

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 365

An ordinance amending Chapters 11.15.0010, and 11.15.8600 of the Zoning Ordinance to provide for the regulation of off-premise advertising sign structures, establish certain fees, repeal certain other provisions relating to signs, and declaring an emergency.

Multnomah County ordains as follows:

SECTION 1. FINDINGS.

- A. In 1975, the County adopted zoning provisions preventing the construction of new outdoor advertising signs, as defined in ORS Chapter 377, and requiring removal of such signs after a grace or amortization period. The ordinance was adopted with the dual purposes of improving community appearance and traffic safety.
- B. Federal District Court litigation ending in August, 1982, resulted in invalidation of those zoning provisions under the First Amendment. The Court invalidated the County Billboard Ordinance primarily because the definition of "outdoor advertising sign", when read literally, included non-commercial as well as commercial billboards and therefore was too broad.
- C. The Planning Commission, at the request of the Board, created an advisory committee of citizens representative of the community and the sign industry, to consider and report on appropriate measures for the control of billboards. Following intensive deliberations in a series of open public meetings, the committee adopted a report containing commercial billboard regulatory elements for Multnomah County.
- D. It is the purpose of this ordinance to achieve improvement in community appearance and traffic safety by providing for the regulation of off-premise advertising sign structures in accord with the regulatory elements adopted by the advisory committee.
- E. Further, it is the purpose of this ordinance to implement the committee's proposals by requiring the systematic removal, relocation or reconstruction of existing off-premise advertising sign structures to the extent necessary to achieve compliance with the adopted regulatory standards.

- F. This ordinance is not intended to restrict non-commercial, non-profit outdoor advertising such as political, educational, philosophical, social or public-service messages. The ordinance shall be liberally interpreted to permit this form of communication.
- G. Goal 1, Citizen Involvement -- The County has established a citizen involvement process that has been utilized in resolving the issue of regulation of off-premise advertising sign structures. Public meetings sponsored by the East County Coordinating Committee, various community planning groups, and the Division of Planning were held during the last two years in an attempt to inform the public and to solicit citizen input.

An advisory committee was formed by the Planning Commission in July of 1982, which included representatives from the community and the industry. Its recommendation was presented to the Planning Commission and forwarded to the Board of County Commissioners.

The Planning Commission did not favorably act on the advisory committee's proposed regulatory ordinance, preferring instead that the general billboard ban contained in Ordinance 98 be reinstated, with amendments responding to the district court's First Amendment concerns. Other citizens' groups and individuals have taken the same position. However, the Board has considered the alternatives and selected the committee's regulatory ordinance for enactment.

The ordinance is considered to be a reasonable approach to limiting the size, spacing and locations of billboards. It is preferred because it does not constitute a billboard ban. As a regulatory ordinance, it provides ample room for the billboard industry to operate while also protecting the public interest. Further, it does not seek to regulate the content of any sign message and therefore accommodates First Amendment values. It also addresses the difficult problem of non-conformity by allowing a reasonable time for the attainment of conformity (billboard alterations and relocations). By allowing for exceptions from standards where there is adequate justification, this ordinance also balances private business interests with the public interest, on a case by case basis.

The ordinance has also been criticized by representatives of the billboard industry and some citizens as being overly restrictive of a single business and purely aesthetic in nature. The Board does not concur. The ordinance is regulatory, not prohibitory. It is specifically geared to regulate the adverse impacts of the subject matter: large, distracting structures located adjacent to the public right of way. The ordinance goes no further than is necessary to achieve its goals. Further, the appearance of the community, and therefore its economic vitality, will be enhanced by these regulations.

Logically, public safety will also be promoted by size, spacing and locational controls over signs. The absence of conclusive proof on the safety issue does not detract from what the U.S. Supreme Court has accepted as the "accumulated, common sense judgments of local lawmakers and of the many reviewing courts that billboards are real and substantial hazards to traffic safety." See Metromedia v. San Diego. The inconclusive scientific research in this area leaves ample room for such judgments. See Final Report, Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable Message Signage, June 1980. (Prepared by Office of Research and Development, Federal Highway Admin.)

- H. Goal 2, Land Use Planning -- The adoption of an ordinance regulating off-premise advertising sign structures will help to implement adopted County, Framework and Community Plan policies and strategies that call for controlling the proliferation of signs and the development of an aesthetically pleasing community environment.

In addition, the U.S. District Court has ruled that Ordinance No. 98 is invalid, leaving the County with no regulations for siting of off-premise advertising sign structures.

- I. Goal 5, Open Space, Scenic and Historic Areas and Natural Resources -- The Columbia Community is generally recognized as being uniquely scenic. This is due in part to its proximity to the Columbia River and the vast amounts of open land. Throughout the process, concern has been expressed regarding billboards in the Columbia Community. There is citizen support for a prohibition on billboards in that area.
- J. Goal 9, Economy of the State -- The regulation of off-premise advertising sign structures in new and existing commercial and industrial areas and the resulting improvement in visual quality are important to the economic health, revitalization and stability of those areas; and to the satisfaction of need for improvement as declared by the community in the Comprehensive Plan.

Improvements in an area's architectural, historical, cultural and accessibility features will attract private investment into an area previously seen as declining.

- K. The Columbia Community is topographically flat, but is highly visible from sections of Interstate 84, Sandy Boulevard, and Marine Drive.

The primary scenic value of the Columbia Community is its open nature, with farmlands, lakes, sloughs, and natural vegetation. Marine Drive is often used as a scenic drive, with view of the river, Washington hills, the Columbia Community, and Cascade peaks.

There is strong community support for the preservation of the scenic value of the community while at the same time promoting the area as the County's premier industrial development area. The Columbia Community Plan contains policies and guidelines that balance the need for economic growth in the community with the need to retain the scenic value.

SECTION 2. AMENDMENT.

M.C.C. Sections 11.15.8605 through 11.15.8645 are amended to read as follows:

.8605 Purpose

The purposes of MCC 11.15.8605 through .8645 are to provide for local level implementation of State of Oregon policies regarding advertising signs, to improve community appearance and traffic safety, to provide means to bring existing signs into compliance with development standards, and to afford means for community participation in managing the location of off-premise advertising sign structures.

.8607 Definitions

For the purpose of MCC .8605 through .8645, the terms as defined in ORS 377.710 and MCC .0010 shall apply to MCC .8605 through .8645, unless redefined or the context requires otherwise.

- (A) "Off-Premise Advertising Sign Structure" means a rigidly assembled structure permanently affixed to land or attached to another permanent structure on which is posted a message or display advertising, or directing attention to a product or service sold, manufactured, produced or offered elsewhere than on the premises where the sign is located. The term includes the sign structure, display surface, and all other component parts of the sign. The term also includes an inflatable off-premise sign.
- (B) "Sign Area" means the overall dimensions of all panels capable of displaying messages, not including cutouts.
- (C) "Sign Height" means the vertical distance from the natural ground elevation at the midpoint of the sign to the highest point of the sign display surface, including any cutouts.

.8609

Location by District and Area

- (A) An off-premise advertising sign structure may be located according to the requirements of MCC .8605 through .8645, in the following districts:
- (1) NC Neighborhood Commercial
 - (2) GC General Commercial
 - (3) EC Extensive Commercial
 - (4) SC Strip Conversion
 - (5) C-3 Retained Retail Commercial
 - (6) C-2 Retained General Commercial
 - (7) LM Light Manufacturing
 - (8) GM General Manufacturing
 - (9) HM Heavy Manufacturing
 - (10) M-3 Retained Light Manufacturing
 - (11) M-2 Retained General Manufacturing
 - (12) M-1 Retained Heavy Manufacturing
- (B) An off-premise advertising sign structure may be located according to the standards of MCC .8605 through .8645 in the following special districts when the applicable district requirements are met:
- (1) OP Off-Street Parking and Loading
 - (2) FH Flood Hazard
 - (3) LF Airport Landing Field
- (C) An off-premise advertising sign structure may be located in the following special districts only when authorized by the provisions of the district:
- (1) PD Planned Development
 - (2) SPA Special Planned Area
- (D) An off-premise advertising sign structure shall not be located in the following:
- (1) Any district or any special district or any area approved for Community Service use except as listed in subparts (A), (B), or (C) of this subsection;
 - (2) Any portion of the Columbia Community extending from N.E. 122nd Avenue to the Sandy River between the Columbia River and N.E. Sandy Boulevard; and

(3) Within 500 feet of any freeway if the advertising face is designed to be viewed from such freeway.

(a) The Planning Commission may waive this provision under the procedures of MCC .8205, on lots with front lines abutting on such freeway if the Commission finds such use to be in harmony with the commercial character of the area.

.8611 Sign Combinations; Design Features

- (A) A single-faced sign is one sign for calculating sign area, spacing and setbacks under MCC .8615 and .8619, or for purposes of registration, fees and licenses under MCC .8637.
- (B) A double-faced or V-shaped sign is one sign for calculating spacing and setbacks under MCC .8615, and two signs for the purposes of measuring sign area under MCC .8619, or of registration, fees and licenses under MCC .8637.
- (1) The two display surfaces of a double faced or V-shaped sign shall be of the same size and shall coincide without overlap except for respective cutouts.
 - (2) The interior angle formed by a V-shaped sign shall be 90 degrees or less.
 - (3) The two display surfaces of a V-shaped sign shall be separated at the narrow end by the minimum distance necessary for service access to the signs, but not more than ten feet. The separation area shall be screened by a lattice or other approved material to obscure the view of sign backs.
 - (4) Side-by-side, over-and-under or any other multiple sign combination is prohibited.
 - (5) The supports for a freestanding sign shall be limited to one or two structural members fastened to the ground for each sign face, wherever practicable.
 - (6) Any offset in a sign support structure shall be located at the bottom edge of the sign face.
 - (7) The exposed back of a sign shall be made up of simple, uncluttered, neatly painted members, or shall be screened by a lattice or other material as approved by the Planning Director to assure an uncluttered appearance.

.8613 Sign Spacing

- (A) The minimum distance between any two off-premise advertising sign structures shall be 500 feet as measured on one side of the street.
 - (1) The minimum distance between any two off-premise advertising sign structures shall be 150 feet.
 - (2) A sign shall be excluded from the calculation under (A) above, where the face and back are fully screened from view in the same direction of travel by a building or other feature.
- (B) Measurements for subpart (A) above shall be made along the centerline of the street.
- (C) A double-faced or V-shaped sign shall be counted as one sign for the purposes of MCC .8613.

.8615 Sign Setbacks; Protection of Solar Access

An off-premise advertising sign structure shall satisfy the setback requirements of this section or the setback requirements for buildings or other improvements specified by the applicable district, whichever are greater.

- (A) An off-premise advertising sign structure shall meet the following setbacks, measured along the common street frontage and parallel to the street centerline:
 - (1) One hundred feet from an R district;
 - (2) Two hundred feet from an occupied dwelling unit in an R district;
 - (3) Fifty feet from a BPO or LC district; and
 - (4) One hundred feet from a CS-designated lot occupied or approved for a cemetery, church, government office, hospital, sanitarium, rest or retirement home, library, park or playground or sports area or golf course, or similar recreational facility, a public or private or parochial school or educational institution.
- (B) An off-premise advertising sign structure shall not be located on a lot less than 100 feet deep, measured from the sign frontage street lot line to the lot line opposite, when the line opposite abuts an R district.

(1) The Planning Commission may authorize an exception to allow a sign on a lot described in subpart (B) above, on the finding that the proposed sign will not be visible from the R district.

- (C) A sign may be located in a required landscape buffer area so long as the landscaping is not thereby reduced.
- (D) An off-premise advertising sign structure may not encroach in or over a street or other public right-of-way.
- (E) Wherever practicable, the access to solar radiation for an adjoining lot shall be protected from encroachment by the placement of an off-premise advertising sign structure.
- (F) Access to solar radiation for an existing solar energy collector shall be protected from encroachment by the placement of an off-premise advertising sign structure.

.8617

Vision Clearances

- (A) The location of an off-premise advertising sign structure shall assure the visibility of an existing permanent non-portable on-premise sign for at least five seconds, calculated for the right lane of vehicle travel at the posted speed of the street which the on-premise sign adjoins.
- (B) The view of a significant natural feature which is identified in the Community Plan, or any amendment thereto, shall be protected from encroachment by the location of an off-premise advertising sign structure. The view shall be calculated from a point on the frontage street centerline which is 300 feet from the sign location.
- (C) The visibility triangle at intersections, as described in Section 8.14 of Administrative Rules and Regulations under Ordinance No. 125, shall be protected in the location of an off-premise advertising sign structure.
- (D) Existing trees three inches or more in d.b.h., shall be protected from removal or damage in the placement of an off-premise advertising sign structure.
 - (1) The Planning Commission may grant an exception from the requirement of subpart (D) above, on finding that there is no reasonable alternative to the removal of a tree in order to provide visibility of the sign.

- (E) Removal of a tree from the street right-of-way to attain visibility of an off-premise advertising sign structure shall require a right-of-way encroachment permit from the Director. The Director may grant the permit on finding that there is no practical alternative which would attain sign visibility.
- (F) Under the design review process, the County shall not require the planting of a tree which would block visibility of an existing off-premise advertising sign structure.

.8619 Sign Area

The maximum sign area of an off-premise advertising sign structure shall be 300 square feet.

- (A) Sign cutouts, including three-dimensional features, up to 20 percent of the sign area may be added to an off-premise advertising sign structure without increasing the permitted maximum sign area thereby, but cutouts shall be subject to the height limitations specified in MCC .8621.

.8621 Sign Height

- (A) The maximum height of an off-premise advertising sign structure shall be 22 feet, except:
 - (1) The maximum height may be either 35 feet or the average of the heights of existing buildings within 300 feet and on the same side of the street, whichever is less.
 - (a) The buildings included in the above calculation shall be those located within 50 feet of the street frontage;
or
 - (2) The maximum height shall be equal to the height of the wall of a building when the sign is attached or located within five feet and parallel to the wall. In no event shall the maximum height exceed 35 feet.
 - (3) An increase of 5 feet may be granted by the Director upon a finding of greater compatibility with the adjacent properties.
- (B) An off-premise advertising sign structure shall not be located on the roof of any building.

.8623 Sign Lighting; Special Features

- (A) Any off-premise advertising sign structure lighting shall be placed so that beams or rays of light are shielded or directed away from a street or from a nearby residence.
- (B) Flashing or moving lights, or those giving the appearance of movement, are prohibited.
 - (1) Lighted information such as the time of day, temperature or weather is excepted from the provisions of subpart (B) above.
- (C) Moving parts, devices or messages and smoke, vapor or noise features are prohibited on off-premise advertising sign structures.

.8625 Temporary Signs

- (A) Nothing in MCC .8605 through .8645 shall prohibit the location of any temporary sign.
- (B) Temporary signs which identify the location of a seasonal harvest or sale of agricultural or forest products may be erected, pursuant to permit issued by the Planning Director.
 - (1) Such signs shall not exceed 16 square feet, shall not obscure motorist vision, and shall be removed within three days from conclusion of the sale or harvest.
 - (2) The Planning Director may impose conditions relating to location, character, design and construction necessary to assure compatibility with the surroundings.
 - (3) No permit shall be issued for more than three signs for any one sale or harvest to any one applicant.

.8627 Sign Maintenance

Off-premise advertising sign structures shall be maintained in a neat, clean and attractive condition and in good repair. The display surfaces shall be kept neatly painted or posted.

.8631 Sign Removal, Relocation or Reconstruction; Exceptions

This section applies to any off-premise advertising sign structures legally established prior to the effective date of this ordinance.

(A) Off-premise advertising sign structures which fail to comply with the requirements of MCC .8605 through .8645 shall be removed, relocated or reconstructed to achieve such compliance after the ordinance effective date, according to the following schedule:

- (1) 50 percent of the total in two years,
- (2) 75 percent of the total in three years, and
- (3) 100 percent of the total in four years.

EXCEPTION: The removal provisions of subpart (A) above shall not be applied to an off-premise advertising sign structure within the boundaries of the Federal Highway Beautification Act (28 USC 131, et seq.).

- (B) The requirements of subpart (A) above, for sign removal, relocation or reconstruction shall continue to apply in the event of transfer of ownership of the off-premise advertising sign structure.
- (C) The owner of signs described in subpart (A) above, shall file with the Director, within ten months of the ordinance effective date, a schedule for compliance of such signs with the provisions of subpart (A). The schedule shall include all of that owner's signs and the nature of required compliance, as certified by the Director in the response to the sign registration provisions of MCC .8637(A).
- (D) The owner of a sign described in subpart (A) above, may, within one year of the ordinance effective date, petition the Planning Commission for the grant of an exception from the provisions of subpart (A) for that sign.
- (1) The petition shall include a copy of the compliance schedule described in subpart (C) above.
 - (2) The Planning Commission shall grant approval of an exception only in an unusual case where compliance with the ordinance requirement in question would not materially aid in achievement of the goals of the ordinance (improvement of community appearance and traffic safety). In acting on an exception request, the Planning Commission may consider the following:
 - (a) The nature and extent of the exception, with minor exceptions deserving of liberal consideration, and major exceptions deserving of strict scrutiny, and

- (b) The impact of the exception in terms of the present character of the area and its future as contemplated by the Zoning Code and the Comprehensive Plan.
- (3) The Planning Commission may grant an exception to the removal of an off-premise advertising sign structure located in a district or area where such signs are prohibited by MCC .8609 by extending, but not waiving the time for such removal.

.8633

Variance for Off-Premise Directional Sign

- (A) The Planning Commission may authorize a variance to allow existing or new off-premise directional signs after a public hearing and upon finding that:
 - (1) The literal interpretation and strict application of the provisions of MCC .8605 through .8645 would cause hardship to a use because of unique or unusual conditions to the location of such use.
 - (2) The granting of the requested variance would not be materially detrimental to the property in the vicinity, or to the general public.
 - (3) Any off-premise directional sign subject to such variance shall meet the following standards:
 - (a) Language: Contain only the name of the principal use and directions thereto, and, if a statement, it shall be permanent lettering and not exceed ten words, describing the principal use.
 - (b) Location: Shall be located only on those arterial streets or highways nearest to the principal use for which the signs have direction, and shall only be placed on or over private property.
 - (c) Size, Number and Illumination: A principal use shall not have more than two off-premise directional signs. Any such sign shall not exceed 32 square feet in area, shall not exceed 15 feet in height, and if illuminated, it shall only be by an indirect, non-flashing source.
- (B) In granting a variance, the Planning Commission may attach thereto such more restrictive conditions regarding the location, character, design, size, time allowed to exist, and other features of the

sign as it may deem to be in the public interest and necessary to assure compatibility with the surroundings.

.8637 Sign Registration; Permits; Licenses

- (A) Within 30 business days of the ordinance effective date, the owner of an off-premise advertising sign structure previously established shall make application to register the sign with the Department of Environmental Services, on forms provided for the purpose.
- (1) The information shall include those items necessary to the administration and enforcement of MCC .8605 through .8645.
 - (2) Within 45 business days of the receipt of the registration application described herein, the Director shall either certify or reject registration. The reasons for any rejection shall be stated in writing.
 - (3) For a certified registration, the Director shall specify in writing, the nature of any non-compliance with the provisions of MCC .8605 through .8645. Such specification shall be used by the owner in filing the schedule of compliance under MCC .8631(C).
 - (4) The owner may appeal the Director's certification specifications or rejection decision to the Planning Commission under MCC .8290 and .8295, within 60 days thereof.
 - (5) An off-premise advertising sign structure registration application shall be accompanied by the license fee specified by MCC .8637(C)(1).
 - (6) A certification of registration shall be revoked upon a finding by the Director that the sign fails to satisfy the applicable requirements of MCC .8605 through .8645. The registered owner shall be notified promptly in writing of such revocation and the reasons therefor.
 - (a) No portion of a license fee paid under MCC .8637(C)(1) shall be refunded in the event of such revocation. Reinstatement shall require payment of an additional license fee.
 - (7) The Director shall maintain a current file of registered off-premise advertising sign structures, shall add newly permitted signs to it, shall remove those registrations no longer applicable, and shall notify an affected sign owner of any changes in the status of registration.

- (B) An off-premise advertising sign structure permit shall be required prior to the location, relocation, construction or reconstruction of an off-premise advertising sign structure, or addition of an advertising sign face or display surface.
- (1) The permit application shall be made on forms provided by the Director, and shall include the information necessary to determine compliance with the applicable requirements.
 - (2) The Director shall promptly issue the permit if the applicable requirements are satisfied and the license fee specified in MCC .8637(C)(1) is paid, and shall enter the appropriate certificate of registration.
 - (3) In the event the applicable requirements are not met, the Director shall deny the permit and so notify the owner with written reasons for the denial.
 - (4) Where permit denial is based upon failure to comply with the requirements of MCC .8605 through .8645, the owner may appeal the denial to the Planning Commission under MCC .8290 and .8295.
 - (5) The permit requirements of this subsection do not apply to changes in advertising messages or the addition or removal of a cutout.
- (C) Each off-premise advertising sign structure shall be maintained subject to an annual off-premise advertising sign structure license.
- (1) The fee for such license shall be set by the Director, with the approval of the Board of Commissioners, and shall be due and payable upon initial registration or permit issuance and thereafter on the first day of January each year.
 - (a) \$.50 per square foot for a sign area of less than 100 square feet, and
 - (b) \$.75 per square foot for a sign area of 100 square feet or greater.
 - (2) Each face or display surface of a double-faced or V-shaped sign shall be subject to the license and fee requirements specified in this subpart.
 - (3) The license fee shall be pro-rated to the full month for each full or partial month remaining in a calendar year.

- (4) In the event an owner fails to apply for registration as required by MCC .8637(A), the license fee shall be three times the amount specified in (C)(1) above.
- (5) Payment of the required license fee shall be a prerequisite to the issuance of a sign permit.
- (6) Revenue from license fees shall be used to offset the costs of administration and enforcement of MCC .8605 through .8645, and for such other purposes as the Board may determine in the budget approval process.

.8639 Exemptions; Other Requirements

- (A) Nothing in MCC .8605 through .8645 shall restrict non-profit outdoor advertising such as political, educational, philosophical, social or public service messages. The ordinance shall be liberally interpreted to permit this form of communication.
- (B) Nothing in MCC .8605 through .8645 shall apply to a public sign.
- (C) Nothing in MCC .8605 through .8645 shall apply to a bench advertising sign located in a public right-of-way.
- (D) An off-premise advertising sign structure shall comply with the applicable requirements of other codes and ordinances.

.8641 Community Group Participation

The adopted views and recommendations of affected community planning groups shall be solicited and considered with special regard to the following:

- (A) The status of sign maintenance and compliance with other provisions of MCC .8605 through .9645.
- (B) An application for removal of a tree in the placement of an off-premise advertising sign structure, under MCC .8617(D)(1);
- (C) The allocation of unencumbered revenues from commercial advertising sign license fees; and
- (D) Any proposals for amendment of MCC .8605 through .8645.

.8645 Abatement

Any off-premise advertising sign structure located or maintained in violation of the provisions of MCC .8605 through .8645 shall be deemed a nuisance and shall be abated as a zoning violation.

SECTION 3. AMENDMENT.

MCC 11.15.0010 is amended to delete the following definitions:

- (A) Ballot measures;
- (B) Election;
- (C) Measures or ballot measures;
- (D) Sign, political; and
- (E) Sign, useful life span.

SECTION 4. An emergency is declared to exist, and this ordinance shall take effect on the date that it is signed by the County Executive.

ADOPTION

This ordinance being necessary for the health, safety and general welfare of the people of Multnomah County, shall take effect on February 2, 1983, according to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 1st day of February, being the date of its SECOND reading before the Board of County Commissioners of Multnomah County, Oregon.

AYES: Commissioners McCoy and Biskar. Noes: Commissioner

(SEAL)

BOARD OF COUNTY COMMISSIONERS Shadburne.
 OF MULTNOMAH COUNTY, OREGON Excused: Commis-
 sioners Miller
 and Blumenauer

By Gordon Shadburne
Gordon Shadburne, Presiding Officer

Authenticated by the County Executive on the 2nd day of February,

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Dennis Buchanan
Dennis Buchanan, County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY
County Counsel for
Multnomah County, Oregon

By Laurence Kressel
Laurence Kressel
Chief Deputy County Counsel