is clear in limiting it to two additional temporary signs, but Staff's Discussion box makes it clear that they interpret it differently.)
- 3) At the end of 15.425.100(C) add "An unlimited number of temporary signs are allowed during the event". I am assuming here that the Commission agrees with Staff's interpretation and wants any property to be allowed to

have two 8-day periods every year where it can have unlimited temporary signs. If not, then the following should be added instead: "No other additional temporary signs are allowed during the event". I would suggest that this section could pose a significant enforcement problem as the City need not be notified as to when these events occur (unlike a Grand Opening Event). A wise property owner would always claim it was an "Other Event" if they were questioned about an excessive number of temporary signs. To resolve this, I think that the Commission should consider adding the language similar to that from Grand Opening Events: "The applicant shall notify the city in writing of the beginning and ending dates prior to the Other Events" to the end of the section. This doesn't seem like an extreme burden for an event that can occur no more than twice a year.

- 4) At the end of 15.425.100(D) add "An unlimited number of temporary signs are allowed during these dates" if the Commission agrees with Staff's interpretation and would allow unlimited temporary signs during "flag days". If not, then the following should be added instead: "No other additional temporary signs are allowed during these days".

In order to simplify your task at the meeting, I'm providing the following amendment suggestions for you to choose based on your opinion:

- A) If you agree with Staff's interpretation and the text of the revised Code (unlimited temporary signs should be allowed during Grand Opening Events, during 104-day Election Events, during two 8-day periods each year, and during flag dates and that there are no enforcement concerns with the Other Events exception) then no amendments need to be made. I'll leave it to the Commission to decide how to deal with the conflict between the language of (B): "up to two additional temporary signs" and Staff's interpretation: "allowing an unlimited number of temporary signs during the events listed below".

- B) If you think that unlimited temporary signs should be allowed only during Grand Opening Events and Other Events and that there are no enforcement concerns regarding the Other Events exception, then amend as follows:

At the end of 15.425.100(A) add "An unlimited number of temporary signs are allowed during a grand opening event". (Consistent with Staff's interpretation but more explicit.)

At the end of 15.425.100(B) change "may contain up to two" to "may contain no more than two".

At the end of 15.425.100(C) add "An unlimited number of temporary signs are allowed during the event". (Consistent with Staff's interpretation but more explicit.)

At the end of 15.425.100(D) add "No other additional temporary signs are allowed during these days".

- C) If you think that unlimited temporary signs should be allowed only during Grand Opening Events and Other Events and that there IS an enforcement concern regarding the Other Events exception, then amend as follows:

At the end of 15.425.100(A) add "An unlimited number of temporary signs are allowed during a grand opening event". (Consistent with Staff's interpretation but more explicit.)

At the end of 15.425.100(B) change “may contain up to two” to “may contain no more than two”.

At the end of 15.425.100(C) add “An unlimited number of temporary signs are allowed during the event”. (Consistent with Staff’s interpretation but more explicit.)

At the end of 15.425.100(C) add: “The applicant shall notify the city in writing of the beginning and ending dates prior to the Other Events”.

At the end of 15.425.100(D) add “No other additional temporary signs are allowed during these days”.

As always, thank you for your consideration.

Robert Soppe

(503) 784-8695

Steve Olson

From: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Sent: Thursday, May 28, 2015 10:27 AM
To: Steve Olson
Cc: JUSTER Gerard P *Gerry; CHUCULATE David L; JORDAN Donald L
Subject: ODOT Comments on DCA-14-001

Steve –

Thank you for referring this proposed code amendment to ODOT Region 2 for review and comment. ODOT staff have reviewed the proposed code amendments pertaining to placement of private temporary signs in public right-of-way and we have the following comments.

1. ODOT does not permit signs on right-of-way except for the following: Temporary portable variable message signs, which as a rule are only for advising motorists of events or roadwork that may cause delays or detours, no advertising of any kind. ODOT has periodically permitted temporary electronic “Your Speed Is” signs used by police departments but other than that the only other signs allowed are temporary traffic control signs.
2. Based on the above, ODOT recommends that the following language be included in Section 15.435.110 – Signs within the public right-of-way:

Temporary and/or portable signs for other than traffic control and motorist advisories are not permitted within state highway right-of-way administered by the Oregon Department of Transportation.

These comments should be included in the record as ODOT testimony. Please feel free to contact me or Gerry Juster if you have questions or need additional information.

Dan Fricke, Senior Transportation Planner
Oregon Department of Transportation
Region 2

455 Airport Road SE Building B
Salem, OR 97301-5395
Ph: 503-986-2663 Fax: 503-986-2840
e-mail: daniel.l.fricke@odot.state.or.us

From: Steve Olson [mailto:steve.olson@newbergoregon.gov]
Sent: Friday, May 01, 2015 10:17 AM
To: 'phelanj@co.yamhill.or.us'; Ken Friday; ODOT Reg 2 Planning Manager
Subject: 6498_City_of_Newberg

To: Yamhill County Public Works, Yamhill County Planning, and ODOT Region 2:

Re: File DCA-14-001 – potential development code amendment for portable signs

Newberg is considering a development code amendment for portable signs. The Planning Commission recently approved the attached resolution, which recommends changes to Newberg’s Development Code for signs in the public right of way. Most of the public right of way in Newberg is under city jurisdiction, but some is under State jurisdiction and some under County jurisdiction. We would like your comments on the proposed changes before we send the Planning Commission recommendation to our City Council.

Please respond by **May 20**, 2015.

Steve Olson

From: FRICKE Daniel L <Daniel.L.FRICKE@odot.state.or.us>
Sent: Monday, July 13, 2015 11:30 AM
To: Steve Olson
Subject: FW: Map of Newberg
Attachments: Newberg.pdf

Steve –

The attached map shows the status of ODOT facilities in the city. See Gerry's explanation below. Simple answer – the streets marked with blue lines ODOT only manages curb-to-curb. Let me know if you need anything else.

Dan

*Dan Fricke, Senior Transportation Planner
Oregon Department of Transportation
Region 2
455 Airport Road SE Building B
Salem, OR 97301-5395
Ph: 503-986-2663 Fax: 503-986-2840
e-mail: daniel.l.fricke@odot.state.or.us*

From: JUSTER Gerard P *Gerry
Sent: Monday, July 13, 2015 11:21 AM
To: FRICKE Daniel L
Subject: FW: Map of Newberg

Hi Dan,

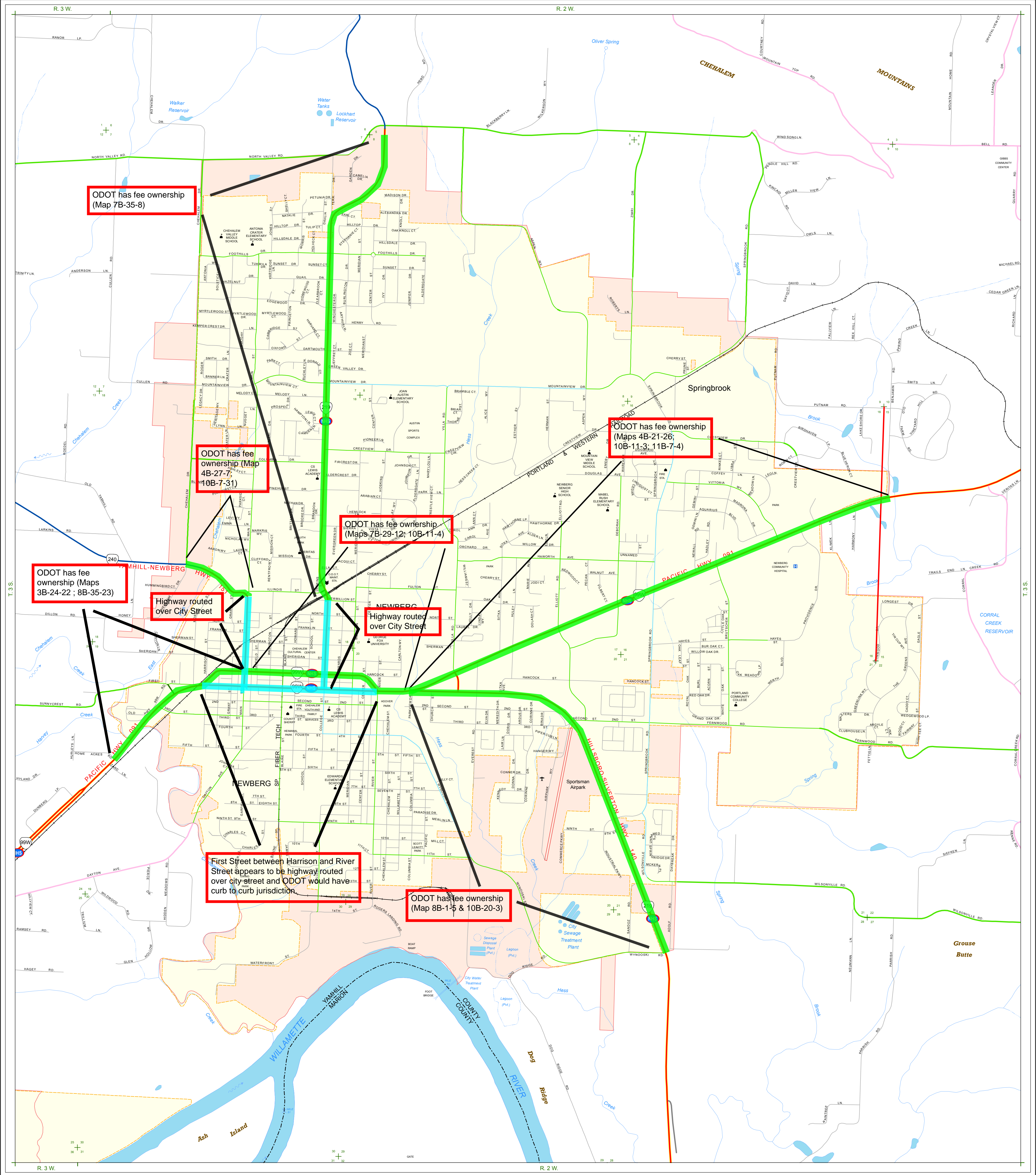
I got this information from Nancy this morning related to the portions of highway inside the city limits of Newberg.

In a nutshell; any portion of the map with a light blue line indicates resolute highway where ODOT manages from curb to curb. The green line is portions of highway where ODOT has acquired in fee right-of-way and manages from right-of-way boundary-line on both sides of the highway.

Feel free to share this with Steve Olson.

Gerry Juster
Development Review Coordinator
Oregon Department of Transportation
855 Airport Rd SE, Bldg. Y | Salem, Oregon 97301
Office: 503.986.2732 | FAX: 503.986.2630
e-mail: gerard.p.juster@odot.state.or.us

From: WARNICKE Nancy A
Sent: Monday, July 13, 2015 10:54 AM
To: JUSTER Gerard P *Gerry
Subject: Map of Newberg



LEGEND

FOR FURTHER FUNCTIONAL CLASSIFICATION INFORMATION, CONTACT ODOT REGION OFFICE.

	STATE HWY		PUBLIC BUILDING
	OTHER JURISDICTION		HOSPITAL
	INTERSTATE		CITY HALL
	PRINCIPAL ARTERIAL		ARMORY
	MINOR ARTERIAL		POST OFFICE
	MAJOR COLLECTOR		SCHOOL
	MINOR COLLECTOR		LIBRARY
	LOCAL ROAD		SAFETY REST AREA
	INTERSTATE - US ROUTE - ORE. ROUTE		WEIGH STATION
	NATIONAL HIGHWAY SYSTEM ROUTE		PARK & RIDE LOCATION
	CITY LIMIT		INTERCITY - CITY TRANSIT
	URBAN GROWTH BOUNDARY		COMMERCIAL - GENERAL AVIATION
	RAILROAD - AMTRAK PASSENGER STATION		PORT FACILITY
	GRAVEL PIT - QUARRY - ODOT STOCKPILE		
	ODOT MAINTENANCE STATION		

Published by

PREPARED DIGITALLY BY THE OREGON DEPARTMENT OF TRANSPORTATION IN COOPERATION WITH THE U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION

NORTH

SCALE

0 800 1,600 3,200 Feet

0 210 420 840 Meters

NEWBERG POPULATION 22,580

T. 3 S. R. 2-3 W. W.M.

OREGON TRANSPORTATION MAP

Showing Federal Functional Classification of Roads

City of

NEWBERG

YAMHILL COUNTY
2014 Edition

PARK & RIDE

INTERBUS

AMTRAK

AVAILABLE TRANSPORTATION SERVICES SHOWN WITH YELLOW BACKGROUND

PORT

AIRPORT

COMM. AIR

AVAILABLE TRANSPORTATION SERVICES SHOWN WITH YELLOW BACKGROUND

Steve Olson

From: Bill Anderson <andersonb@co.yamhill.or.us>
Sent: Monday, May 04, 2015 9:27 AM
To: Steve Olson
Cc: John Phelan
Subject: Private signs in ROW

Steve,

Thanks for considering the County as you seek to amend your sign ordinance in Newberg. As I'm sure you know the county roads that penetrate the city limits of Newberg are a mixed bag of grass or gravel shoulders with a few streets that are curbed with sidewalks. County policy doesn't allow for private signs in the ROW, however we get some of the wineries that will set out sandwich boards on occasions and we generally don't have a problem with it if doesn't create a traffic hazard. I'm sure we can work with whatever the City Council comes up with. When something is finalized I would appreciate a copy sent our way just to be up to speed on it.

Regards, Bill Anderson

Steve Olson

From: Jim Gilbert <jimg@burgerville.com>
Sent: Thursday, May 14, 2015 11:09 AM
To: Steve Olson
Subject: FW:
Attachments: 1875 Art Approval Burgerville March 16 2015.pdf

Steve,

Please let me you received this email.

Thank you

Jim

From: Jim Gilbert
Sent: Thursday, May 14, 2015 11:05 AM
To: steve.olson@newberg.gov; Jim Gilbert
Subject:

Steve,

Thank you for your time this morning, I have attached a copy of our umbrella are design. I hope this helps.

Thank you

Jim Gilbert
Director of Facilities
360-608-0270

March 16, 2015

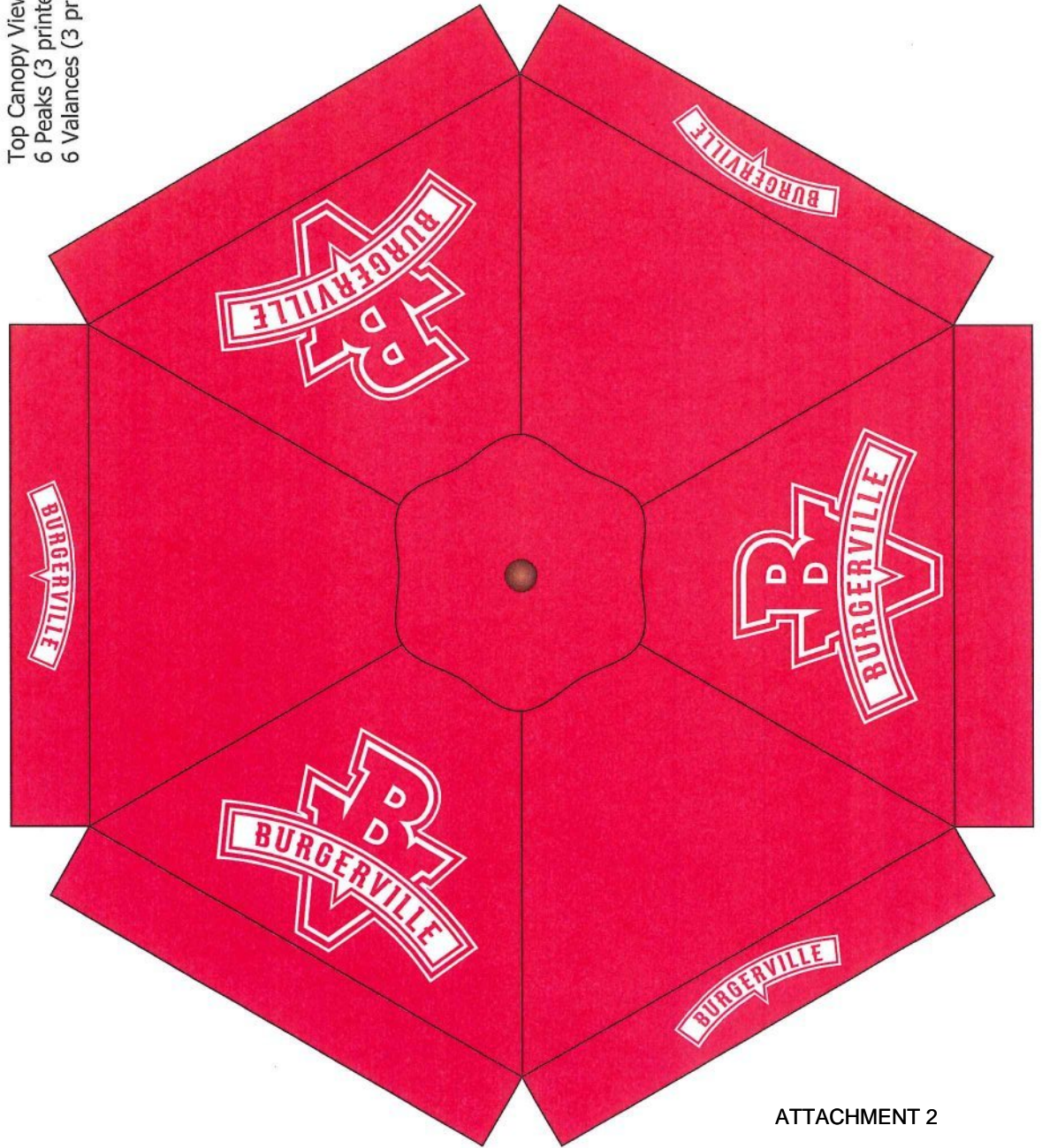
472 Meadowland Drive, Unit #5
South Burlington, VT 05403
Phone: 1-800-655-7311
Website: www.projectgraphics.com

1875 Burgerville LLC: Burgerville CREATIVE

Qty: (200); ART Layout: Series PG II Cafe Umbrella - 6.5' 400D Nylon (Red) Canopy;- Polygonal (6) (Peaks/Valances); 1 Color (White) Imprint on Alternating Peaks & Valances (Top Side); 1Design; Structure Aluminum w/ Crank; Warranty 1.5 Year

SEE PAGE 2 for LOGO DETAIL

Top Canopy View
6 Peaks (3 printed)
6 Valances (3 printed)



Customer Approval: _____

Date: _____
Please sign and fax to
1-866-794-1489

Colors Specified

White

Substrate Specified

400D Nylon (Red)

Required to start production

- Signed customer approval
- Signed quote
- Deposit

Shipping Address:

Burgerville LLC
109 W 17th St
Vancouver, WA 98660 US
Shipping Method: Ground

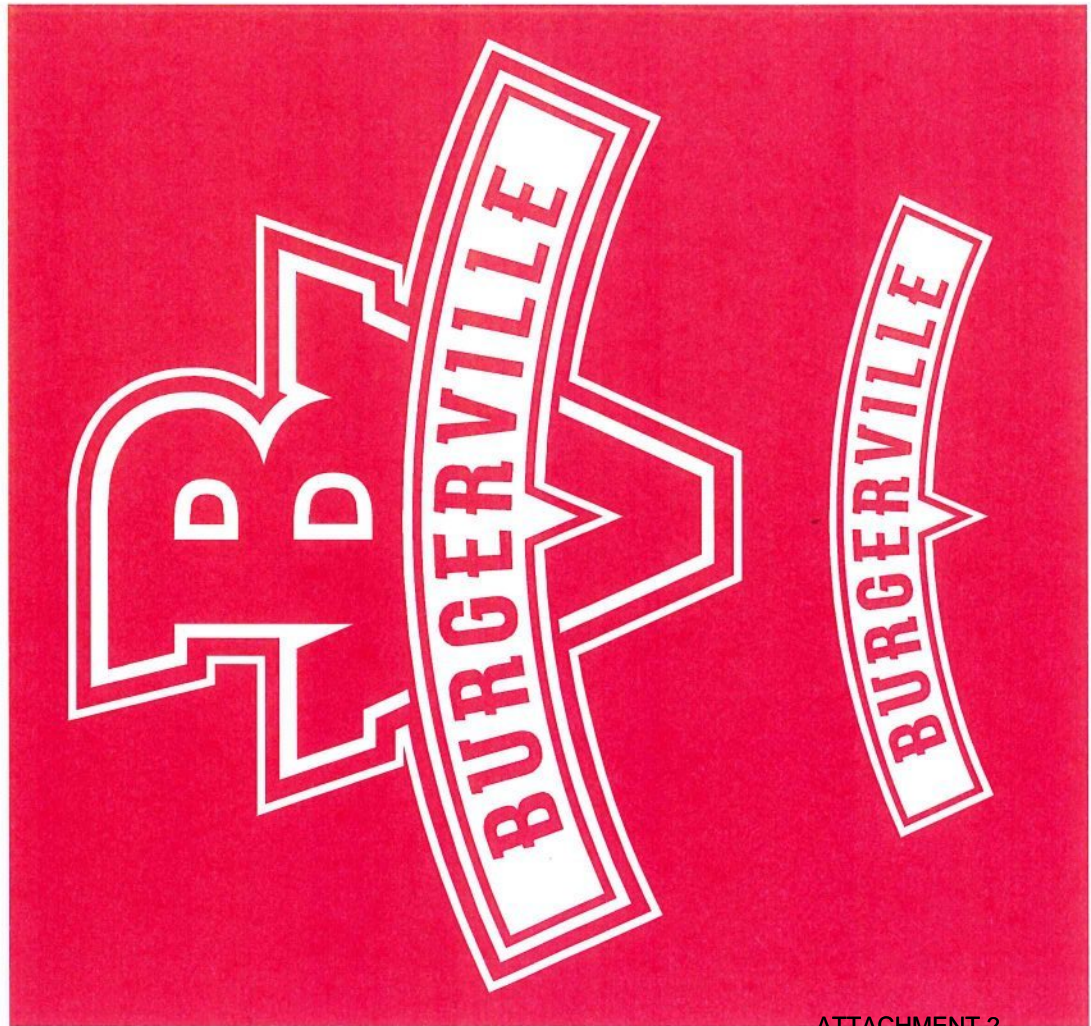
March 16, 2015

472 Meadowland Drive, Unit #5 South Burlington, VT 05403
Phone: 1-800-655-7311 Website: www.projectgraphics.com

LOGO ORIGIN: BurgerVille To Go Menu 0814_web.pdf

Logo used in this proof is obtained from the link below, and modified to print as 1-Color.
http://www.burgerville.com/wp-content/uploads/BurgerVille%20To%20Go%20Menu%200814_web.pdf

If logo is incorrect please provide logo file in vector file type in Adobe Illustrator or EPS format.



Customer Approval: _____
Date: _____
Please sign and fax to 1-866-794-1489
Colors Specified <input type="checkbox"/> White
Substrate Specified <input checked="" type="checkbox"/> 400D Nylon (Red)
Required to start production - Signed customer approval - Signed quote - Deposit
Shipping Address: Burgerville LLC 109 W 17th St Vancouver, WA 98660 US Shipping Method: Ground

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Sunday, February 15, 2015 2:08 PM
To: Steve Olson; Jacque M. Betz
Subject: Follow up on Planning commission meeting

I wanted to follow up on an important item regarding Thursday's Planning Commission meeting.

There was an extended discussion about the requirement of notification before confiscation. I realize that the amendment didn't get support of the Commission, but it will come up again before the Council. I think that it would be in the best interest of the City for Staff to continue to push to have the notification issued dealt with on a discretionary basis and not an actual requirement. There will be instances where immediate confiscation is important and a requirement of prior notification will block such an action.

Imagine that a sign is placed in front of City Hall without authorization, but there is nothing on the sign to indicate the owner. For example, an a-frame sign that meets all standards except for those related to written approval that has nothing displayed on it except for "I don't like Newberg". You can certainly imagine something much worse, but this works for my example. How would you notify the "owner"? If notification is a requirement before confiscating the sign, does this mean that the sign must remain in place indefinitely?

As another example, imagine that I place a sign with a very offensive point of view in front of someone's house or property. Again, the sign meets all standards except for those related to written approval. As proposed, the sign could not be removed for at least a full day to satisfy the "second offence" requirement. How quickly would I be notified?

I will use the incident described by the local business owner at the Planning Commission as my last example. How would prior notification have benefitted her? Under the proposed amendment, her sign would have had a second violation in another day (every night is a violation), so the confiscation would have been delayed by only one day. Yes, she would have had the opportunity to remove the sign herself, but she still has the option to retrieve the sign from the City although it is a bit further away. By her own admission (and by her action of leaving the sign at the City for storage) she doesn't have a place to store the sign.

I do think that notification (where practical) should be a requirement AFTER confiscation. That is, if there is a phone number on the sign, an address, or an easily identified business name, the City should make some effort to notify the owner that the sign has been confiscated and can be retrieved (if that is the policy) from the City. A form letter (with a space to write or type the location of where the sign had been) could be a reasonable solution to this. I would also suggest that such a letter mention that there is a potential for a financial penalty for the improperly displayed sign (15.435.110E could be cited), but that it is being waived in this instance. It does not seem reasonable that the sign owner has no clue as to why the sign disappeared.

Thank you for your consideration of these comments and the excellent work so far on the revisions to the sign code.

Robert Soppe
RS@CompProbSolv.com
(503) 538-5495

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Wednesday, February 18, 2015 9:38 AM
To: Steve Olson
Subject: Suggested correction to sign code (non-c3/c4 ROW)

Steve:

I wanted to add a suggested correction to the language I provided that the PC adopted. Commissioner Stuhr was correct (please let her know!) about the discrepancy on forfeiting signs. The language that I suggested for 15.435.110C is somewhat in conflict with 15.435.110B8. To be clear, B8 states:
If more than one sign is located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (E) of this section.

The new section C1 includes all of section B except for B6, so B8 is included. Since B8 refers to "one sign" and C allows two signs, there is a conflict. Fortunately, I think it is easily resolved.

Option A:

Change 15.435.110B8 to read:

If more signs than are allowed in this Code are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (E) of this section.

(change "one sign is" to "more signs than are allowed in this Code are")

Option B:

Change 15.435.110C1 to read:

The standards of subsection B above shall be met with the exception of subsections (B)(6) and (B)(8).

(change "subsection" to "subsections" and add "and (B)(8)")

And add 15.435.110C4:

If more than two signs are located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (E) of this section.

I think Option A is the better solution as it minimizes the likelihood of a similar conflict in the future and has fewer changes. When duplicate data exists in more than one place ("one sign" in this case), there is the risk that it is changed in one place but not the other. The "more signs than are allowed" will track any other changes that are made without revision. For example, if the code regarding election events were to allow additional signs in the ROW downtown, under the present language, B8 would have to be revised. With the Option A revision, it would not.

I would think that you could make the change yourself when you send it to the City Council as a "scrivener's error" if properly noted. They seem pretty fond of that term! This would not change the intent behind the Commission's recommendation, only clean up a discrepancy.

Robert Soppe
Computer Problem Solvers
RS@CompProbSolv.com
(503) 538-5495

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Monday, June 29, 2015 10:27 AM
To: Steve Olson
Cc: Brad Allen
Subject: Sign code consideration

Steve:

I have a couple more things to consider as part of the ongoing revisions to the Sign Code.

The first is pretty simple. Does it seem appropriate to allow portable signs in bulb-outs downtown? Though that is a convenient place for advertising, one could certainly argue that it takes away some of the safety benefits of the bulb-out. I would suggest that this is something to be added as a possible change to be considered when the Code gets back to the Planning Commission or to the Council.

The other is something that we've not discussed before. I think you've done an excellent job in the revision process to try to clean up the language of the Code so that it is understandable. I think that is important and that it benefits everyone involved. I've seen far too many issues come up in Newberg because of poorly written regulations that would likely not have occurred had the language been clearer. I'm concerned that 15.435.100 "Temporary signs for events" may have some issues here.

My concern has to do with confusion about the lot where an event is located and the lot where a sign for it is displayed. While they are typically the same lot, this need not be the case. For example: "C. Other Events: A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart". I would presume that these limits apply to the events themselves, but not about placement of signs on other lots that advertise them. Specifically, if can I place an electronic messaging center on a lot and keep it there all year if I can keep associating it with an "Other event" on different lots around town? That is, the first week of the year I use it for an event at one lot, the next week associate it with an event on another lot, third with yet another lot, etc.

Lastly, I want to make sure that I am reading 15.435.100 correctly. As I read it, all it allows as an addition to the standard Code are the following:

- 1) A temporary EMC during a grand opening event
- 2) Two additional temporary signs during Election Events
- 3) A temporary EMC up to twice a year during Other Events
- 4) Flag displays during legal holidays or designated festivals

Am I reading this correctly?

Robert Soppe
Computer Problem Solvers
RS@CompProbSolv.com
(503) 538-5495

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Monday, June 29, 2015 2:00 PM
To: Brad Allen
Cc: Steve Olson
Subject: RE: Signs.....

Brad:

This was what motivated me to write the previous email to Steve (copied to you) about this part of the Code. I'm not disagreeing with your interpretation of the Code (though I interpret it differently), just finding the Code to be very unclear. This is likely more of an issue for Steve to deal with as it really refers to how the Code is written. As with other parts of the Code I think that Staff/PC/Council should decide what is desired and then make sure the Code actually reads that way. I don't think this section fits that criteria at the moment.

My impression is that you are interpreting this section in this way:

For a Grand Opening Event, you are allowed an unlimited number of temporary signs whose size is also not regulated, for up to 30 days. This authority comes not from 15.435.100(A), but from the initial sentence of 15.435.100: "... a lot may contain temporary signs in excess of the number and size...". In addition to the temporary signs, a temporary EMC may be used. This is authorized explicitly by 15.435.100(A). So far, I can follow, though think clearer writing of the Code is in order.

Note that there are only things that (A) explicitly authorizes: a temporary sign for 60 days after the event and a temporary EMC. It does not authorize any other additional signs. If other temporary signs are allowed (in addition to ones always allowed) during the Event, the authorization must come from somewhere else in the Code. That is how I determined that you must be using the initial sentence to authorize additional signs.

When it comes to Election Events, there is a 104-day period during which two additional temporary signs of regulated size may be displayed. What I find inconsistent is that the authority for additional signs for Grand Opening Events comes from the header to the section where it is explicitly mentioned in (B).

I think the real problem comes when trying to interpret (C). Following the logic used for (A), this section allows an unlimited number of temporary signs whose size is also not regulated up to 8 consecutive days twice a year. As with (A), a temporary EMC is explicitly allowed in (C).

It gets worse when one looks at (D) if one uses the same logic as was used in the previous subsections. That is, the logic seems to be that the header of the section allows for unlimited temporary signs unless the subsection puts specific limits on them, as is done in (B). There is no such limitation in (D), so consistency would say that unlimited temporary signs are allowed by (D) during legal holidays and Council-designated festival (days). In addition, just as (A) explicitly allows a temporary EMC, (D) explicitly allows unlimited flag displays on those same days.

The real question here is what is the subject of "as listed" in the first sentence? Is it referring to the signs (my interpretation) or to the events (your interpretation)? If it refers to the signs, then grammatically it is saying that the additional signs listed below are allowed. Since the only additional sign listed for (A) and (C) is a temporary EMC and (D) only allows additional flags, those are all that would be allowed under my interpretation.

If "as listed" refers to the events (as it appears you are reading it when (A) is used to allow Shari's to have the additional signs), then consistent logic says that during the events listed in (A)-(D), unlimited temporary signs are allowed unless the subsection specifically limits them. (B) is the only one that has this limit.

I find it unlikely that this is what was intended with the Code. Fortunately, I think the resolution of this is pretty easy. The solution is to add the specific additional signs that are allowed in each specific section. For example:

For (A), before the last sentence, add "An unlimited number and size of temporary signs may be used during a grand opening event."

If it is the intent to allow unlimited temporary signs for Other Events, then the same sentence could be added before the last sentence in (C). If that is not the intent, then the following could be added before the last sentence of (C): "This subsection does not change the permitted number of temporary signs on these days".

If it is not the intent to allow unlimited temporary signs on legal holidays or festival days, that same sentence could be added as the last sentence in (D).

Lastly, something would need to be done to change the first sentence of the section to make it clear that "as listed" refers to signs and not events. I would suggest simply dropping "during events".

Steve Olson

From: Christine Kirk <omgirl57@yahoo.com>
Sent: Wednesday, February 11, 2015 3:05 PM
To: Steve Olson
Subject: Sign Codes

Dear Steve,

My name is Christine Kirk , and am the owner of All People Yoga Studios. I want you to know right up front , I understand the reasoning of the new sign codes for Newberg. Mine were confiscated on 2/10/15. I have been in touch with Brad Allen , enforcement officer, & will be retrieving my signs today.

Unfortunately , I am unable to attend the planning meeting, 2/12/15 in regards to these matters. I will be teaching.

Please take this information in to consideration in regards to these issues. I just need a little bit of flexibility on the hours I am able to have my signs out. Also , where I am on Blaine street between the highway, it would be more beneficial if I am able to put them out on 1st Street, or the other one way for more visibility. Studio operational hours are different than a retail store, wine tasting rooms, restaurants, etc.

So maybe a flex time? They really do bring folks in to our small biz.

Please keep this in mind when you are planning these ordinances.

Thank You for your time & any efforts to help our our small business to thrive for the better of the community!

Christine Kirk
All People Yoga
503-560-9119

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Friday, January 09, 2015 3:31 PM
To: Steve Olson
Cc: Brad Allen
Subject: Notes from last night's PC meeting
Attachments: Notes for Planning Commission 01-08-2015 (Sign Ordinance) as submitted.docx

Steve:

Attached are my revised notes from last night's meeting. It should be a fairly accurate representation of what I spoke at the meeting. Please pass them along to whomever is appropriate if you want them in the record.

I will have some other comments as a follow up on this. As Public Testimony is closed, I'll just send them to you to handle as you see fit.

Robert Soppe
Computer Problem Solvers
RS@CompProbSolv.com
(503) 538-5495

Planning Commission 01-08-2015 (Signs)

Staff did an excellent job on implementing many of the changes and clarifications. I won't cite each but would like to commend them on their work.

- 1) Pg. 16, 15.435.100D Flags: The listing of specific dates to allow unlimited flags is a significant improvement. I would suggest adding "or on any festival day designated by the Newberg City Council" at the end. This restores the Council's flexibility without having to revise the Code.
- 2) Pg. 18, Signs in the public right-of-way: 15.435.110B1 allows for signs between two and four feet in height. As I read 15.410.060 regarding vision clearance standards at intersections, signs taller than 2 ½ feet would violate these standards. I would suggest adding at the end of 15.445.110B1: "The sign must also conform to 15.410.060 if it is within the clear vision zone". Otherwise it would be easy to miss this restriction or to think that the two to four foot designation overrides the clear vision zone restrictions.
- 3) Pg. 18, I like Staff's revisions to the five foot clearance around signs in the public right-of-way. I think that it is clear enough that it doesn't require a drawing.
- 4) Pg. 18, 15.435.110B6, regarding when signs in the right-of-way may be displayed:
 - a. Rather than "The sign owner must remove the sign..." I would suggest "The sign owner must have the sign removed..." to be clear that he does not have to remove it himself.
 - b. The revised code requires that the sign be removed "when the abutting business is closed". I want to point out that the Commissioners were generally talking about the hours of the business being advertised rather than the one where it is located. While I agree that the proposed revision helps with enforcement, I think it more appropriate to allow the sign to be displayed while the advertised business is open. I will provide a suggestion later to make enforcement easier.
 - c. There was discussion about putting time restrictions on signs in the right-of-way. I would suggest adding the following at the end of 15.435.110B6: "In addition, signs must not be present between the hours of 2AM and 5AM".
 - d. B7 requires that the written permission must come from the property owner. I would suggest adding "or his designee" here and anywhere else it is appropriate or adding a general statement to that effect. As mentioned before, it may be difficult to track down the owner for such permission. If written permission is required, would it not make sense to require that it be attached to the sign as proof? That would be easy to do on the inside of an a-frame sign, for example inside a plastic bag affixed to the sign by adhesive tape, and would make the Enforcement Officer's job much easier. The City could design a simple form for this and could have it include a declaration of the business hours when it is expected to be displayed.
- 5) Pg. 19, clarifying that signs in the public right-of-way outside of C-3 and C-4 are not allowed. I suggest that the Commission has not fully considered the implications of this prohibition and the sort of reaction that is likely to result in the enforcement of it. I have previously provided some photos of examples that are in violation of the Code that need to be carefully considered. For example, the 2nd Street Church uses two such signs for short periods of time to announce their

Sunday services. The Masonic Lodge uses them to advertise plays and other events. F.I.S.H. on Elliott Street uses such a sign to advertise their presence.

Of course, there is also the issue of Garage Sale and Real Estate signs that violate this part of the Code.

Since the last meeting, I have asked close to a dozen local residents for their view on this. The primary objection that I heard about them was how long they are left up. I would suggest that with a handful of rules, these signs could be accommodated in a reasonable way. My suggestion is to allow such signs with the same restrictions as in the C-3 and C-4 zones, with two changes. I'd restrict the hours further during which they could be displayed and I'd allow the abutting property owner to confiscate the signs if written permission has not been granted. I propose the following as 15.435.110C:

For lots in other zones, one portable sign per street frontage may be allowed in the public right-of-way provided:

1. The standards of subsection B above shall be met with the exception of subsection (B)(6).
2. The sign must be removed when the event being advertised is not open to the general public. In addition, signs must not be present between the hours of 11PM and 5AM.
3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (B)(7) above shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

Thank you for your consideration of these comments.

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Wednesday, January 21, 2015 11:55 PM
To: Steve Olson
Subject: Additional comments on the Sign Ordinance revisions
Attachments: Portable Sign Authorization.docx

Steve:

The comments that I'd like to add have to do with signs in the public ROW outside of the C-3/C-4 zones. The proposed language that I included in my testimony has a number of significant shortcomings, so I've revised them and included them below for your consideration.

I believe that our present situation of prohibiting signs in these is an unworkable one. We've "lived" with it by pretty much ignoring the Code in this case. One of the many problems with this is that the proliferation of such signs gives people the understandable feeling that they are, in fact, allowed. If the Code as written were actually enforced, I think it would become a serious amount of work for Code Enforcement and would make many citizens angry. I'm hoping that we can come up with something that is workable.

I think that the main objections to these signs are that they are left up so long and that there can be so many in one small area. My suggested Code should help with that.

I've tried to consider what sort of signs are usually found in this area and I think it comes down to the following:

- 1) Garage Sale signs
- 2) Real Estate signs
- 3) Political signs
- 4) General product advertising
- 5) Lost or found animals

I believe that what I am proposing handles the first two fairly well. I would expect that those placing the political signs will find the time limits unworkable. My personal view is that the general product advertising signs are inappropriate in these locations. As far as the lost and found animal signs, I'm not sure there is a reasonable solution at all so I've not tried to address it.

I think it is critical to remember that the proposed rules need to be viewed in context of the present rules, where no signs are allowed. While what I am proposing may seem restrictive (especially in terms of hours allowed), it is far more generous than the present situation.

** See 1/28 email for revised code language*
 I propose the following as 15.435.110C:

For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way provided:

1. The standards of subsection B above shall be met with the exception of subsection (B)(6).
2. The sign may be displayed between the hours of 6am and 10pm (this seems like a reasonable range for garage sale signs; others need not be up as long) for no more than 4 (?) consecutive days.
3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (B)(7) above shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

Note: (B)(7) is the requirement for written permission by the property owner.

This accomplishes a number of things:

- 1) Two sign limit per frontage (should that be changed to 1 as with downtown?)
- 2) Abutting property owner's written permission must be obtained (just as you have proposed for C-3/C-4)
- 3) Standard height, attachment, and other restrictions apply
- 4) Signs must be removed every night as with downtown. (Many will object to the inconvenience of this, of course.)
- 5) If you go with my suggestion from the previous meeting, a copy of the written permission will need to be attached. This is not quite as simple as with A-frame signs (most of these signs are more like political signs in construction), but I think it is still workable. I would repeat the argument that if you are requiring written permission, attaching it to the sign should not be a great burden. I would imagine it being placed in a plastic sealable bag and taped to the sign. For a political-type sign (flat sign attached to a post), I would expect that the bag would be wrapped around the post and taped to it.
- 6) To minimize the burden on enforcement, the property owner has the right to remove signs that he didn't authorize. It doesn't allow him that authority for signs that are otherwise non-compliant (size, height, etc.), but I suspect that this would be much less of a problem.

I think that the language needs to somewhere specify that the written approval (in all zones) may be granted by the property owner's designee. I don't know if you should change "property owner" to "property owner or his designee" everywhere or if a single statement to that effect will suffice. Though not strictly correct, I would assume that such a designation would not have to be in writing by the owner and that a fair assumption would be that the tenant is the implied designee unless the owner objects. Of course, it would be better to have language that makes that explicit, but I'll leave that to your talents to craft it if you think it worth the effort!

I have attached a rough draft of what I would recommend as the Portable Sign Authorization document. I threw it together fairly quickly and it could use a lot of refining, but I think it makes for a good start. I would expect it to be posted with other forms on the City web site to make it readily accessible.

It might be wise to mention some specific limitations on the authorization documents. I think if you state it in casual language it can be clear that it is a guideline and that the Code should be referenced for actual language. The main items I'd consider mentioning are how signs must be free standing (not attached to poles or to trees), are limited to one or two per frontage (depending on zone and what is decided for the Code language), and that they must be taken down every night. I think those are the three areas that would not be obvious to everyone. Of course, the other one is that you need the property owner's approval, but the mere presence of the form itself should make that clear.

I hope this helps with making for a more workable Code!

Robert Soppe
 Computer Problem Solvers
RS@CompProbSolv.com
 (503) 538-5495

Portable Sign Authorization

(A copy must be posted on any sign placed in the public right-of-way)

Sign owner/responsible party name:

Phone number:

E-mail address (Optional):

Address of location where the sign will be placed in the public right-of-way:

Start date of sign placement:

End date of sign placement (can be left open):

(For C-3 or C-4 zone) Hours of operation of the establishment that is being advertised on the sign:

Name of property owner (or his designee) of the location where the sign will be placed authorizing the placement of the sign:

Phone number or e-mail address of person granting the authority to place the sign:

Signature authorizing the placement of the sign:

Date signed:

Note: signing above states that you are either the property owner at the location where the sign will be placed or have been designated with approval authority by the property owner. This approval is granted for the dates and times shown on this document but may be revoked at any time by the signatory by notifying the sign owner or responsible party listed above.

Signs placed in the public right-of-way have specific requirements which are listed in Newberg Development Code section 15.435.110. Some of the Code limits include size, placement, hours displayed, and number of signs. Signs not in conformance of the Code may be confiscated. The complete details of the code are available at newbergoregon.gov or at Newberg City Hall.

Steve Olson

From: Robert Soppe <rs@compprobsolv.com>
Sent: Wednesday, January 28, 2015 2:56 AM
To: Steve Olson
Subject: Additional (final?) recommendation on sign ordinance revision

Steve:

I've spoken with some more local residents and would like to revise what I recommended before. The change from my last recommendation is in item 2 below. The following is what I would recommend for consideration:

I propose the following as 15.435.110C:

For lots in other zones, two portable signs per street frontage may be allowed in the public right-of-way provided:

1. The standards of subsection B above shall be met with the exception of subsection (B)(6).
2. Signs may be displayed between the hours of 6am and 10pm on Mondays, Tuesdays, and Wednesdays, and any time between 6am on Thursdays until 10pm on the following Sunday. In addition, no sign may be displayed for more than 4 consecutive days.
3. Any sign installed or placed in the public right-of-way within these zones not in conformance with subsection (B)(7) above shall be forfeited to the owner of the property abutting the right-of-way and is subject to confiscation by said owner.

It was suggested to me that it would put an unreasonable burden on a garage sale operator to require the removal of their signs every night. Considering that garage sales almost always run on weekends, it seemed a fair compromise to allow the signs to be left up on Thursday, Friday, and Saturday nights.

It may be clearer to list the allowed times as follows:

2. Signs may be displayed only during the following hours:

Monday: 6am to 10pm
 Tuesday: 6am to 10pm
 Wednesday: 6am to 10pm
 Thursday: 6am to Midnight
 Friday: All day
 Saturday: All day
 Sunday: Midnight to 10pm

In addition, no sign may be displayed for more than 4 consecutive days.

Robert Soppe
 Computer Problem Solvers
RS@CompProbSolv.com
 (503) 538-5495

Steve Olson

From: Martha Messa <messa.or@frontier.com>
Sent: Friday, December 19, 2014 8:57 AM
To: Steve Olson
Subject: Temporary signage

Mr. Olson,

For many years as we have navigated our way through Newberg we have lamented the proliferation of temporary signs, sandwich boards, stake signs, flags and banners. Now I understand that the Planning Department is examining whether to relax signage ordinances further and allow even more temporary signage. Oh, dear. Why have we allowed Newberg to look so trashy in the first place and why would we want to exacerbate that appearance?

This area is trying to promote itself as a premier wine destination, yet if you were to travel to the Napa Valley region, you would not see the kind of streetscape we are creating here. If we were visitors to Newberg, we would not be enticed to stop and visit. Rather, we would tend to keep moving as the businesses and the town would not hold appeal. We would encourage merchants to invite shoppers with an attractive storefront and permanent signs rather than by spreading unattractive obstacles across the sidewalk.

Like most residents we are interested in having Newberg be a vibrant, attractive and dynamic city. We don't believe that cluttering the sidewalks and streets is going to assist in accomplishing that objective.

Sincerely,

Martha and Ray Messa

Please accept the following as public testimony for the Development Code Amendment regarding temporary and portable signs at the December 11, 2014 Planning Commission meeting.

My comments follow the agenda in order which should make the references easier to identify.

Umbrellas: I think that it would be ill-advised to exclude umbrellas used in conjunction with outdoor seating from the sign code. If there are reasons to limit the size and quantity of signs in general (and it has been accepted that there are) then it shouldn't matter if the sign is flat or if it is shaped as an umbrella. The visual impact will be similar.

It was suggested by a Commissioner that if there was a problem with an umbrella, he expected that the Code Enforcement Officer could work it out with the owner. I think this is highly unlikely. The business owner is unlikely to change or remove an umbrella that has already been purchased and installed and is in compliance with the NDC.

Portable signs attached to other than trees and utility poles: I would not have considered the support for a street light to be termed "utility pole" but if that is a generally accepted term for it then my concern is unwarranted.

Consideration should be given as to why there was a prohibition on attaching a portable sign to a utility pole. Would not the same logic apply to attaching it to a pole that supports a sign? If so, then 15.435.090C should be revised to include a sign pole. For example, change "No portable sign shall be attached to a tree or utility pole" to "No portable sign shall be attached to a tree, to a utility pole, or to any other permanent structure" or to "No portable sign shall be attached to a tree, to a utility pole, or to any other permanent pole".

"Permanently affixed": if the Planning Commission has the same interpretation of this term as Staff has, then it needn't be clarified further.

"legal holiday": I think that it was an excellent suggestion by a Commissioner that the holidays be enumerated. I looked at the listing of Federal Holidays at OPM.gov and found this list:

New Year's Day
Birthday of Martin Luther King, Jr.
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day

Do these days match with the intent of 15.435.100D? The following are days where flag flying may be much more appropriate and typical than some of the days listed above:

Presidents' Day
Peace Officer's Memorial Day
Armed Forces Day
Flag Day

I suggest that the specific days should be listed and that the Commission should agree on exactly which days are appropriate.

Sign permit; maximum size: I suggest that you ask Staff how large of a sign could be permitted under the proposed rules for some of the larger lots in town, such as the large car dealers or Fred Meyer's. I suspect that they could be fairly large.

I don't think that it is clear that the 40 square foot limit (15.435.090B2) still applies under the sign permit program. The proposed 15.435.105C2 should include either an explicit size limit or a statement such as: "Signs under the sign permit program may not exceed the size limitations of 15.435.090B and 15.435.100".

Free speech: I raised the issue regarding the sign criteria based on the report of the committee. They recommended that those five items would be the criteria, not the coordination of them. I have no concern about free speech issues with the proposed text (15.435.105C3).

"Clear area": Staff mentions that the standard "could be confused with the 'clear area' definition related to aviation". I think the use of the word "confused" is incorrect here. The online version of the NDC explicitly states that this IS the definition! Browse to 15.435.110B3 and point at the highlighted "clear area" and it will pop up the following text:

"Clear area" means a land area required to be clear of obstructions per FAA regulations for airports and airspace.

This is the definition also found at 15.05.030.

I believe that Staff's interpretation of "clear area" illustrates very well that it IS unclear. I must repeat my concern that this allows a sign to entirely block one sidewalk at a corner as long as it allows the clear area on the other sidewalk. I don't believe that this is appropriate or intended.

“Nonbusiness hours”: Staff raises the question of whether not this needs to be clarified. I think that it certainly needs clarification regarding which business’ hours are being referenced. Is it the business where the sign is located or the business that is being advertised on the sign?

Property owner granting permission: While I think that the language “shall grant permission” is clear when taken in full context, clarification would be very simple and desirable. As long as you are revising the Code, the opportunity should be taken to make it more understandable. A simple change would be to change “shall grant permission” in 15.435.110B7 “has granted permission”. Staff has provided a reasonable alternative (subject to my comments below).

I believe that there is a very significant problem in that Code that I had not noticed before. As it stands now, the Code reads:

The property owner abutting the right-of-way shall grant permission for any sign, other than a public sign, that is placed within that right-of-way fronting the property owner’s lot.

The problem arises when one looks up how the NDC defines “public sign”:

“Sign, public” means any sign that is placed within public right-of-way by or under direction of a governmental agency.

By definition, ANY sign placed in the public right-of-way is a “public sign”. Such a sign would NOT require the property owner’s permission. I suspect that what was intended in 15.435.110B7 was to exempt only the signs placed under the direction of a government agency.

Permission for signs outside C-3 and C-4 zones: There are numerous issues here that are significant enough that they really do need to be addressed actively. I have yet to hear any argument or opinion that property owners outside of C-3 and C-4 zones should not have the same right as others to prohibit a sign in front of their property. Staff is correct that changing “6” to “7” is an effective way to resolve this. I would suggest that it would be more appropriate to change the “6” to “8” unless there is a good argument to exclude 8:

If more than one sign is located in the right-of-way fronting one lot, all signs may be forfeited as per subsection (E) of this section.

I would expect that this rule is just as appropriate in the non-C-3/4 zones as it is within them.

If it is agreed that all 8 standards should be met, a better solution may be to change 15.435.110C2 to: “The standards of subsection (B) of this section are met”. With this change, if subsection (B) is changed in the future, C2 doesn’t have to be revised.

Garage Sale, etc. signs: I believe that my comment here was misinterpreted based on Staff’s response. I certainly recognize that these signs cannot be treated any differently than other similar signs. I was using them as examples of signs that are prohibited by the NDC but are very commonly observed. I think that the Commission needs to consider carefully if prohibiting them is appropriate.

As I mentioned in my previous testimony, I think it would be valuable and appropriate for the Commission to consider each of pictures that I provided of non-conforming (in my interpretation) signs. Does the Commission agree that they should all be prohibited as shown? If not, then the appropriate Code changes should be considered.

I recently took the following pictures of more signs that I believe violate 15.435.110C (signs in right-of-way outside C-3/4 zones) as an illustration. I am not arguing here whether or not these signs should be allowed. I am only asking that the Commission consider the implications of our current Code.



Sign forfeiting: I agree that allowing the general public to confiscate signs would be inappropriate. I think that Staff's proposed language is a significant improvement. I would suggest, though, that the Commission consider allowing the owner of the property abutting the right-of-way to confiscate the sign. There could be a requirement to hold it for a short period of time (e.g. 3-5 days) to allow the owner to retrieve it.

Consider how the present regulations work. If I own property downtown and I see someone putting a sign on the sidewalk in front of it, I have no legal ability to remove it. I have to contact the City (during the limited business hours) and have the Code Enforcement officer handle it. It seems far more effective and efficient to allow me to remove the sign. After all, my approval was required for its placement. I should be in a good position to claim that the sign is unauthorized.

Thank you again for your consideration of these comments.

Robert Soppe

12/8/2014

FROM ROBERT SOPPE

Notes for Planning Commission 11-13-2014 (Sign Ordinance)

I would like to start my testimony with an attempt to make my position tonight very clear. I am explicitly NOT putting forth an opinion about what signs should or should not be allowed nor how the Code should be changed. What I AM trying to do is to get the Planning Commission and the City Council to impose some clarity and consistency in the Sign Code which has been seriously lacking for a very long time.

When creating or modifying regulations, it seems to me that proper governance includes the following three steps:

- 1) The governing body, with whatever input it deems appropriate, decides what should and should not be permitted
- 2) The body writes and enacts rules that support this decision
- 3) The body directs appropriate staff to enforce the rules

In an effort to assist with the first two steps I have compiled a number of photographs of signs that I believe are in violation of the current code. All of these photos were taken within the last month. I have provided each of you with a copy of these photos. Below each one is a citation of the specific part of the Sign Code that I believe is being violated.

I could have provided MANY more photographs that reach back before the moratorium on enforcement; this is not a new issue.

Please do not take my citations as entirely accurate on whether or not these signs are, in fact, in violation. I may well have misinterpreted the Code. My suggestion is that you look at the photos and consider whether or not the sign should be allowed as shown. If you think that it should then I would suggest that you ask Staff to provide an answer as to whether or not it is in violation. If Staff decides that it is, I would suggest that you consider revisions to the Code to allow it.

As a separate issue, there are a number of areas in the Sign Code that I think need clarification. I'll start with a very easy one. I'll not cite the Code numbers here but will provide them in my written testimony.

15.35.110.3 states that if a sign is on a sidewalk in the public right-of-way downtown, it must "leave a clear area of at least five feet measured horizontally...". I would ask all of you to picture exactly what this is requiring. Is it a five foot distance in all directions around the sign? Is it as Staff suggests required only on one side of the sign? What about a sign at a corner? As I understand Staff's interpretation, a corner sign may block the sidewalk in one direction as long as it allows a clear area on the other. I doubt that this was the intent behind the Code.

To further complicate matters, one can look at how the Code defines "clear area". It is defined as: "... a land area required to be clear of obstructions per FAA regulations for airports and airspace". Does

anyone on the Planning Commission know these FAA regulations and how they would apply to signs on the sidewalk Downtown? I certainly do not. I suspect that this definition was not intended to be applied here, yet that is how the Code reads.

I find myself tonight in an all too familiar position in Newberg. Why don't we just write regulations that are clear and avoid such confusion? You have an opportunity to resolve some of that here.

15.434.110.B6 states that a sign in the public right-of-way "must be removed during nonbusiness hours or hours the adjoining property is uninhabited". Let's first look at "nonbusiness hours". If my business has a sign in front of your business, to which business do the hours apply? Then let's look at "uninhabited". Does that mean when no one is present in the building whether the business is open or not or does it mean, for example, when the property is vacant, as in not rented?

15.435.110E states that signs in the public right-of-way that are not in conformance with the code "shall be forfeited to the public and subject to confiscation". I have asked both the previous Planning Director and the present City Attorney about this statement. In particular, since I am a member of the public to which the sign is forfeited, do I have the right to confiscate it? Neither gave an answer that clarified my right. Why don't we just avoid such questions and make the Code clear?

15.435.110C regards signs in the public right-of-way in zones other than the C-3 and C-4 zones. This would include all areas outside of the Downtown area. According to this part of the Code, if I want to place a sign in the right-of-way in front of your house, I explicitly do NOT need your permission, though I do need a permit from the City. Staff has worked around this issue by making a policy decision that such permits will not be issued.

The Commission should consider if such a policy should be a matter for Staff to decide or if is the City Council's domain. If the Council or Planning Commission feels that such signs should not be allowed, then it could eliminate 15.435.110C altogether. If the Council or Planning Commission feels that they should be allowed, it could offer some guidance for the standards of approval for such a permit. If the Council or Planning Commission feels that the property owner's approval should be required, only one character in this part of the code needs to be changed as Staff noted.

Other signs that frequently violate this part of the code are Garage or Yard Sale signs and also Real Estate signs. Because of the time of year when I took these photos, I don't have examples of either. I don't doubt that all of you have seen such signs on utility poles or on planter strips outside of Downtown, none of which is allowed. I suggest that you consider if such a prohibition is appropriate.

15.435.090C states that portable signs shall not be permanently affixed to any structure or to the ground. I would question how clear the words "permanently affixed" are. For example, I ask that you look at the last photograph that I have provided. In particular, look at how the lower sign is attached. Is it "permanently affixed"?

The same code states that portable signs shall not be attached to a tree or to a utility pole. I noted instances where signs were attached to street lights and to sign poles. I suggest that the Commission should consider if those should be treated the same as trees or utility poles.

15.435.110B7 states that portable signs in the public right-of-way in Downtown must have the permission of the property owner. Our previous City Manager stated to me that if a property owner did not object to the City about the placement of a sign in front of his lot, it was considered that he "granted permission". I would suggest that the Commission consider if the lack of objection should be accepted as granting permission.

Another part of the code states that if there is more than one sign in the right-of-way in violation of the code, all of the signs are forfeited. That seems like an open invitation for me to place a cheap sign next to your otherwise compliant sign to allow both to be forfeited.

The proposed changes include exempting "umbrellas used in conjunction with outdoor seating" from the Sign Code. At least one Council member had serious reservations about this exemption. I suggest that you consider the logic of allowing an entire umbrella (or series of umbrellas) to be covered with signs that can far exceed the number and area that would otherwise be allowed.

Lastly, I would like to address the issue of enforcement or, more specifically, the lack of it. I raised this issue most recently before the Council and Staff provided a response to it in your packet for tonight. While I won't disagree with what was provided in the response, it misses the much larger issue that I raised. My issue was not with the lack of enforcement during the moratorium but the many ears that preceded it. One need only look at the political signs that remained in place after the moratorium was lifted to see how strongly the Code has been enforced since then.

I would like to summarize the points on which I think that the Planning Commission should take action.

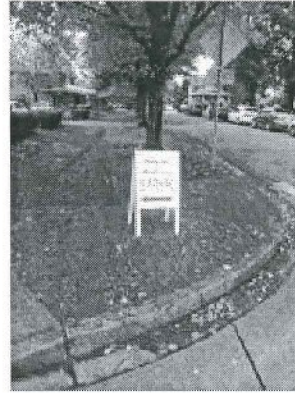
- 1) Consider if any of the signs in the photos should be allowed. If so, ask Staff if they are actually in violation and what Code changes are needed to allow them.
- 2) Rewrite 15.35.110.3 ("clear area") such that the Code is clear.
- 3) Rewrite 15.434.110.B6 to clarify "nonbusiness hours" and "uninhabited".
- 4) Rewrite 15.435.110E to clarify what it means to forfeit a sign to the public and who can confiscate it.
- 5) Rewrite 15.435.110C to clarify whether or not signs should be allowed in the public right-of-way other than downtown. If they should be allowed, consider whether or not the property owner should have the same approval authority as the owners in the C-3 and C-4 zones and provide some guidelines or criteria for the approval of such signs.

- 6) Rewrite 15.435.090C to clarify if a portable sign may be attached to another sign (public or private), to a light pole, or any other permanent object.
- 7) Rewrite 15.435.090C to clarify what "permanently affixed" means.
- 8) Rewrite 15.435.110B7 to require explicit permission by the property owner.
- 9) Consider whether the Code should allow Garage or Yard Sale signs in the public right-of-way outside of Downtown.
- 10) Consider whether the Code should allow Real Estate signs in the public right-of-way outside of Downtown.
- 11) Consider if 15.435.110B8 is appropriate in allowing all signs to be forfeited when there is more than one in the right-of-way.
- 12) Consider the quantity and size of signs that will be permitted if umbrellas used in conjunction with seating covered with advertising are exempted from the Code.

Examples of signs that appear to be in violation of the Sign Code (specific Code listed under each):



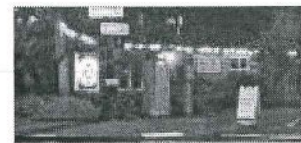
15.435.110C1



15.435.110C1



15.435.090A



15.435.110B6

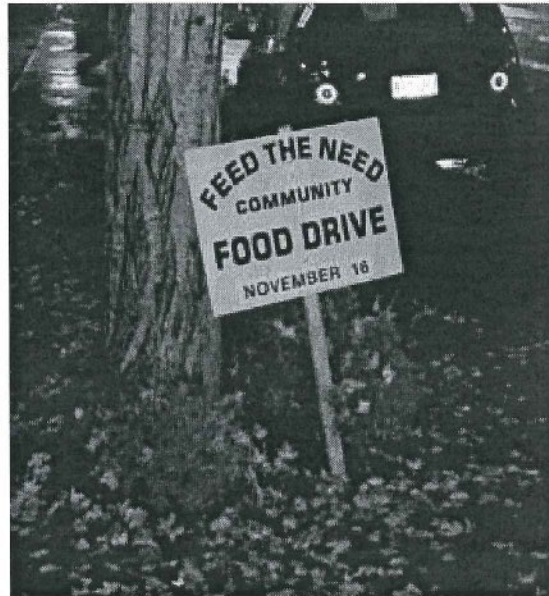


15.435.090A



15.435.090C

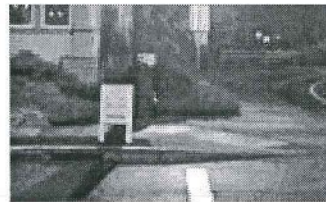
15.435.110C1



15.435.110B6



15.435.090A



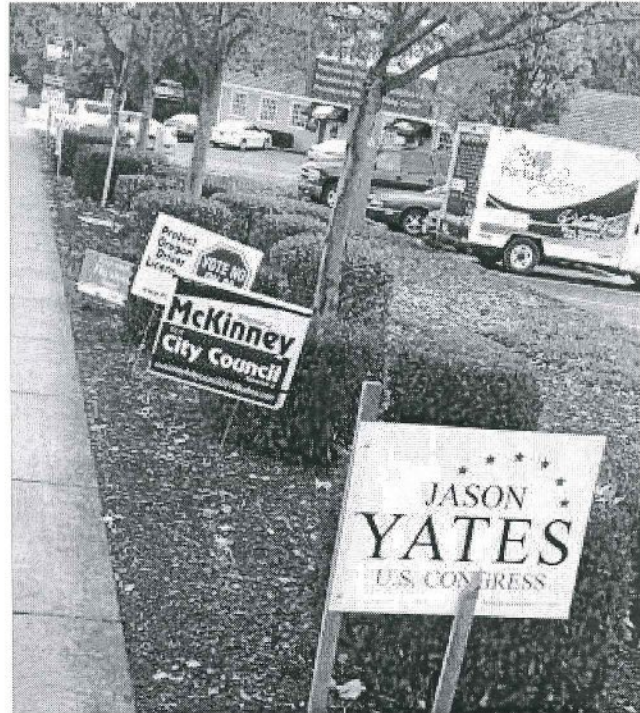
15.435.110B6



15.435.110B6



15.435.110B6



15.435.090A (these two pictures connect)



15.435.110B6

15.434.110B3

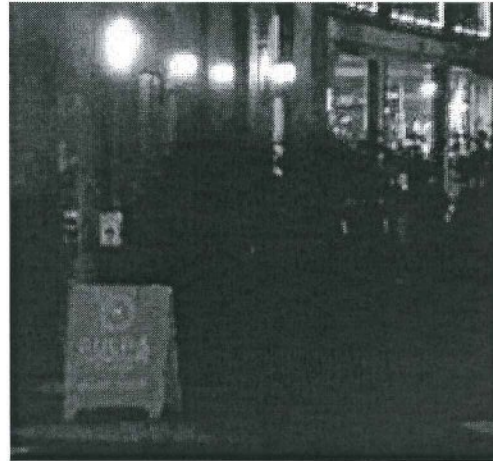


15.435.090C

15.435.110B6

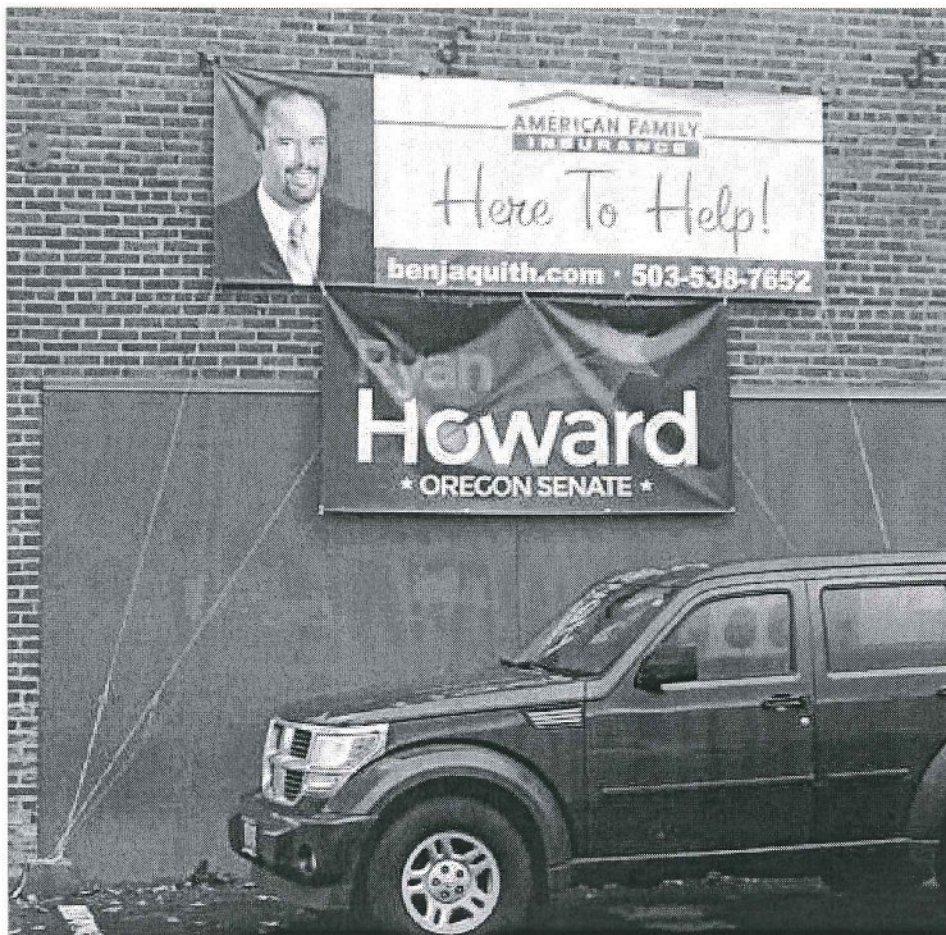


15.435.110B6



15.435.110B6

15.434.110B3



15.435.100B

(Lower sign appears to exceed 12 sq. ft. limit but not certain)

(Is the lower sign "permanently affixed to any structure or the ground"?)

NMC Code References for Photos:

15.435.090A: Portable signs, one per street frontage (Note: 14.435.100B allows two more during election events)

15.435.090C: Portable signs shall not be attached to a tree or utility or pole and shall be designed to be removed quickly.

15.434.110B3: Signs within the public right-of-way must leave a clear area of at least five feet measured horizontally

15.435.100B: Temporary signs for events, Election Event, additional signs may not exceed 12 square feet

15.435.110B6: Signs within the public right-of-way in C-3 and C-4 zones must be removed during nonbusiness hours or hours the adjoining property is uninhabited.

15.435.110B8: Signs within the public right-of-way in C-3 and C-4 zones are limited to one sign per fronting or all signs may be forfeited

15.435.110C1: Signs within the public right-of-way other than C3 and C-4 zones require sign permit affixed to the sign

07-21-14 City Council Minutes Exhibit A Robert Soppe Testimony

Newberg City Council 7/21/2014 meeting

I would like to address some issues that are in the recommendations before you tonight as well as some that are not. Most of my concerns have to do with signs in the public right-of-way. I urge you to give careful consideration to all of them.

One concern of mine has to do with the proliferation of free-standing signs in our C-3 zone that are in violation of numerous parts of the Development Code. 15.435.110B3 mandates that they must have a clear area of at least five feet. B5 mandates that they cannot be within 3 feet of a fire hydrant. B6 mandates that they must be removed during non-business hours or when the adjoining property is uninhabited. B7 requires that permission of the property owner abutting the right-of-way is required. B8 mandates that there may be only one sign per property frontage. All of these are frequently violated and little seems to be done about it.

Virtually all of the signs in the public right-of-way outside of the C-3 zone are in violation of the Code, yet they are allowed. The number of these is easily in the hundreds annually. Please think carefully about this. If you have ever seen a sign in the planter strip between the sidewalk and curb, if it not in the C-3 zone, it is almost certainly in violation of our code. I am not arguing for or against the current code, only that it should reflect the intent behind the code and should be enforced. Nothing in the recommendation appears to address this.

I recognize that this Council issued some directive to staff about suspending enforcement of these codes about a year ago. While the issues I have just cited appear to have gotten much worse since that directive, the issues have existed for years before that with little consequence. Mr. Olson mentioned "a return to enforcement". I am very curious to when he is referring as it goes before any time I can remember.

I think this raises a key issue that the Council should address before making any revisions to the Code. That issue is whether or not there is an honest desire and plan to enforce the Code after the revisions are approved. I hope that there will be and that this will not be a wasted effort.

One of the frequently-violated Codes that I just cited is that there must be a clear area of at least five feet around a portable sign in the public right-of-way. It is difficult to know exactly what that means as "clear area" is defined in our code only having to do with FAA regulations. I think that a common reading of that term would be an unobstructed area around the sign that extends for five feet. If my common reading of this is accurate, I would suggest that there are very few places that such a sign

07-21-14 City Council Minutes Exhibit A Robert Soppe Testimony

could be placed in the C-3 zone. I would suggest that this particular item be written to accurately describe what is intended.

The proposed changes allow more signs in the C3 zone that are presently allowed. I would encourage all of you to walk around downtown and ask yourself if we really don't have enough signs on the sidewalk.

The proposed changes include review criteria for sign permits. Some of the criteria are colors, style, and font. I would, of course, defer to the opinion of the City Attorney, but I suspect that those are legally considered content and may not be valid criteria.

The section on Education, Enforcement, and Maintenance seems reasonable, but recent experience raises the concern of how well it will be implemented. The City issued a letter in April of this year regarding the Newberg sign ordinances. The letter contained two very significant factual errors with regard to our Code. I hope that the education program that is proposed here is more accurate.

My last issue is one that I have raised numerous times, including to this Council and to the Sign Committee, but there appears to be no one else concerned about it. With the current Code, if I want to place a sign in the public right-of-way in front of your house, I don't need your permission. While I do need a permit from the City, your approval is not an explicit requirement. Is it really the Council's view that residential property owners should not have a say over what signs are placed in front of their property? I would certainly like that authority with my property and am amazed that it appears to be of so little concern to Newberg decision makers. As I have testified before to this Council, it would take the change of a single letter in the Code to resolve this.

Thank you for your consideration of my comments.

FROM ROBERT SOPPE

Notes for Planning Commission 11-13-2014 (Sign Ordinance)

I would like to start my testimony with an attempt to make my position tonight very clear. I am explicitly NOT putting forth an opinion about what signs should or should not be allowed nor how the Code should be changed. What I AM trying to do is to get the Planning Commission and the City Council to impose some clarity and consistency in the Sign Code which has been seriously lacking for a very long time.

When creating or modifying regulations, it seems to me that proper governance includes the following three steps:

- 1) The governing body, with whatever input it deems appropriate, decides what should and should not be permitted
- 2) The body writes and enacts rules that support this decision
- 3) The body directs appropriate staff to enforce the rules

In an effort to assist with the first two steps I have compiled a number of photographs of signs that I believe are in violation of the current code. All of these photos were taken within the last month. I have provided each of you with a copy of these photos. Below each one is a citation of the specific part of the Sign Code that I believe is being violated.

I could have provided MANY more photographs that reach back before the moratorium on enforcement; this is not a new issue.

Please do not take my citations as entirely accurate on whether or not these signs are, in fact, in violation. I may well have misinterpreted the Code. My suggestion is that you look at the photos and consider whether or not the sign should be allowed as shown. If you think that it should then I would suggest that you ask Staff to provide an answer as to whether or not it is in violation. If Staff decides that it is, I would suggest that you consider revisions to the Code to allow it.

As a separate issue, there are a number of areas in the Sign Code that I think need clarification. I'll start with a very easy one. I'll not cite the Code numbers here but will provide them in my written testimony.

15.35.110.3 states that if a sign is on a sidewalk in the public right-of-way downtown, it must "leave a clear area of at least five feet measured horizontally...". I would ask all of you to picture exactly what this is requiring. Is it a five foot distance in all directions around the sign? Is it as Staff suggests required only on one side of the sign? What about a sign at a corner? As I understand Staff's interpretation, a corner sign may block the sidewalk in one direction as long as it allows a clear area on the other. I doubt that this was the intent behind the Code.

To further complicate matters, one can look at how the Code defines "clear area". It is defined as: "... a land area required to be clear of obstructions per FAA regulations for airports and airspace". Does

anyone on the Planning Commission know these FAA regulations and how they would apply to signs on the sidewalk Downtown? I certainly do not. I suspect that this definition was not intended to be applied here, yet that is how the Code reads.

I find myself tonight in an all too familiar position in Newberg. Why don't we just write regulations that are clear and avoid such confusion? You have an opportunity to resolve some of that here.

15.434.110.B6 states that a sign in the public right-of-way "must be removed during nonbusiness hours or hours the adjoining property is uninhabited". Let's first look at "nonbusiness hours". If my business has a sign in front of your business, to which business do the hours apply? Then let's look at "uninhabited". Does that mean when no one is present in the building whether the business is open or not or does it mean, for example, when the property is vacant, as in not rented?

15.435.110E states that signs in the public right-of-way that are not in conformance with the code "shall be forfeited to the public and subject to confiscation". I have asked both the previous Planning Director and the present City Attorney about this statement. In particular, since I am a member of the public to which the sign is forfeited, do I have the right to confiscate it? Neither gave an answer that clarified my right. Why don't we just avoid such questions and make the Code clear?

15.435.110C regards signs in the public right-of-way in zones other than the C-3 and C-4 zones. This would include all areas outside of the Downtown area. According to this part of the Code, if I want to place a sign in the right-of-way in front of your house, I explicitly do NOT need your permission, though I do need a permit from the City. Staff has worked around this issue by making a policy decision that such permits will not be issued.

The Commission should consider if such a policy should be a matter for Staff to decide or if is the City Council's domain. If the Council or Planning Commission feels that such signs should not be allowed, then it could eliminate 15.435.110C altogether. If the Council or Planning Commission feels that they should be allowed, it could offer some guidance for the standards of approval for such a permit. If the Council or Planning Commission feels that the property owner's approval should be required, only one character in this part of the code needs to be changed as Staff noted.

Other signs that frequently violate this part of the code are Garage or Yard Sale signs and also Real Estate signs. Because of the time of year when I took these photos, I don't have examples of either. I don't doubt that all of you have seen such signs on utility poles or on planter strips outside of Downtown, none of which is allowed. I suggest that you consider if such a prohibition is appropriate.

15.435.090C states that portable signs shall not be permanently affixed to any structure or to the ground. I would question how clear the words "permanently affixed" are. For example, I ask that you look at the last photograph that I have provided. In particular, look at how the lower sign is attached. Is it "permanently affixed"?

The same code states that portable signs shall not be attached to a tree or to a utility pole. I noted instances where signs were attached to street lights and to sign poles. I suggest that the Commission should consider if those should be treated the same as trees or utility poles.

15.435.110B7 states that portable signs in the public right-of-way in Downtown must have the permission of the property owner. Our previous City Manager stated to me that if a property owner did not object to the City about the placement of a sign in front of his lot, it was considered that he "granted permission". I would suggest that the Commission consider if the lack of objection should be accepted as granting permission.

Another part of the code states that if there is more than one sign in the right-of-way in violation of the code, all of the signs are forfeited. That seems like an open invitation for me to place a cheap sign next to your otherwise compliant sign to allow both to be forfeited.

The proposed changes include exempting "umbrellas used in conjunction with outdoor seating" from the Sign Code. At least one Council member had serious reservations about this exemption. I suggest that you consider the logic of allowing an entire umbrella (or series of umbrellas) to be covered with signs that can far exceed the number and area that would otherwise be allowed.

Lastly, I would like to address the issue of enforcement or, more specifically, the lack of it. I raised this issue most recently before the Council and Staff provided a response to it in your packet for tonight. While I won't disagree with what was provided in the response, it misses the much larger issue that I raised. My issue was not with the lack of enforcement during the moratorium but the many ears that preceded it. One need only look at the political signs that remained in place after the moratorium was lifted to see how strongly the Code has been enforced since then.

I would like to summarize the points on which I think that the Planning Commission should take action.

- 1) Consider if any of the signs in the photos should be allowed. If so, ask Staff if they are actually in violation and what Code changes are needed to allow them.
- 2) Rewrite 15.35.110.3 ("clear area") such that the Code is clear.
- 3) Rewrite 15.434.110.B6 to clarify "nonbusiness hours" and "uninhabited".
- 4) Rewrite 15.435.110E to clarify what it means to forfeit a sign to the public and who can confiscate it.
- 5) Rewrite 15.435.110C to clarify whether or not signs should be allowed in the public right-of-way other than downtown. If they should be allowed, consider whether or not the property owner should have the same approval authority as the owners in the C-3 and C-4 zones and provide some guidelines or criteria for the approval of such signs.

- 6) Rewrite 15.435.090C to clarify if a portable sign may be attached to another sign (public or private), to a light pole, or any other permanent object.
- 7) Rewrite 15.435.090C to clarify what "permanently affixed" means.
- 8) Rewrite 15.435.110B7 to require explicit permission by the property owner.
- 9) Consider whether the Code should allow Garage or Yard Sale signs in the public right-of-way outside of Downtown.
- 10) Consider whether the Code should allow Real Estate signs in the public right-of-way outside of Downtown.
- 11) Consider if 15.435.110B8 is appropriate in allowing all signs to be forfeited when there is more than one in the right-of-way.
- 12) Consider the quantity and size of signs that will be permitted if umbrellas used in conjunction with seating covered with advertising are exempted from the Code.

Examples of signs that appear to be in violation of the Sign Code (specific Code listed under each):



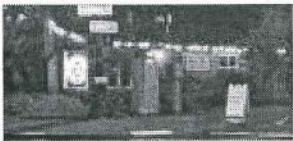
15.435.110C1



15.435.110C1



15.435.090A



15.435.110B6

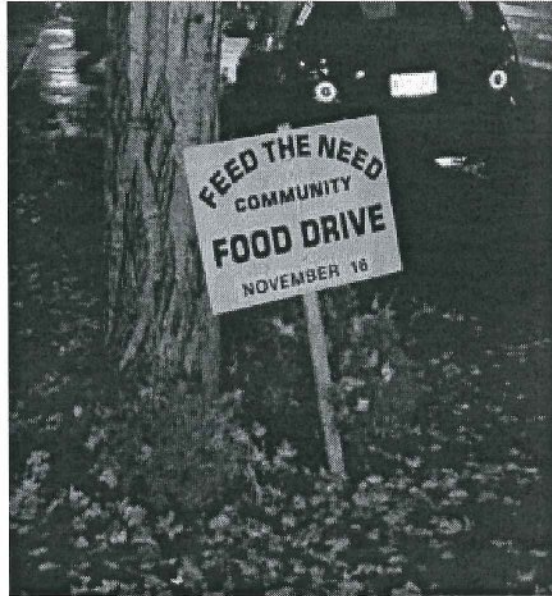


15.435.090A



15.435.090C

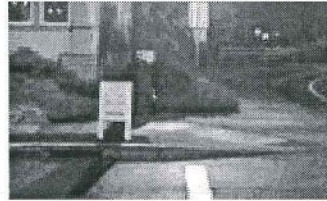
15.435.110C1



15.435.110B6



15.435.090A



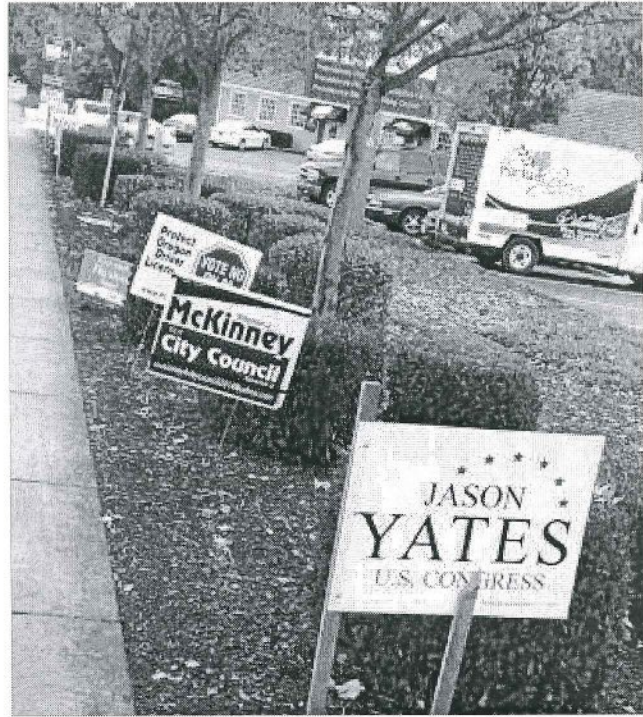
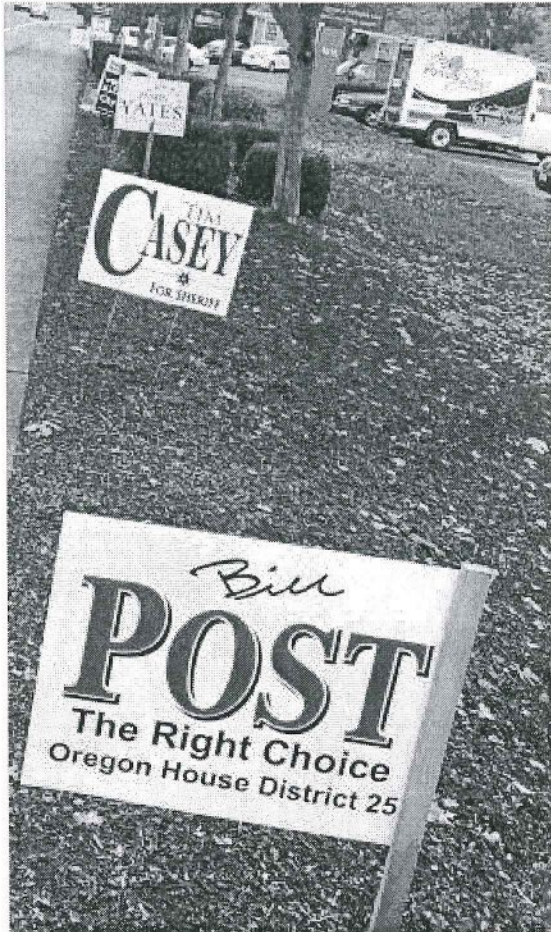
15.435.110B6



15.435.110B6



15.435.110B6



15.435.090A (these two pictures connect)



15.435.110B6

15.434.110B3

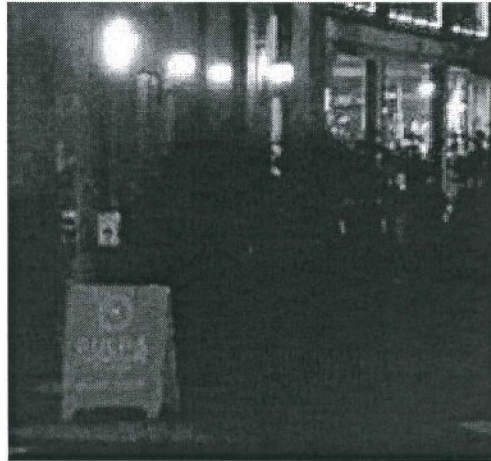


15.435.090C

15.435.110B6

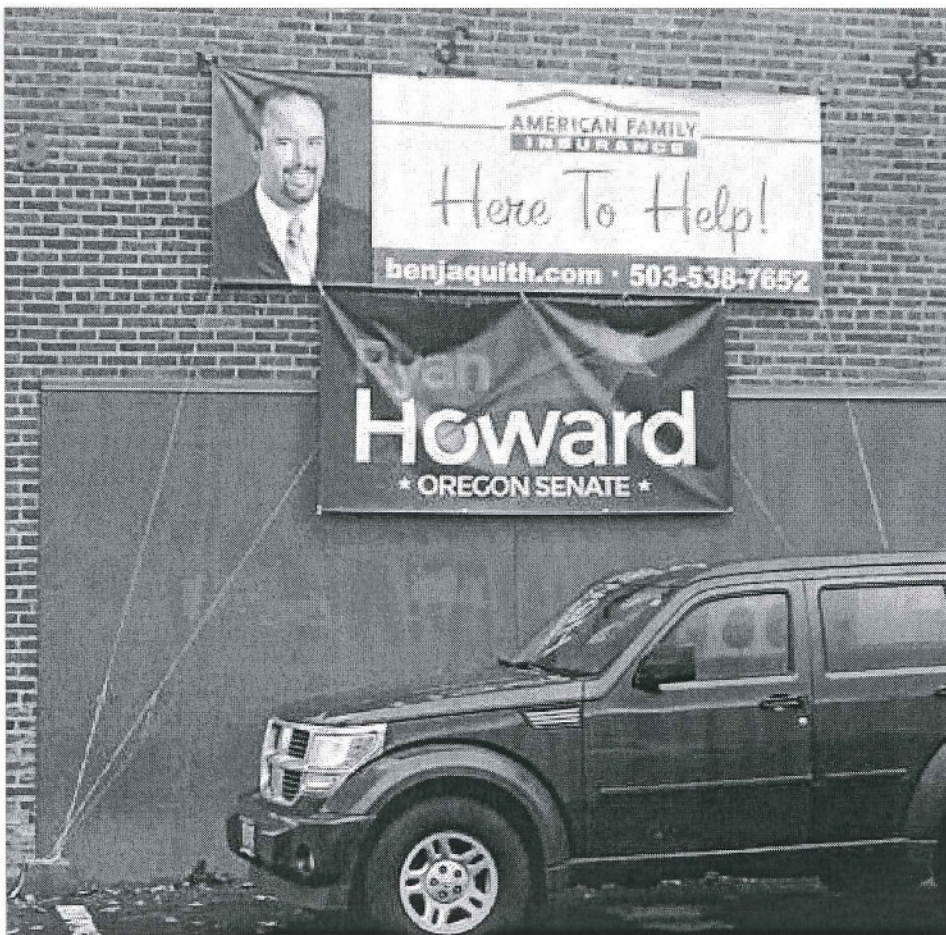


15.435.110B6



15.435.110B6

15.434.110B3



15.435.100B

(Lower sign appears to exceed 12 sq. ft. limit but not certain)

(Is the lower sign “permanently affixed to any structure or the ground”?)

NMC Code References for Photos:

15.435.090A: Portable signs, one per street frontage (Note: 14.435.100B allows two more during election events)

15.435.090C: Portable signs shall not be attached to a tree or utility or pole and shall be designed to be removed quickly.

15.434.110B3: Signs within the public right-of-way must leave a clear area of at least five feet measured horizontally

15.435.100B: Temporary signs for events, Election Event, additional signs may not exceed 12 square feet

15.435.110B6: Signs within the public right-of-way in C-3 and C-4 zones must be removed during nonbusiness hours or hours the adjoining property is uninhabited.

15.435.110B8: Signs within the public right-of-way in C-3 and C-4 zones are limited to one sign per fronting or all signs may be forfeited

15.435.110C1: Signs within the public right-of-way other than C3 and C-4 zones require sign permit affixed to the sign

David Beam

From: Steve Olson
Sent: Monday, December 01, 2014 8:19 AM
To: David Beam
Subject: FW: Planning Commission testimony on signs
Attachments: Notes for Planning Commission 11-13-14 (Sign Ordinance revisions) as submitted.docx

David, here are Robert Soppe's written comments about signs. This will need to be attached to the staff report, and will help us pull together draft code changes for the PC to consider.

Steve Olson, AICP : Interim Planning & Building Director : City of Newberg
(503)537-1215 : steve.olson@newbergoregon.gov

From: Robert Soppe [mailto:rs@compprobsolv.com]
Sent: Thursday, November 20, 2014 11:17 AM
To: Steve Olson
Subject: Planning Commission testimony on signs

Steve:

I've attached a copy of my notes from my 11/13/2014 testimony at the Planning Commission meeting. I have also submitted a copy to Nicole for the record.

There is a 12-point summary at the end (before the pictures) listing the issues that I think need to be considered. While that may sound like a lot of revising, I don't think it is as bad as it may appear. The most complicated part is likely to be encountered if the PC or Council feels that any of the non-compliant signs should be allowed.

With the hope that it assists you with this process, I'm providing some comments about how the Code can be revised. Feel free to use or discard any of them as you see fit. These do not address all of the points I raised.

I want to be clear that I am not requesting a response to my comments in this email. I'm trying to be constructive here and don't want to add a burden to your busy schedule. Your time is valuable to the City!

- 1) 15.35.110.3 ("clear area" around signs in the r-o-w): I think you have the correct general idea here (allow a 5' space for pedestrians) but it should include a comment about ALL adjacent sidewalks. A diagram (as you suggested) could also be useful to illustrate how it relates to the curb (should it be spaced back a bit especially where parking spaces are not designated?) and also to the designated parking space lines. I do think that the text should stand on its own, though. The diagram can illustrate what the text means, but the text should be complete. Of course, "clear area" should be changed to some other phrase to separate it from the present Code definition of it.
- 2) 15.435.110E (forfeiting a sign): If it is not intended to permit any member of the public to confiscate the sign (I am still unclear if this is the case or not), change "to the public" to "to the City" and after "to confiscation" add "by a City employee or designee". I'll add some discussion to this below about the property owner.
- 3) 15.435.110C (signs in r-o-w other than C3 and C4): If it is the wish of the Council (this should NOT have been a staff decision in my view!) that the permits will not be allowed, then drop this part of the Code altogether. Careful consideration should be given about how to deal with the MANY signs (typically Garage Sale and Real Estate signs) that violate this part of the Code.
- 4) 15.435.090C (portable signs attached to trees and utility poles): consider replacing "a tree or utility pole" with "a tree, utility pole, sign, light pole, or other similar object".

- 5) 15.435.110C7: I could understand Commissioner Smith's misunderstanding about the phrase "property owner abutting the right-of-way shall grant permission...." even though the appropriate meaning is clear when taken in context. Nonetheless, why not make it clear without the context? In particular, change "shall grant" to "has granted" and I think it is resolved.
- 6) 15.435.110E (all signs forfeited): I think there is an easy fix for this. If it is a requirement that the abutting property owner give permission for the sign, then he is the "authority" of which sign should be allowed. Rather than confiscate all signs, contact the property owner to identify the one that should be left. If the property owner doesn't respond in a reasonable length of time, then all signs can be taken by the City.

There were a few other areas where I wanted to add some comments. The first has to do with the issue of forfeiting signs and the City's involvement in that. If I am a property owner downtown and someone places a sign in front of my property in the r-o-w without my permission, shouldn't I be allowed to confiscate it? A reasonable requirement could be that I hold it for some short period of time (3-5 days, for example) to allow the owner to retrieve it from me, after which time I may dispose of it as I wish. This seems MUCH more efficient than the present system where I need to contact the City to have them remove it. As I read the present Code, it is not clear that this is allowed. I wouldn't have this take the place of the City's authority to remove the sign but an addition to it.

The next issue has to do with the concept of "public property", a phrase often used in this context. It is unclear to me whether the sidewalk in front of a property is part of the lot itself (though subject to r-o-w restrictions and obligations) or separate from it (or whether this is consistent through the city). If it is the former, then "public property" seems to be a difficult name to place on it. If it is the latter (sidewalk is NOT part of the lot) then disregard this paragraph altogether!

I think the issue of umbrellas is an important one and expect that there will be a serious division of opinion on it. If there is a significant push to exempt them I would consider a compromise where the umbrella is divided into sign and non-sign parts. For example, the sort of umbrella that is an inverted cone with a vertical strip surrounding the bottom edge (hanging straight down as the lowest part), the cone and strip could be considered as two different elements. If the printing is only on the strip, then that part alone is a sign (with the attendant size and other restrictions) and not the larger conical part. One could also look at the conical part of the sign and divide it into the triangular "slices" that are created by the supporting framework. Only the "slices" that have printing on them would be regulated as a sign and the rest is just an umbrella.

The bottom line is that I don't think it is at all reasonable or practical to expect property owners to be "reasonable" and not exploit the use of umbrellas (over seated areas) as an opportunity for a large (non-) sign. If the Code allows it, people should be allowed to do it.

Some other day we'll have to discuss this whole idea of a business using the sidewalk as a seating area. I have issues with the idea that someone has more of a right to the sidewalk in front of their business than I do. We'll leave that for later!

The last issue has to do with the Chair's comment about excessive signage on umbrellas. He said something about how if umbrellas were exempted from the Sign Code as the Committee recommended (I'm going from memory here so I may not be entirely accurate) and there was an umbrella with excessive signage, he expected that the Code Enforcement officer could deal with it. I expect that you see how this is completely unworkable. If the umbrella is not in violation of any Code, what authority does the CE officer have to persuade the owner to do anything at all? Also, consider the position of the property owner. The umbrella is in place and paid for and the City wants it removed? It is not as if some of the signage could be "erased"!

Thank you for your consideration of these issues. I was serious about not requiring a response. You have plenty to do and I would suggest only responding if you have a need for more details or a discussion will benefit you in this process.

Robert Soppe
rs@comprobsolv.com
(503) 538-5495



RESOLUTION No. 2014-3161

**A RESOLUTION ACCEPTING THE TEMPORARY AND PORTABLE SIGN
AD-HOC COMMITTEE'S RECOMMENDATIONS PRESENTED IN EXHIBIT
A REGARDING CHANGES TO TEMPORARY AND PORTABLE SIGNAGE
WITHIN THE CITY OF NEWBERG.**

RECITALS:

1. On October 7, 2013, the City Council adopted Resolution No. 2013-3080, establishing a Temporary and Portable Sign Ad-Hoc Committee. The committee's charge is as follows: "The committee will make a determination as to what, if any, changes to the current development code regarding temporary and portable signs may be desirable. If the committee determines changes may be warranted, the committee is to draft recommended development code amendments for consideration of adoption by the city council. Such recommended changes shall meet two criteria: improve the likelihood the intended message will reach its target audience; while at the same time, meet the spirit and intent of the purpose of the sign regulations as stated in Section 15.435.010 of the Newberg development code." The committee was formed in response to concerns expressed by members of the business community regarding the current sign code for temporary and portable signs.
2. The purpose of the city's sign regulations per the Newberg development code is as follows:

15.435.010 Purpose.
A. The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well-planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.
3. The committee began meeting in November 2013 and continued to do so approximately every two weeks. The committee examined the current sign code regarding temporary and portable signs, toured the city to see how the code is being implemented "on the ground", conversed with various business owners (included the owners of the three largest auto dealerships) regarding the implementation of this type of signage, and explored options on how the city may improve temporary and portable signage in a way that will benefit local businesses as well as the community in general.
4. Exhibit A describes the final recommendations from the committee to the council. Some of the recommendations include changes to the Newberg Development Code.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The Newberg City Council accepts the Temporary and Portable Sign Ad-Hoc Committee's report as described in Exhibit A.

**Newberg Temporary and Portable Sign Ad Hoc Committee
Recommendations to Newberg City Council
July 21, 2014**

1. Develop a downtown wayfinding system

The city of Newberg should develop a wayfinding sign system for the downtown area (C-3 zone). The purpose of the system would be to help visitors to the downtown to locate and discover public and private destinations. An ad hoc committee of the Newberg City Council should be created (members appointed by the Mayor) and the committee's goal should be to develop recommendation for council's consideration of adoption regarding the general appearance of the signs, where they are to be located, how the sign system shall be installed and maintained (both private and public operators should be considered), and any other goals that the council feels is necessary to ensure that the wayfinding sign system will be an attractive and useful addition to the city's historic downtown area. The committee should coordinate with other entities within the community with existing and/or intended wayfinding signage entities (CPRD, Cultural District, Chamber of Commerce, etc.) to ensure all such signage achieves a coordinated appearance.

Any potential wayfinding system that may be adopted should be intended to augment signage that is currently allowed and be an additional option to the current sign code.

2. Develop a sign permit program

The committee heard from some representatives of the business community that current regulations regarding portable and temporary signs are too restrictive. To address this concern, the committee recommends the city develop a sign permit program that would allow additional temporary and portable signage with a city approved sign plan. The program would include regulations and a review process that would ensure that such signage has an attractive, coordinated, and maintained appearance.

The following general criteria would be used to develop specific code language for the proposed sign permit program:

- 1) Multiple signs allowed by approved sign plan and permit
- 2) Time: up to one year. Request to extend existing, approved sign plan would be quick and easy.
- 3) Number: C-2 zone: 1 per 100 feet of street frontage. C-3 zone: 1 per 15 feet of street frontage, with a maximum of 4 signs. Institutional zone: 1 per 100 of street frontage.

At least one per business allowed. Business must have a business license and occupy a discrete space.

- 4) Square footage and size: Total signage for a property will be 1 square foot per 1 foot of street frontage. Maximum allowed for any specific sign will be based on the location of the sign. The farther the distance a sign is from the front property line, the greater size that will be allowed

for a specific sign. For every 10 feet from the property line, the maximum square footage for a sign may be an additional 10 square feet larger. In other words, if a sign is between the property line and 10 feet from the property line, then the sign may be up to 10 square feet in size; if a sign is between the 10 feet and 20 feet from the property line, then the sign may be up to 20 square feet in size, and so on.

- 5) Review criteria for signage in plan:
 - Size
 - Colors
 - Style
 - Font
 - Size appropriate for setback location
- 6) Fee: \$10 for each month a permit is in effect or \$100 per year. Permit application form simple to complete.
- 7) Maintenance: Condition of permit approval would be that the business would maintain signage in good condition. A permit may be revoked at any time the city deems this condition is not being met.

Sign plan applications shall be reviewed and approved by the city's planning division. Plan approval/disapproval will be based on a set of criteria that is intended to achieve attractive, coordinated portable signage on a property. An appeal to the application decision may be made to a hearing officer appointed by the city manager.

3. Pennants, streamers, and inflatable objects

The use of pennants, streamers and inflatable objects as signage are not addressed in the development code. Therefore, the committee recommends that Section *15.435.100 Temporary signs for events* of the Newberg Development Code be amended as follows (NOTE: amendments are double underlined; code language deletions are ~~strikeouts~~):

15.435.100 Temporary signs for events.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below- Pennants, streamers, and inflatable objects may be used during these events.

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the

temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event.

B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain up to two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right-of-way.

C. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event.

D. Flag Displays. One flag display is permitted on each street frontage. An unlimited number of displays is permitted on any legal holiday or Newberg city council designated festival. [Ord. 2731 § 3, 10-18-10; Ord. 2499, 11-2-98. Code 2001 § 151.599.]

Penalty: See NMC 15.05.120.

4. Education/Enforcement/Maintenance

Efforts by the city regarding the enforcement, education, and maintenance of temporary and portable signage is a critical component to achieving the goal of a high quality-of-life in the community. The city should dedicate the necessary resources as feasible to ensure adequate enforcement, education, and maintenance of signage within Newberg. The city of Newberg should develop proposals that improve existing mechanisms as well as create new mechanisms that will help ensure the adherence and enforcement to the temporary and portable sign development codes. Potential solutions should include the development of public handout materials that explain the temporary and portable sign codes as simply as feasible and adoption of some of the other recommendations mentioned in this memo. The format of such materials should use clear language in layman terms and simple graphics to help convey the information. Finally, the city should seek out partners to assist with this issue, such as the Chehalem Valley Chamber of Commerce and the Newberg Downtown Coalition.

5. Flags

The committee has found that there may be insufficient language in the development code regarding the difference between a flag display and flags as portable signs (e.g. teardrop style flags). Therefore, the committee recommends the following amendments to the Newberg Development Code. (NOTE: amendments are double underlined; code language deletions are ~~strikeouts~~):

15.435.100 Temporary signs for events.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by NMC 15.435.090 during events as listed below:

A. Grand Opening Event. A grand opening is an event of up to 30 days in duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the

temporary signs may remain on the property for the 60 days immediately after the end of the grand opening event. A temporary electronic message center may be used during a grand opening event.

B. Election Event. An election event begins 90 days prior to and ends 14 days after any public election. During this event a lot may contain up to two additional temporary signs, not to exceed 12 square feet in total area for both signs. These signs shall not be located in the public right-of-way.

C. Other Events. A lot may have two other events per calendar year. The events may not be more than eight consecutive days in duration, nor less than 30 days apart. A temporary electronic message center may be used during the event.

D. Flag Displays. One flag display is permitted on each street frontage. An unlimited number of ~~displays is~~ flags are permitted on any legal holiday or Newberg city council designated festival. [Ord. 2731 § 3, 10-18-10; Ord. 2499, 11-2-98. Code 2001 § 151.599.]

Penalty: See NMC 15.05.120.

Section 15.05.030 Definitions

“Flag display” means one or more flags attached to a permanently affixed single pole.

6. Umbrellas

It is the committee’s understanding that the use of umbrellas in conjunction with outdoor seating under the current temporary and portable sign code has been an issue. The committee feels that umbrellas provide an important service to business patrons as protection from the elements, especially with restaurants. Therefore, the committee feels that such umbrellas, with or without signage, should be exempted from the sign code. The committee recommends the following amendments to the Newberg Development Code. (NOTE: amendments are double underlined):

15.435.020 Applicability and exemptions.

A. All signs placed or maintained anywhere within the city shall comply with the standards of this chapter, with the exception of the following:

1. Public signs.

2. Signs that are required to be placed by law and that are no more than 50 percent larger than the minimum size required by law or, if there is no minimum size specified, signs with lettering height no more than four inches.

3. Signs painted on or attached to windows that do not cover more than 50 percent of the surface of that window.

4. Signs located entirely within a building and not on a window.

5. Signs not legible from the public right-of-way.

6. Umbrellas used in conjunction with outdoor seating.


B. If any of the signs listed above require permits under the current edition of the Oregon Structural Specialty Code, the sign shall be placed only following issuance of such permit.

C. Nothing in this chapter shall be construed to allow placement of a sign on a property without the authority of the property owner. [Ord. 2499, 11-2-98. Code 2001 § 151.591.]

2. The Newberg City Council initiates the development code amendment process for proposed changes to the Newberg Development Code as described in Exhibit A, with the following changes:
- a. The sign permit program in item two only applies to private property and non-public right of way.
 - b. The proposed change in item six to allow umbrella signs was not supported by the Council and was deleted from the code amendment initiation.

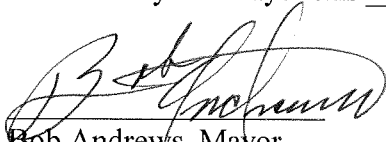
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 22, 2014.

ADOPTED by the City Council of the City of Newberg, Oregon, on the 21st day of July, 2014.



Sue Ryan, City Recorder

ATTEST by the Mayor this 4th day of November, 2014.



Bob Andrews, Mayor