

AFFIDAVIT OF POSTING
ORDINANCE CB-0-12-84

STATE OF OREGON)
)
COUNTIES OF CLACKAMAS)
AND WASHINGTON)
)
CITY OF WILSONVILLE)

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

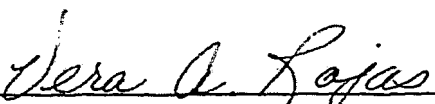
On the 28th day of March, 1984, I caused to be posted copies of the attached Ordinance CB-0-12-84, an ordinance amending Sections 4.001(14), (67), 4.136(1)(c)1.a.12, 4.151 and Section 4.420(1) of the Wilsonville Code, 1984, in the following four public and conspicuous places of the City, to wit:

WILSONVILLE POST OFFICE
WILSONVILLE CITY HALL
LOWRIE'S FOOD MARKET
KOPPER KITCHEN

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 2nd day of April, 1984.


DEANNA J. THOM, City Recorder

Subscribed and sworn to before me
this 30th day of March, 1984.


NOTARY PUBLIC, STATE OF OREGON

My commission expires: August 23, 1985

AN ORDINANCE AMENDING SECTIONS 4.001(14), (67),
4.136(1)(c)1.a.12, 4.151 AND SECTION 4.420(1)
OF THE WILSONVILLE CODE, 1984.

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: Section 4.001(14) is hereby amended to read the correct section which is as follows:

(14) Town Center. See Section 4.136(1)(c)12.

Section 2: Section 4.001(67) is hereby amended by deleting the existing definition and adding the following:

(67) Sign Area. The display surface or face of the sign, including all frames, backing, face plates, non-structural trim or other component parts not otherwise used for support. Where the sign has two parallel display faces mounted back to back on the same horizontal plane of which the distance between the opposing surfaces is less than 12", the area may be counted on one side only.

Section 3: Section 4.136(1)(c)1.a. is hereby amended to read:

a. The Town Center.

Section 4: Section 4.136(1)(c)12 is hereby amended to read:

12. Town Center. (Note: The Town Center map shall be revised to state Town Center instead of City Center.)

Section 5: Section 4.151(2) is hereby amended by adding to the first sentence as follows:

(2) The following regulations shall apply to any commercial or industrial use, except as specified in Section 4.151(3):

Section 6: Section 4.151 is hereby amended by adding the

following subsection 4.151(3):

(3) The following regulations shall apply to any commercial use within the Wilsonville Town Center as defined in Section 4.136(1)(c)12.

(a) The Wilsonville Town Center, as designated in the Wilsonville Code, Section 4.136 et. seq., is well suited for the institution of a coordinated signing program because of its geographic unity, focal location, and the fact that it is in the early stage of development. The purpose of Section 4.151(3) of this chapter is to provide the Town Center with a program of coordinated signing which is both functional and aesthetic, and to provide a method of administration which will insure continuity and enforcement. In this manner, the framework will be provided for a comprehensive balanced system of street graphics which provide a clear and pleasant communication between people and their environment.

In regulating the use of street graphics and building signage, the following design criteria shall be applied in conjunction with the provisions of this Code: That street graphics and building signage be:

1. Appropriate to the type of activity to which they pertain.
2. Expressive of the identity of the individual proprietors and the Wilsonville

Town Center as a whole.

3. Legible in the circumstances in which they are seen.
4. Functional as they relate to other graphics and signage.

Further provision is made herein for an orderly and reasonable process to obtain signing approval, collect Permit fees, provide for hearings and review and enforcement.

(b) Definitions

1. Addressing. Signs indicating, at a minimum, the numerical address of the building. Such signs are provided in lieu of a street graphics sign.
2. Building Graphics. Signs that are not located within the first 15 feet of a property line that abut a public right-of-way. Building graphics are signs that include building-mounted and roof-mounted signs.
3. Selling Slogans. A brief striking phrase used in advertising or promotion. The hours of operation of the business shall be considered as a selling slogan.

4. Sign Area. See Section 4.001(67).
5. Street Graphics. Signs that indicate the function of a business it represents and are located between the property line abutting a public right-of-way and a distance 15 feet from the property line on private property.

(c) Application.

1. Submittals. Every request for a sign approval shall be made on the application form of the City and shall be accompanied by additional information and such fees as may from time to time be required by the City.
2. Review Process.
 - a. Design Review Board Approval
 1. Authority of the Design Review Board. As specified in Section 2.330 and 4.009(2) of this Code and except as specified in Section 4.151(3)(c)2.b., the Board shall have authority to administer and enforce all the provisions in Section 4.151(3) as they affect the design function and appearance of the sign.

b. Authority of Planning Director

The Planning Director shall have authority over the administration and enforcement of the provisions of Section 4.151(3) of this Chapter pursuant to Class I procedures set forth in Section 4.009 or 4.010 of this Code to approve, approve with conditions or deny street graphics, as they comply with the prescriptive standards as set forth in Section 4.151(3)(d)2.

In issuing a Sign Permit, the Planning Director may grant or deny a variance to relieve a hardship under Class I procedure, if the request involves only expansion or reduction by not more than 10% of one or more quantifiable provisions of sign location, height, letter size and area.

(d) General Requirements.

1. Addressing.

- a. Every building or complex with a designated address shall have a permanent address sign. This address sign shall be located on a street graphics sign, except when

no street graphics sign is provided, the address shall be on its own sign.

- b. Address letters shall be 2" to 6" in height with contrasting background.
- c. The letter style for numbers and street names shall be as for Fig. 2.
- d. The address sign, when not part of the street graphics sign, shall be not more than four square feet in area.
- e. The maximum height of an address sign shall not exceed four feet above the curb.
- f. Information on address signs shall be limited to the address and the street name.
- g. The City Building Department shall have authority to determine a building's address.

2. Street Graphics Signage.

NOTE: Approval of Street Graphics Signage shall not precede the Design Review Board approval of Building Graphics Signage.

- a. Street graphics shall include the building name, if there is one, and the building address.
- b. The letter height for the building name shall be 2" to 6" maximum.
- c. For individual tenants, letter height shall be 2" to 6" maximum.
- d. There shall be not more than one sign for each parcel of land.
- e. The maximum height shall be eight feet above curb for multi-tenants and four feet above curb for single tenants.
- f. The maximum area for street graphics shall be limited to eight square feet per tenant.
- g. Within a multi-tenant building, the maximum square feet for street graphics signage shall not exceed: 48 square feet (96 square feet both sides) for strictly commercial retail; 40 square feet (80 square feet both sides) for mixed occupancies, retail and professional; 32 square feet (64 square feet both sides) for strictly professional.
- h. All street graphics shall be

illuminated and shall not be of flashing, intermittent types. Floodlights (or spotlights) which illuminate graphics must be positioned in such a manner that no light shines over onto an adjoining property or glares or shines in the eyes of motorists or pedestrians.

- i. Location of street graphics shall not be further than 15 feet from the property line or closer than two feet from the sidewalk. In no case shall a sign be permitted in the public right-of-way.
- j. No sign shall obscure any road sign as determined by the manual on uniform traffic control devices and posted by City, County or the State.
- k. No selling slogans shall be permitted on street graphics signage.

3. Building Graphics Signage.

- a. The total square foot of all signs except the single address sign and the street graphics sign shall not exceed the width of the building

occupied by the use advertised.

The width of a building is to be measured as the longest dimension of the width or depth of the building.

b. Letters shall be allowed to increase from 6" within the first 20 feet from the property line by increments of up to 3" for each 50-foot setback or fraction thereof with the maximum height of 21".

c. The maximum height of signs shall be as per Fig. 1, but in no case shall a sign extend more than four feet above the roof.

(e) Other Requirements.

1. Unless otherwise indicated in Section 4.151(3), all signs shall comply with Section 4.151 of the Wilsonville Code.

(f) Non-conforming Signage.

1. Continuation of Use. A non-conforming sign in existence at the time of adoption of this Ordinance may continue to exist, although not in conformity

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(f) Non-conforming Signage.

- 1. Continuation of Use. A non-conforming sign in existence at the time of adoption of this Ordinance may continue to exist, although not in conformity

with the regulations as set forth
in this Ordinance.

2. Damage and Destruction. When a non-conforming sign is damaged by wind, fire, or by any other cause such that the damage exceeds 75% of its replacement valuation, the non-conforming sign shall not be re-established.
3. Enlargements and Moving. A non-conforming sign may not be enlarged or moved without a variance approved by the Design Review Board as per Section 4.186.
4. Repairs. Normal maintenance of a non-conforming sign is permitted, provided that the dimension and location is not altered, unless the alteration complies with the standards of the Section.

Section 7: Section 4.420(1) is hereby amended by adding to the first sentence as follows:

4.420 Jurisdiction and Powers of the Board.

- (1) Application of Section. Except for single-family dwellings in any residential zoning district, no Building Permit shall be issued for a new building or major remodeling

of an existing business, and no Sign Permit, except as permitted in Section 4.151(3)(c)2.b, shall be issued for the erection or construction of a sign relating to such new building or major remodeling, until the plans, drawings, sketches and other documents required under Section 4.008(4) have been reviewed and approved by the Board in conformity with the criteria specified in Sections 4.100 to 4.168. For purposes of this Section, the term "major remodeling" shall mean any remodeling that substantially changes the exterior appearance of the building.

Section 8: In the interest of the general health and welfare of the citizens of the City of Wilsonville, that this Ordinance be put into effect immediately, an emergency is hereby declared.

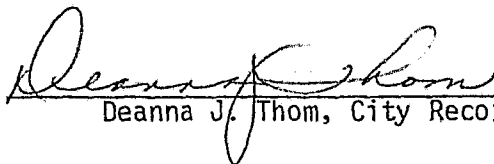
Submitted to the Council and read the first time at a regular meeting thereof on the 19th day of February, 1984, and scheduled for second reading at a regular meeting of the Council

on the 2nd day of April, 1984, commencing at the hour of 7:30
o'clock, p.m. at the Wilsonville City Hall.



Vera A. Rojas, City Recorder, Pro-tem

ENACTED by the Council on the 2nd day of April,
1984, by the following votes: YEAS 4 NAYS 0.



Deanna J. Thom, City Recorder

DATED and signed by the Mayor this 3rd day of April,
1984.



William G. Lowrie, Mayor

**PLANNING DEPARTMENT****SUMMARY STAFF REPORT****TO:** City Council**DATE:** March 14, 1984**SUBJECT:** Town Center Sign Code Revisions**MEETING DATE:** March 19, 1984**ACTION REQUIRED:** First reading of revised Sign Code.

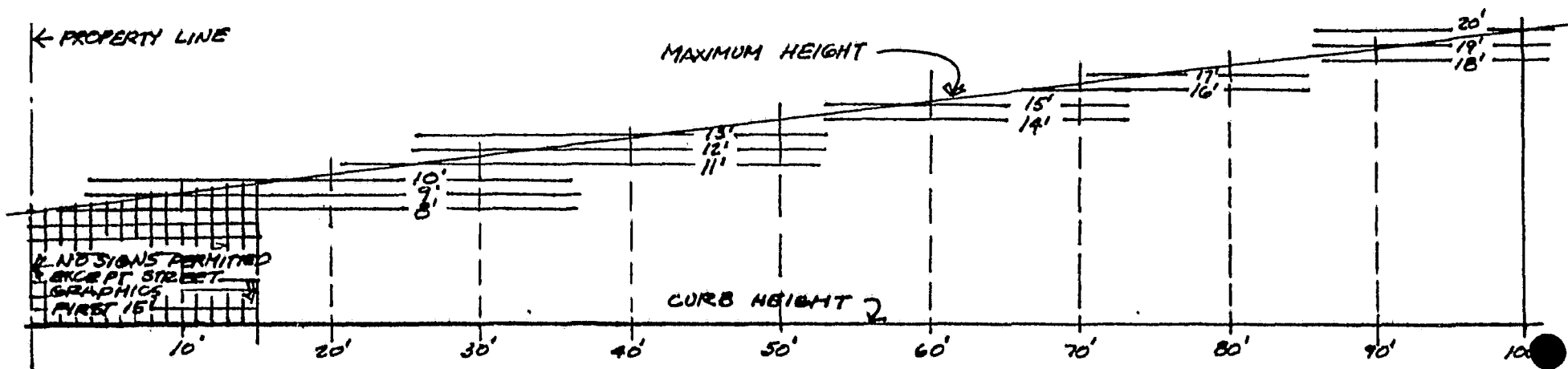
PREVIOUS ACTION TAKEN: First reading of this Code was on February 21, 1984. Council was prepared to adopt the new Code with the exception of the outright prohibition of reader boards. The Council remanded the issue of defining regulation for reader boards to the Design Review Board for recommendations.

CONCLUSIONARY FINDINGS:

1. The Design Review Board met on February 27, 1984, and approved revisions to the Code, based on a Memo from the City Attorney dated February 24, 1984, and the staff Findings and Recommendations. The following revisions were approved:
 - A. Omission of the definition of reader board signs.
 - B. Omission of prohibited uses.
 - C. Omission of the change of tenant section of the non-conforming signage.
2. The consensus of the Design Review Board was that reader boards may be permitted in areas designated for building graphics signage which would be reviewed and approved or denied on their own merit and subject to the limitations of building graphics signage and total square footage requirements for all signs.

RECOMMENDATION: Approval.

WILSONVILLE TOWN CENTER SIGNAGE MAXIMUM SIGN HEIGHT



The maximum height of a sign is measured from a point 8 feet above the curb at the property line, to a point 20 feet in height or 4 feet above the roof, which ever is less.

FIGURE 1

LAW OFFICES OF
KOHLMOFF & MOEN
FORUM WEST BUILDING SUITE 1
P. O. BOX 706-9475 S.W. WILSONVILLE ROAD
WILSONVILLE, OREGON 97070
TELEPHONE (503) 682-3955

MICHAEL E. KOHLHOFF
STEPHEN A. MOEN
BETH ELLEN MARKS

M E M O R A N D U M

TO: Ben Altman

FROM: Michael. E. Kohlhoff
City Attorney

RE: Town Center Sign Ordinance proposed by
Design Review Board

DATE: 02/24/84

Reviewed proposed ordinance generally and with reference to questions raised by you concerning:

- (1) Special zones - are they discriminatory? and
- (2) Do restrictions/prohibitions on reader boards violate First Amendment, U.S. Constitution, freedom of speech?

Issue No. 1

Can City limit sign restrictions to special zone (i.e. town center) and not make restrictions Citywide?

Answer: Yes.

Discussion:

There is no Oregon law on this point. Best case is Donnelly Advertising Corporation v. Mayor and City Council of Baltimore, 279 Md 660, 370 A2d 1127 (1977). In the Donnelly case, the City of Baltimore passed an ordinance prohibiting off-premises advertising limited to an urban renewal area when the sign standards applied only in that area and not uniformly throughout similarly zoned areas elsewhere in the City and regulation was keyed to the project area and not to the zone. This was in Baltimore's "old town." The Maryland Court of Appeals approved the Baltimore ordinance. A number of cases have followed this reasoning as found in Shepard's Citator, and there was no indication of a contra position.

The only case in Oregon even remotely close is Van v. Travel Information Council, 52 Or. App. 399, 628 P.2d 121 (1981). This case has to do with political sign limitations imposed by the State and states the law in Oregon, which is:

"Reasonable restrictions relating to the time, place and manner in which the right to free speech is exercised is permissible if they are justified without reference to the content of the regulated speech, serve a significant governmental interest, leave open ample alternative channels for communication of information."

"In measuring the effect of the statute or regulation on free expression, careful consideration must be given to whether challenged regulation is more inclusive or more burdensome than necessary to require legitimate governmental purposes it is designed to foster."

"First Amendment freedoms must be kept in a preferred position; a regulation can be no more restrictive than reasonably necessary to serve the governmental interest involved."

Only other case of value is Lake Wales v. Lamar Advertising Association of Lakeland, Florida, 414 So.2d 1030 (1982). Lake Wales case indicates that aesthetics is sufficient reason to zone and control signs. Case deals with issue of whether the municipality could separately classify off-site advertising signs and on-site advertising signs solely on the basis of aesthetics, thereby restricting the size of off-site signs. The court held that the City could so do.

Conclusion:

While no Oregon case is on point, I would feel comfortable in advising the City that a special sign ordinance area as proposed for the new City Center would withstand a legal challenge.

Issue No. 2

Can the City of Wilsonville prohibit "reader-board" signs?

Answer:

Complete prohibition of reader-board signs is very close to unconstitutional use of police power. In fact, it is impossible to make a really solid recommendation as to what action Oregon or Federal courts would take on this issue.

Discussion:

There are no Oregon cases on point.

Major case in the area is Metromedia, Inc. v. San Diego, 26 Cal.3d 848, 164 Cal. Rptr. 510, 610 P.2d 407 (1980) (and overruled by U.S. Supreme Court in Metromedia, Inc. v. San Diego, 453 US 490, 69 L.Ed.2d 800, 101 S.Ct. 282 (1981)). Facts of this case are that City of San Diego passed ordinance prohibiting and requiring removal of off-site billboards in entire City for reasons of traffic safety and aesthetics. The California Supreme Court agreed with the City; the U.S. Supreme Court did not, holding that the ordinance was an unconstitutional exercise of the City's police power and an abridgement of the company's First Amendment rights (free speech).

Prohibiting reader-boards is undoubtedly not as broad a prohibition as prohibiting off-site billboards (although there were some exceptions to the off-site rule from the San Diego case), but it is very close. Also, the California case did involve removal of already constructed billboards. Of course, the Wilsonville ordinance would not do that.

Conclusion:

No Oregon cases on point. Supreme Court Metromedia case raises clear inference that reader-board prohibition is close to, if not unconstitutional. Therefore, suggest that Staff's recommendation that reader-boards should be reviewed on own merits and design on individual case is the best approach for City to avoid expensive legal challenges. Standards as to location, type, size and design can be implemented.

I note also that your position on nonconforming signs is too broad. Policy of state and found in case law is that nonconforming use is a property right which runs with land; change of ownership or occupancy should not affect use. Thus, a change of advertising copy, e.g. Smith Market to Jones Market, as opposed to a structural alteration is not a change of use. The ordinance as drafted presents a taking of a property right without compensation. Note that there may be no nonconforming uses currently in town center. Therefore, little is lost by also changing the nonconforming sign portion to structural alteration, relocation or removal of sign.

Respectfully submitted,

Beth E. Markes for Michael
Michael E. Kohlhoff *Kohlhoff*