

Clarification of Proposed Amendment to City of Weston Zoning Ordinance Related to "Billboards" and Coffeehouses

WHEREAS, on May 4, 2020, the City of Weston read an Ordinance titled "Coffeehouse and Lamar" (as indicated in the minutes of Council);

WHEREAS, the "Coffeehouse and Lamar" ordinance contained language that was to be "amendments" to the City of Weston Zoning Ordinance;

WHEREAS, attached to this ordinance is what is believed to be the language that was to be the intended amendments to be made to the City of Weston Zoning Ordinance;

WHEREAS, the underlined portions of the attachment were intended to be the amendments;

WHEREAS, said ordinance was intended to amend the City of Weston's Zoning Ordinance;

WHEREAS, said amendments were intended to identify various signs as "billboards";

WHEREAS, these "billboards" were in existence at the time the City of Weston Zoning Ordinance was enacted;

WHEREAS, the amendments attempted to allow the "billboards" to remain standing without alteration until January 1, 2023;

WHEREAS, on January 1, 2023, the "billboards" were to either be removed or made to conform to various standards identified in the amendments;

WHEREAS, the said amendments also attempted to define the term "Coffeehouse" and permit Coffeehouse to be a Use Permitted by Right in Section 313.03 of the City of Weston Zoning Ordinance;

WHEREAS, the City Council minutes do not indicate that the City of Weston performed a Second Reading of the said amendments;

WHEREAS, after the passage of time, the identification of the lack of a second reading, and the thoughtful deliberation of the City Council, the City Council has determined that the "billboards" do not need altered in a manner identified in the amendments;

WHEREAS, after the passage of time, the identification of the lack of a second reading, and the thoughtful deliberation of the City Council, the City Council has determined that the "billboards" do not need to be removed;

WHEREAS, the City Council now desires to allow the "billboards" to remain as they are and be subject to the limitations and requirements of Section 505.11 of the City of Weston's Zoning Ordinance and other applicable sections of the City of Weston's Zoning Ordinance;

WHEREAS, the City Council has determined that the Weston Zoning Ordinance is consistent with the City's Comprehensive Plan per West Virginia Code §8A-7-4;

WHEREAS, the City's Zoning Ordinance, specifically Section 505.11, permits signs to remain standing despite those signs being "non-conforming" to the rules and regulations of the City's Zoning ordinance;

WHEREAS, the allowance of the "billboards" to remain standing is permissible under the City's Zoning Ordinance, and, thus, consistent with the City's Comprehensive Plan;

WHEREAS, relative to Coffeehouses, the City of Weston sought advice of the City of Weston Planning Commission;

WHEREAS, on, or about, April 14, 2020, the Planning Commission determined that the Coffeehouse definition and usage requirements are consistent with the City's Comprehensive Plan;

WHEREAS, the City Council desires to define Coffeehouse and permit coffeehouses to be utilized per the Section 313.03 of the City of Weston Zoning Ordinance and be subject to all other applicable provisions of the City of Weston Zoning Ordinance.

THEREFORE:

The City of Weston now eliminates from the "Coffeehouse and Lamar" amendment the language that was intended to address "billboards";

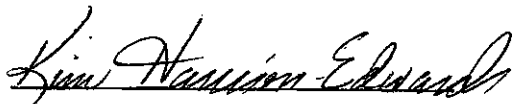
The City of Weston now keeps in the "Coffeehouse and Lamar" amendment the definition and usage requirements of "Coffeehouses";

The definition and usage requirements of Coffeehouse shall retroactively apply to May 11, 2020, the first date a second reading of the "Coffeehouse and Lamar" ordinance could have occurred.

If a court of competent jurisdiction determines that any word, sentence, or portion of this amendment is unconstitutional or otherwise deficient, then the remaining portions of the Ordinance shall remain in full force.

First Reading 3-6-2023

Second Reading 4-3-2023



Kim Harrison-Edwards, Mayor



Judy Percy, City Clerk

B. The billboard may not be stacked, side by side, tri-vision (three-sided), spin automatically or LED (light emitting diode).

2. Any nonconforming billboard within the city limits of the City of Weston that is not in full compliance with Section 505.11(a)(1)(ii) as of January 1, 2023 shall be deemed an illegal sign and shall be required to be removed in total forthwith.

(b) All other signs lawfully existing on the effective date of this code that do not conform to the provisions of this code, and signs that are accessory to a nonconforming use shall be deemed nonconforming signs and may remain except as qualified below.

1. Nonconforming signs shall not be enlarged nor shall any feature of a nonconforming sign, such as illumination or technology, be increased.

2. Nonconforming signs shall not be extended, structurally reconstructed, altered in any manner, or replaced with another nonconforming sign nor increased in technological advancement, except as permitted by this code.

3. Nonconforming signs shall not be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.

4. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty percent (50%) of its area may be restored within six (6) months after such destruction or damage, but shall not be enlarged. If such sign is so destroyed or damaged to an extent exceeding fifty percent (50%) of its area, the sign shall not be reconstructed but may be replaced with a sign that is in full accordance with this code.

5. Nonconforming sign structures shall be removed if the use to which they are accessory has not been in operation for a period of one (1) year or more, except as provided in ~~323-13(h)~~ 505.13(g). Such sign structure shall be removed or made conforming by the owner or lessee of the property. If the owner or lessee fails to remove or make conforming the sign structure within thirty (30) days of notice by the Zoning Officer, the Zoning Officer may cause the sign to be made conforming or removed and the cost of such removal or modification shall be charged to the owner, person having control, or person receiving benefit from such sign, with payment due within thirty (30) days of notice of charges.

6. If a nonconforming sign is altered such that the sign is conforming or is replaced by a conforming sign, such sign shall thereafter be kept in accordance with the provisions of this code.

(c) The burden of establishing nonconforming status of signs and the physical characteristics and location of such signs shall be with the owner of the property. Upon notice from the Zoning Officer, a property owner shall submit verification that sign(s) were lawfully erected. Failure to provide such verification shall cause the sign to be deemed an illegal sign and shall be required to be removed in total forthwith.

(d) Nothing in this section prevents keeping a nonconforming sign in good repair.

percent (25%) of the total area of the window or door or located above the first floor unless the related use is only on the floor where the window sign is displayed.

(d) Billboards.

1. Definition: A billboard is a sign which meets one or more of the following criteria:

(i) A permanent structure which is used for the display of off-site commercial message;

(ii) A permanent structure sign which constitutes a principal, separate or secondary use as opposed to an accessory use of the parcel on which it is located;

(iii) An outdoor sign used as advertising for hire, e.g., on which display space is made available to parties other than the owner or operator of the sign or occupant of the parcel in exchange for a rent, fee or other consideration; or

(iv) An off-site outdoor advertising sign or which space is leased or rented.

2. As of October 9, 2018, new billboards have been prohibited within the city limits of the City of Weston, and shall continue to be and herewith are prohibited under this code. (Certain billboards in existence within the city limits of the City of Weston as of October 9, 2018 have been deemed nonconforming signs and shall continue to be and herewith are so designated under this code in accordance with and subject to the specific provisions regulating such billboards set forth in Section 505.11(a) herein.)

Section 505.11 Nonconforming Signs.

(a) Existing Billboards.

1. Any billboard within the city limits of the City of Weston existing as of October 9, 2018 that was erected pursuant to a valid permit from the City, if required, and which complies in all respects with the City's ordinances in effect at the time the billboard was erected, shall be allowed to remain and deemed a legal nonconforming sign.

(i.) A legal nonconforming billboard within the limits of the City of Weston may not be enlarged but may be maintained by (A) painting or refinishing the surface of the sign face and sign structure or by replacing damaged panels so as to keep the appearance of the sign the same as it was upon its erection, (B) by replacement of light bulbs or similar expendable electrical devices and repair and replacement of electrical components for safety reasons, and (C) by lawfully changing the content of its face.

(ii.) Notwithstanding the foregoing provisions, the legal nonconforming status of all such billboards located within the city limits of the City of Weston shall expire on January 1, 2023. After January 1, 2023, all such nonconforming billboards within the city limits of the City of Weston shall be permitted to remain as long as they conform to the following requirements:

A. The display size/face of the billboard may be no more than forty feet (40') in height at the highest point of the sign.

Proposed Amendment to be added to the City of Weston Zoning Ordinance:

First: the following definition shall be added to Section 209.03 Use Definitions, being numbered "20.", with subsequent definitions being renumbered in order, from "21." to "117." --

20. "Coffee House/Café" means an establishment which serves coffee and/or tea and may also sell a limited selection of incidental baked goods for consumption either on- or off-site, but is not otherwise a "Bakery" or "Restaurant", as defined herein, and does not have a liquor license.

Second: the following term shall be added to Section 313.03 Uses permitted by right, being numbered "6.", with subsequent terms being renumbered in order, from "7." to "32." --

6. Coffee House/Café

Proposed Amendments to existing Zoning Ordinance (underlined):

Section 505.07 Prohibited Signs.

The purpose of prohibiting the following signage is to address the community's substantial public safety and welfare concerns, including aesthetic concerns and protecting property values, associated with certain types of signage. In addition to signs prohibited elsewhere in this code or by applicable state or federal law, the following signs are prohibited:

(a) *General prohibitions.*

1. Signs that violate any state or federal law relating to outdoor advertising or in violation of this code.
2. Signs attached to natural vegetation.
3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority.
4. Vehicle or trailer signs, defined as any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service, or activity and it fails to display current license plates, inspection sticker, or municipal decal; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle or trailer.
5. Animated signs, except where animated sign features as part of an electronic message display are expressly permitted.
6. Flashing signs or other signs displaying flashing, scrolling, or intermittent lights or lights of changing degrees of intensity, except where flashing features as part of an electronic message display are expressly permitted.
7. Beacons.

(b) *Prohibitions based on materials.*

1. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows, or wall edges of any building, except for temporary decorations not to exceed three (3) months per year.
2. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
3. Signs that emit sound.
4. Neon signs, except in windows where permitted in a district.

(c) *Prohibitions based on location.*

1. Off-premises signs, unless specifically permitted by this chapter.
2. Signs erected on public land other than those approved by the Zoning Officer in writing, required by law without such approval, or permitted under West Virginia law. Any sign not so authorized is subject to immediate removal by the City, with the costs charged to the owner or person having control of such sign, with payment due within thirty (30) days of notice of charges. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
3. Roof signs. Signs on the roof surface or extending above the roofline of a building or its parapet wall.
4. Any sign located in the vision triangle formed by any two (2) or more intersecting streets or any street and alley.
5. Window signs with an aggregate area on a window or door in excess of twenty-five