

**WENATCHEE PLANNING COMMISSION
SCHEDULED MEETING
July 17, 2024
WENATCHEE CITY HALL COUNCIL CHAMBERS
301 Yakima Street
Wenatchee, WA 98801
5:30 PM**

AGENDA

I. CALL TO ORDER AND WELCOME

II. ADMINISTRATIVE AFFAIRS

A. Approval of the minutes from the last regular meeting on June 12, 2024

III. PUBLIC COMMENT PERIOD

Comments for any matters not included on the agenda

IV. OLD BUSINESS

None

V. NEW BUSINESS

A. Workshop: Draft Amendments to Chapter 10.50 Signs

VII. ADJOURNMENT

Wenatchee City Hall is open for the public to attend meetings in person. The public may also participate in the meeting via phone by calling: (509) 888-3298, passcode 16995#. If you have questions about participating in the meeting, please contact Stephen Neuenschwander, Planning Manager at sneuenschwander@wenatcheewa.gov or (509) 888-3285.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Mayor's office at (509) 888-6204 (TTY 711). Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1.)

MINUTES

I. CALL TO ORDER

Chair Rani Sampson called the meeting to order at 5:30p.m., with the following members in attendance: Ruby Gaston, Amber Bollinger, Anupama Vembar, Joe Gamboni, and Susan Albert. Josh Jorgensen was absent.

City Planning staff was represented by: Glen DeVries, Community Development Director; Stephen Neuenschwander, Assistant Director; Matt Parsons, Senior Planner; Mia Bretz, Associate Planner.

II. ADMINISTRATIVE AFFAIRS

A. Amendment of the June 12, 2024 agenda.

Susan Albert moved to amend the June 12 agenda to include an executive session to last no more than 30 minutes to discuss ongoing litigation with the city attorney. Joe Gamboni seconded the motion. The motion carried.

B. Approval of the minutes from the regular meetings on May 15, 2024.

Commissioner Susan Albert moved to approve the minutes from the May 15 regular meeting. Commissioner Ruby Gaston seconded the motion. The motion carried unanimously.

III. PUBLIC COMMENT PERIOD

There was no public comment.

IV. OLD BUSINESS

None

V. NEW BUSINESS

A. Workshop: Middle Housing Requirements from HB1110

Stephen Neuenschwander, Assistant Director, and Mia Bretz, Associate Planner, presented.

VI. OTHER

None

VII. ADJOURNMENT

With no further business to come before the Planning Commission, Chair Rani Sampson adjourned the meeting at 7:11p.m.

Respectfully submitted,
CITY OF WENATCHEE
COMMUNITY DEVELOPMENT DEPARTMENT
Eva Osburn, Administrative Assistant



**City of
Wenatchee**

COMMUNITY DEVELOPMENT DEPARTMENT

City Hall

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TO: Planning Commission
FROM: Community Development Staff
SUBJECT: Workshop on sign code amendment to allow a digital billboard
DATE: July 10, 2024

The City adopted Ordinance 2019-52 (attached as Exhibit 1) which amended the Wenatchee City Code (WCC) to amortize legal non-conforming billboards out over a 10-year period beginning on January 20, 2020. This code amendment requires to removal of the billboard by the end of the amortization period unless compensation is required by federal, state, or local laws (particularly RCW 47.42).

The adoption of this code amendment was appealed to the Washington State Growth Management Hearings Board as case number 20-1-004 by Outfront Media LLC. In an effort to resolve the appeal without further legal proceedings, the City of Wenatchee and Outfront Media LLC entered into an agreement to pursue a settlement. The terms of the settlement include Outfront Media removing certain billboards in the city and the city proposing an amendment to WCC 10.50 Signs to allow for the permitting and construction of one digital billboard.

The attached draft code (Exhibit 2) reflects the terms of the agreement relative to location, size, height, and the digital parameters of the potential billboard. Please read through the draft code text and come prepared with questions, comments or concerns. The city is committed to proposing the draft amendments and processing them in accordance with the Title 13 process for legislative amendments to the city code which includes a public hearing before the planning commission and the city council.

Should you have any questions, please contact Stephen Neuenschwander by phone at 509-884-3256 or via email at sneuenschwander@wenatcheewa.gov.

ORDINANCE NO. 2019-51

AN ORDINANCE, amending and restating Chapter 10.72 “Nonconforming uses, structures and lots” of the Wenatchee City Code.

WHEREAS, the City Council enters the following Findings of Fact:

1. The City of Wenatchee has adopted the Wenatchee Urban Area Comprehensive Plan and a series of sub-area comprehensive plans pursuant to the Growth Management Act (GMA), RCW Chapter 36.70A, which cover the Wenatchee Urban Growth Area and all incorporated areas within the City of Wenatchee, that have been found to be consistent with each other and with the adopted GMA plans of the adjoining jurisdictions.
2. The City of Wenatchee Planning Commission is responsible for long range planning matters and providing implementation recommendations to assure compliance with the Growth Management Act for the City of Wenatchee Urban Growth Area in coordination with Chelan County and within the incorporated boundaries of the City of Wenatchee. These measures include updates and amendments to the comprehensive plan; development regulations, environmental regulations, and any other rules, actions or regulations deemed necessary to implement the Growth Management Act.
3. RCW Chapters 36.70 and 36.70A authorize the adoption of development regulations.
4. Section 10.04.020 Purpose of the Wenatchee Zoning Code identifies the purposes of the title as to promote the public health, safety, and general welfare; to assist in the implementation of the Wenatchee urban area comprehensive plan; to comply with the Growth Management Act; and to comply with the provisions and objectives of Chapter 44, Laws of Washington, 1935, as amended, and Chapter 17, Laws of 1990, First Extraordinary Session, as amended.
5. The Planning Commission conducted two public open houses on June 25, 2019 and August 21, 2019.

6. The Planning Commission conducted one public workshop on the proposed revisions on November 20, 2019.
7. The City of Wenatchee issued a determination of non-significance on November 19, 2019 and provided copies of the environmental documents to the Department of Ecology SEPA Register.
8. The City of Wenatchee and Chelan County issued a joint notice of the public 60 day review and comment period, and public hearing dates on November 19, 2019 which was published in the Wenatchee World.
9. On November 19, 2019, the City of Wenatchee provided formal notice to the Washington State Department of Commerce of the intent to adopt amendments to the Wenatchee City Code with a request for expedited review, pursuant to RCW 36.70A.106. Additional notices were provided to local and regional agencies for the review and comment periods/environmental determinations.
10. Public comments submitted during the comment period were reviewed by the Planning Commission and included in the official record.
11. On December 11, 2019, the City of Wenatchee Planning Commission conducted an advertised public hearing. The Planning Commission entered into the record the files on this amendment, accepted public testimony, and deliberated the merits of the proposal.
12. The City of Wenatchee Planning Commission has reviewed the entire record and public testimony as it relates to the proposed amendments to the Wenatchee City Code.
13. The City conducted a sign survey and invited the community to respond. The English version was online August 2-14, 2019 and the Spanish version was online August 6-18, 2019. The survey received a total of 498 respondents (492 English and 6 Spanish).

14. The written comments to the survey included community reference to reduce the amount of sign clutter including billboards, encouraged less signs, no new pole signs, and beautifying the entrance to the city, particularly the North Wenatchee Avenue corridor.
15. The State Scenic Vistas Act, Chapter 47.42 RCW, provides certain protections to billboards located within the jurisdiction of that Act.
16. Billboards are defined in Section 10.50.030, WCC (adopted by Ord 2019-50 on December 5, 2019) as a type of large permanent sign designed or used for high-visibility display of sign copy which is typically not associated with the property upon which the sign is placed. Billboards typically have a wood or steel structure with a single face or double face oriented to major traffic routes. Billboards are larger than permitted pole signs and may include catwalks.
17. GOAL 1 in the Community Design and Healthy Communities Element: GATEWAYS -- Improve the visual appeal and navigability of Wenatchee by enhancing gateways into the city, its districts and neighborhoods. *The amortization of non-conforming billboard signs serves to improve the visual appeal and navigability of the community.*
18. Goal 1, Policy 1 in the Community Design and Healthy Communities Element: Develop visually attractive and identifiable gateways at primary entrances to the city using a combination of streetscape, signage, and building orientation to create memorable community entries. *The amortization of non-conforming billboard signs will over time result in a more attractive gateways to the community.*
19. Goal 6 in the Community Design and Healthy Communities Element: Dark Sky Design, Policy 6: All signs and lighting (including for streets, buildings, parking areas, and signs) should be designed so that they perform their function without being unduly disruptive to the visual appeal of the area. *The amortization of existing digital billboards and non-conforming off-site signs would further the intent of this policy.*
20. GOAL 7 in the Community Design and Healthy Communities Element: Aesthetics -- Identify opportunities to improve the visual aesthetics of the community. *Community responses to the survey*

indicated a desire to improve the visual aesthetics of the community through removal of non-conforming billboard signs.

21. Goal 7, Policy 4 in the Cultural and Historic Resources Element: Review sign standards to determine priorities on the amortization of nonconforming signage. Opportunities are available to improve the signage code to better meet community advertising needs while improving the cumulative visual impacts of signage. *The primary purpose of the code revision is to amortize out non-conforming billboard signs. The amortization timeframe balances out the community desire to enhance the gateways to the city and reduce sign clutter with property owner rights to obtain a financial return on their investment.*

22. The City has a history of enacting land use regulations placing limitations on off-site signs and billboards and ultimately prohibiting them:
 - a. The City adopted zoning standards, permitting new off-site signs in the General Commercial by Ord 2720 on June 21, 1988.
 - b. The City initiated a moratorium on off-site signs by Ord 3017 on November 9, 1993.
 - c. The City extended the moratorium on off-site signs by Ord 3046 on January 11, 1994.
 - d. The City extended the moratorium on off-site signs by Ord 3061 on April 5, 1994.
 - e. The City adopted off-site sign standards in the General Commercial district by Ord 3069 on July 19, 1994.
 - f. The City extended the moratorium on off-site signs until September 21, 1994 by Ord 3073 which was signed on June 7, 1994.
 - g. The City initiated a 180 day moratorium on off-site signs by Ord 2005-04 on January 27, 2005.
 - h. The City extended off-site sign moratorium by Ord 2005-19 on July 14, 2005.
 - i. The City prohibits off-site signs in the General Commercial and Industrial districts and establishes non-conforming standards for off-site signs by Ord 2005-22 on September 22, 2005.
 - j. Off-site signs are prohibited in the community by Ord 2007-34 on October 12, 2007.

23. Billboards legally in existence since the adoption of Ordinance 2007-34 have been determined to be legally non-conforming signs.

24. New off-site billboard signs have been prohibited in the City of Wenatchee since the enactment of Ordinance 2007-34.
25. The Washington Supreme Court has directly addressed nonconforming uses and amortization of uses in many cases such as *City of Univ. Place v. McGuire*, 144 Wn.2d 640, 648–49, 30 P.3d 453 (2001), *Rhod-Azalea & 35th, Inc. v. Snohomish Cty.*, 136 Wn.2d 1, 9, 959 P.2d 1024 (1998), *Northend Cinema, Inc. v. City of Seattle*, 90 Wn.2d 709, 722, 585 P.2d 1153 (1978), and *Seattle v. Martin*, 54 Wn.2d 541, 342 P.2d 602 (1959).
26. Courts have consistently recognized that nonconforming uses are subject to subsequently enacted reasonable police power regulations. See *Goldblatt v. Town of Hempstead*, 369 U.S. 590, 82 S.Ct. 87 (1962).
27. “The policy of zoning legislation is to phase out a nonconforming use.” *Anderson v. Island County*, 81 Wn.2d 312, 323, 501 P.2d 594 (1972). Nonconforming uses are not favored, and may be extinguished, either after a period of nonuse **or a reasonable amortization period allowing the owner to recoup on investment.** *Rhod-A-Zalea*, 136 Wn.2d at 7, 959 P.2d 1024; see also *Choi v. City of Fife*, 60 Wn. App. 458, 803 P.2d 1330. (Emphasis added.)
28. In *Seattle v. Martin*, 54 Wn.2d 541, 342 P.2d 602 (1959) the WA Supreme Court recognized the power of a municipality to require termination of nonconforming uses within a reasonable period of time. The Court adopted a balancing test to determine the reasonableness of the termination period – that test is whether the harm or hardship to the user outweighs the benefit to the public to be gained from termination of the use.
29. Legally non-conforming off-site billboards have been able to recoup 12 years of financial benefit since the City adopted Ord 2007-34 on October 12, 2007.
30. The amortization of non-conforming off-site signs and billboards within 10 years is a reasonable timeframe that adequately balances the harm or hardship to the billboard owner and the benefit to the public gained from the termination of the non-conforming billboards and off-site signs.
31. The amortization of non-conforming off-site signs and billboards within 10 years is a reasonable timeframe for owners to recoup

additional remaining financial value on their investment while balancing the community desire for their removal.

32. An amortization period of 10 years together with the 12 years of legal non-conforming use since the prohibition of offsite signs on October 12, 2007 is a reasonable amortization period.
33. An analysis of building permits issued for off-site signs or billboards indicates that the average age as being at least 20 years.
34. Off-site non-conforming billboards have been annexed into the City since the enactment of Ordinance 2007-34. These off-site non-conforming billboards were subject to the same non-conforming regulations as those legally established in city limits as of the enactment of Ordinance 2007-34. Historic building permit information is not immediately available to determine the age of the signs.
35. Pursuant to RCW 36.70A.370 and following the guidelines prepared by the Washington State Attorney General pursuant to RCW 36.70A.370, the proposed amendments were reviewed by City Staff to assure that adoption of the changes will not result in an unconstitutional taking of property. It was determined that amortizing non-conforming billboards did not prevent other viable economic uses of the properties; no fundamental property attribute was destroyed, derogated or implicated; the minimum period of 22 years of use mitigates the financial impact to the owners and does not unfairly disrupt the owners' investment expectations; and the new amortization code advances a legitimate city interest to implement and accomplish the goals of its Comprehensive Plan.

WHEREAS, the City Council makes the following Conclusions of Law:

1. The procedural and substantive requirements of the State Environmental Policy Act have been complied with.
2. The procedural requirements of RCW 36.70A have been complied with.
3. The proposed amendments are consistent with the Chelan County Countywide Planning Policies and the City of Wenatchee Urban Area Comprehensive Plan.
4. The proposed amendments are consistent with the requirements of Revised Code of Washington, and the Washington Administrative Code.

5. The proposed amendments have been reviewed and processed in accordance with the requirements of Title 10 Zoning, Title 12 Environmental Protection, and Title 13 Administration of Development Regulations of the City of Wenatchee Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE, WASHINGTON, do ordain as follows:

SECTION I
Findings and Conclusions

The recitals set forth above are hereby adopted as the City Council's Findings of Fact and Conclusions of Law in support of this Ordinance. If any Finding of Fact is deemed more appropriately a Conclusion of Law, or if any Conclusion of Law is deemed more appropriately a Finding of Fact, they are hereby adopted as such.

SECTION II

Chapter 10.72 "Nonconforming uses, structures and lots" shall be and hereby is amended and restated as set forth on Exhibit "A" attached hereto.

SECTION III

The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section or portion of this Ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this Ordinance, or the validity of its application to other persons or circumstances.

SECTION IV

A summary of this ordinance will be published in the official newspaper of the City of Wenatchee and shall be in full force and effect thirty (30) days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF WENATCHEE, at a regular hearing thereof, this 12th day of December, 2019.

CITY OF WENATCHEE, a municipal corporation

By 
FRANK J. KUNTZ, Mayor

ATTEST:

By 
TAMMY L. STANGER, City Clerk

APPROVED:

By _____
STEVE D. SMITH, City Attorney

EXHIBIT "A"

Chapter 10.72 NONCONFORMING USES, STRUCTURES AND LOTS

Sections:

- 10.72.010 Intent and purpose.
- 10.72.020 Nonconforming uses.
- 10.72.030 Nonconforming structures.
- 10.72.040 Nonconforming lots.
- 10.72.050 Nonconforming signs.

10.72.050 Nonconforming signs.

(1) With the exception of billboards, code requirements applicable to nonconforming on and offsite signs are addressed in Section 10.50.150 Legal nonconforming signs, WCC. Billboards are not a permitted use under Chapter 10.50 Signs, WCC. Legally established billboard in existence at the time of adoption of this ordinance are considered nonconforming signs subject to the provisions of Section 10.72.050(2), WCC.

(2) Billboard sign amortization. Notwithstanding any other provisions of this Title, an existing nonconforming billboard may continue to be used for a period of ten years after January 20, 2020. No structural alterations may be made after January 20, 2020, and the said billboards must be brought into conformity by removal before ten years after January 20, 2020. The City may elect not to apply any provisions of this section if the removal of a billboard would require the city to pay compensation under any federal, state or other law, including RCW Chapter 47.42.)

(1) Off-Site Signs-

(a) Off-site signs in existence on the date of adoption of the ordinance codified in this section, which were constructed, erected or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs which may be continued, maintained and altered by changing the sign face or message, but shall not be allowed to change sign type, such as but not limited to the addition or changing of "effects," and shall not be allowed to increase in size, height or any other manner.

(b) Off-site signs in existence on the date of adoption of the ordinance codified in this section, which were constructed, erected or maintained in compliance with all previous regulations, which are destroyed by an act of God or accident may be replaced; provided, that the replaced sign meets the standards set forth in subsection (1)(c) of this section.

(c) Off-site signs in existence on the date of adoption of the ordinance codified in this section, which were constructed, erected or maintained in compliance with all previous regulations, may be moved or relocated on the same parcel of land when development of the property by the property owner requires relocation; provided, however, that the replacement sign conforms to the provisions of WCC 10.50.170 and the following standards:

(i) The new off-site sign shall be no greater in size (height and area) than the replaced sign;

- (ii) The new off-site sign shall be similar in construction to the replaced sign (e.g., electronic versus painted, single face or double faced or V-type);
- (iii) No off-site sign is located within 500 lineal feet of another off-site sign;
- (iv) No off-site sign is located within 300 lineal feet of a residential zone;
- (v) No off-site sign is located within 300 lineal feet of, or oriented to be viewed from, those areas known as Riverfront Park, Walla Walla Point Park, or Confluence Park, or as the same are subsequently known;
- (vi) Off-site signs shall be limited in size to 300 square feet, including the frame area;
- (vii) Maximum height of off-site signs shall be 30 feet above grade, measured from the base of the sign support;
- (viii) The new off-site sign shall not contain any new "effects."

(2) On-Site Signs.

- (a) An on-site sign which is legally nonconforming as of the effective date of the ordinance codified in this title by reason of restrictions on height, required setbacks or other requirements concerning on-site signs may be continued so long as it remains otherwise lawful.
- (b) A nonconforming on-site sign shall not be altered, extended, enlarged, or otherwise physically changed in any manner that would have the effect of increasing its amount or degree of nonconformity.
- (c) A nonconforming on-site sign destroyed by any cause to an extent exceeding 50 percent of its cost of replacement using new materials shall only be replaced with an on-site sign conforming to the provisions of this title.
- (d) Nothing in this title shall be deemed to prevent the normal maintenance and repair of a nonconforming on-site sign or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety. (Ord. 2010-03 § 1 (Exh. A); Ord. 2007-34 § 2 (Exh. A))

10.50.XXX Digital billboard.

- 1) The city shall authorize and issue a building permit for no more than one digital billboard located on North Miller Street between 5th Street and Springwater Avenue. The digital billboard shall have a maximum of two (2) digital sign faces.
- 2) The digital billboard shall meet the following standards:
 - a. The brightness of light emitted from the Digital Sign shall not exceed 0.3 foot candles over ambient light levels measured at a distance of one hundred fifty feet (150') feet.
 - b. Dwell time shall be a minimum of 8 seconds.
 - c. Transition time shall be a maximum of 1 second.
 - d. The digital display shall be turned off daily between the hours of midnight and 6 am.
 - e. The highest point of the sign face shall be a maximum of 30 feet above existing grade.
 - f. The maximum size of the sign face shall not exceed 300 square feet.
 - g. The digital billboard shall not be visible from State Highway 285 also known as Wenatchee Avenue.
- 3) Application for the digital billboard shall include a management program that demonstrates compliance with the dwell time, transition time, and lighting standards of this section.
- 4) Installation shall occur within one year of the issuance of a building permit for the digital billboard.
- 5) The digital billboard may be relocated only under the following circumstances:
 - a. The proposed relocated site must be on North Miller Street between 5th Street and Springwater Avenue; and
 - b. The sign owner shall submit to the city a building permit application within 30 days of termination of negotiations with the underlying property owner or within 30 days of receiving notice of termination of its property rights and prior to removal of the digital billboard in its original location.
- 6) Once constructed, the city shall not require the removal of the digital billboard unless the city agrees to pay the sign owner the fair market value of the digital billboard prior to removal.