

## City of Portland Sign Ordinance

### Proposed Draft - Revisions to Advertising on Streets 14A.50.070 December 6, 2016

#### Introduction

The City of Portland's code regarding illegal advertising on city property or the right of way (ROW) is currently inadequate and lacking in clarity as to definitions, enforcement and authority. Known as "bandit" or "snipe" signs, illegal advertising is rampant in many areas of the city. It is a blight on aesthetics; causes clean up expense for what is litter; creates a safety hazard for vehicles, cyclists and pedestrians by hindering visibility; and, allows an unjust commercial advantage to those who break the law over those who abide by it.



The Friendly Streets nonprofit, which is dedicated to livability and safety issues across the city, has extensively investigated this issue. After a review of Portland's current code and research on sign ordinances in other US cities such as Baltimore, Austin, Orlando and Seattle, we seek to have Portland review its ordinance with the goal of amending it to become more comprehensive and effective. To that end we submit below a draft of an amended ordinance that includes the best of what our research has found. A good deal of the following draft is drawn from the Baltimore code, which in our opinion is the most comprehensive and well thought out amongst those reviewed, and which in addition created a city revenue stream that could be shared with neighborhoods.

## **14A.50.070 ADVERTISING ON STREETS**

### **Definitions**

The following terms have the meanings indicated:

1. City. "City" means the Mayor and City Council of Portland. (city attorney to verify definition)
2. Person. "Person" means any individual, political candidate, political committee, firm, partnership, association, corporation, company, organization, or other entity of any kind.
3. Sign. "Sign" includes any bill, poster, placard, handbill, flyer, painting, notice, advertisement, or other similar object or matter that contains printed or written matter in words, symbols, pictures, or any combination of them.
4. Public Right of Way. "Right-of-Way is the area between neighboring properties and includes street surfaces, curbs and sidewalk, and also frequently includes additional areas on either side of the sidewalk. The size and configuration of the right-of-way vary from street to street, as do the sizes of the actual street surfaces and sidewalks. Rights-of-way are generally dedicated to the movement of vehicles, pedestrians and/or goods."

### **General Provisions**

- A. It is unlawful for any person to scatter, post or stake signs on any public right-of-way or upon the exterior of a public building, utility pole, city pole or other city property, on a street easement or within ten feet of any public street or on either side of a sidewalk.
- B. Regardless of the above, it is prohibited to post on property that is not owned or leased or otherwise managed by the individual or entity that benefits from such signs.
- C. It is unlawful for any person or entity whose name appears upon, benefits from or who is responsible for posting any sign in violation of this Section to permit the notice or advertisement to remain posted.
- D. Any sign in violation of this Section may be removed as described below.

### **Postings prohibited.**

No person may post, place, or affix a sign on any public right of way, including but not limited to:

- (1) on any building owned, leased, or controlled by the City;
- (2) on or within the confines of any public park, recreation area, or other landscaped grounds owned or operated by the City;
- (3) on any flagpole or tree owned by the City;
- (4) on any traffic-control sign or device, including but not limited to, stop lights, stop signs, yield signs, one-way street signs, and any other sign or device that directs traffic or controls traffic signals, or on the supporting post of any traffic-control sign or device;

(5) in any way that: (i) blocks a motorist's, cyclist's, or pedestrian's view of a traffic-control sign or device so as to create a hazard; (ii) protrudes into a street or sidewalk so as to interfere with the safe passage of the public; or (iii) otherwise poses a hazard to motorists, pedestrians, or cyclists;

(6) on any other property owned, leased, or controlled by the City; or (need city attorney input on non-city rights of way)

(7) on any pole, building or property that is owned, leased, or controlled by a public utility and located within or on any public street, alley, or other public property.

### **Removal of illegal signs.**

(a) From City property – by Department. For any sign posted in violation of (1) through (6) above, the (insert city bureau with authority – possibly BDS) may:

(1) Summarily remove the sign and make the appropriate referral to have the sign removed. Written notice of the removal of the illegal sign, including its location, shall be sent to the responsible person; and (2) Send written notice to the person responsible, as defined above, ordering that person to remove the sign within the time specified in the notice.

(b) From City property – by others.

(1) For any sign posted in violation of (1) through (6) above, any individual shall: (i) summarily photograph and remove the sign; and (ii) either: (A) discard the sign in an appropriate manner; or (B) submit the sign to the (insert city bureau with authority – possibly BDS) for further enforcement proceedings.

(2) A submission to the (insert city bureau with authority – possibly BDS) for further enforcement proceedings: (i) must be accompanied by an affidavit, in the form required by the regulations adopted under this ordinance, that describes the circumstances of the violation and removal; and (ii) may designate a non-profit community or neighborhood association listed with the *Office of Neighborhood Involvement* to share in any fines that might be collected in the matter.

(3) An association so designated is entitled to receive 50% of any fine collected.

(c) From public utility property.

(1) The public utility shall summarily remove the sign. Written notice of the removal of the illegal sign, including its location, shall be sent to the responsible person; or

(2) The public utility or the (insert city bureau with authority – possibly BDS) shall send written notice to the person responsible ordering that person to cease and desist and to remove the sign within the time specified in the notice .

**Liability for costs and expenses.**

- (a) Any person who posts a sign in violation of this ordinance and any other person responsible for the sign, as described in this ordinance, is liable to the City or to the public utility, as the case may be, for the costs of:
  - (1) removing the sign; and
  - (2) repairing any damage caused by the placement or removal of the sign.
  
- (b) Rules and regulations for City property.
  - (1) The **(insert city bureau with authority – possibly BDS)** shall adopt regulations to provide for the removal of signs illegally placed on City property.
  - (2) The regulations shall include:
    - (i) charges to be assessed for the costs of removing illegal signs and repairing damages;
    - (ii) rules, procedures, and forms to carry out the “Removal of illegal signs: From City property – by others” of this ordinance; and
    - (iii) provisions that require the **(insert city bureau with authority – possibly BDS)** to contact and record:
      - (A) the name of the person or entity represented on the material removed;
      - (B) the number of advertisements, notices, or other signs removed;
      - (C) the location of the material; and
      - (D) the type of structure from which the material was removed.

**Persons responsible.**

- (a) Political campaigns (see page 5 Campaign Signs)
  - (1) A candidate for public office shall, at the time of filing with the Board of Supervisors of Elections for the candidacy, sign a written statement that acknowledges the candidate’s responsibilities under this ordinance. Failure to sign the statement does not affect the liability of the candidate for the penalties and costs provided for in this ordinance.
  
  - (2) In the case of a political campaign, a candidate for any office and the chairman and treasurer of any registered political committee is presumptively liable for the costs of sign removal imposed by this ordinance, as well as for the civil and criminal penalties imposed by this ordinance if the candidate or the committee was responsible for printing the sign. If the liability is contested, the burden of overcoming the presumption is on the contesting party.

- (b) Other cases.

In all other cases, the person whose name, event, business, location, merchandise or service is written on the sign is presumptively liable for the charges imposed by this ordinance, as well as for any civil and/or criminal penalties imposed by this ordinance. The burden of overcoming the presumption is on the contesting party.

**Enforcement and penalties.**

- (a) Enforcement by citation.

(1) In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of a civil citation.

(2) The issuance of a citation to enforce this ordinance does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

- (b) Criminal penalties. Any person who posts a sign in violation of this ordinance or who fails to comply with a notice to remove a sign posted in violation of this ordinance is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each sign per day.

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**XXXXXXXX - CAMPAIGN SIGNS IN RESIDENTIAL AREAS**

**When signs may be displayed.**

- (a) Earliest date. Signs announcing candidates seeking elected public office may be erected on the exterior of structures or in yards in Residence and Office-Residence Zoning Districts in Portland no earlier than sixty (60) days prior to election day.
- (b) Latest date. The signs must be removed within fourteen (14) days after any primary election day by an unsuccessful primary candidate and within fourteen (14) days after any general election day by all other candidates.

**Maximum size.**

No sign erected under this subtitle may exceed an area of three (3) square feet.

**Permitted inferences.**

For purposes of enforcing this ordinance, the presence of a sign in violation allows, but does not require, an inference that it was placed or erected at the direction of or with the consent of the candidate whose name appears on the sign.

**Enforcement by citation.**

- (a) In addition to any other civil or criminal remedy or enforcement procedure, this subtitle may be enforced by issuance of a civil citation.
- (b) The issuance of a citation to enforce this subtitle does not preclude pursuing any other civil or criminal remedy or enforcement action authorized by law.

**Penalties.**

Any person who violates any provision of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$500 for each sign per day.

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<sup>i</sup> Refer to City of Portland Bureau of Transportation “Encroachments in the Public Right-of- Way”