



City of Portland

Office of Planning and Development

1900 SW Fourth Avenue, Suite 5000 Portland, OR 97201
Telephone: (503) 823-7300 Fax: (503) 823-3018

TEMPORARY RULE

RELATING TO
Title 32 – Sign and Related Regulations

FOR INFORMATION CONTACT
(503) 823-7290

TOPIC: Sign Code Enforcement Chapter 32.66 – Violation Citation Process, Fines and Appeals

AUTHORITY:

Under Section 32.60.020 the Director of the Office of Planning and Development Review (OPDR) is authorized to adopt administrative rules and supplemental regulations for Title 32 – Signs and Related Regulations. Such rules and regulations shall be in conformance with the intent and purpose of the Sign Code.

CITATION:

Section 32.66.020 of the Sign Code reads, in part, as follows:

32.66.020 Civil Penalties and Fees

A violation of this Title (Sign Code) may result in assessment of civil penalties or enforcement fees, as provided below:

A. Civil penalties.

1. For each separate violation, a civil penalty of up to \$1,000 may be assessed.
2. In determining the amount of any civil penalty to be assessed, the Director will consider the following:
 - a. The nature and extent of the responsible party's involvement in the violation;
 - b. The benefits, economic, financial or otherwise, accruing or likely to accrue as a result of the violation;
 - c. Whether the violation was isolated and temporary, or repeated and continuing;
 - d. The magnitude and seriousness of the violation;
 - e. The City's cost of investigation and remedying the violation;
 - f. Any other applicable facts bearing on the nature and seriousness of the violation.

B. Administrative enforcement fees

1. The Director may charge a penalty in the form of a monthly enforcement fee for any violation that meets (specified) conditions.

C. Portable sign penalties

In addition to other penalties and fees established, where a registered or temporary portable sign has been the subject of multiple citations, the Director may either impound the sign, or revoke the registration of a sign or prohibit future portable sign registrations to the owner of the sign, or any combination of these actions. The Director may charge, in addition to any other fine, the administrative costs of impounding a portable sign.

32.66.050 Review by the Director.

- A. If a responsible party has received a written citation or stop work order as described in (the Sign Code) and the responsible party believes the citation or order has been issued in error, the responsible party may request that the citation or order be reviewed by the Director. The responsible party must submit a written request to the Director within 15 days of the date of the citation or order.Following review, the Director will issue a written determination.
- B. A responsible party may appeal the Director's written determination to the Code Hearings Officer in accordance with Chapter 22.10 of the Portland City Code.

Section 32.36.020 Regulations That Apply to All Nonconforming Signs reads, in part, as follows:

- C. Sign maintenance, sign repair and changing of permanent sign faces is allowed so long as structural alterations are not made and the sign is not increased in size.
- D. Permanent signs and sign structures that are moved, replaced, or structurally altered must be brought into conformance with the sign regulations. However, nonconforming signs required to be moved because of public right of way improvements may be re-established. See paragraph 32.32.030.030.C.4, Removal of signs.
- H. **Loss of nonconforming sign status**
 - 1. Discontinuance. If there is no sign in place on a sign structure or building wall for 6 continuous months, the nonconforming rights are lost and a nonconforming sign may not be re-established. If the sign structure is unused for less than 6 continuous months, a nonconforming sign may be re-established.

Section 32.12.030, Prohibitions, reads, in part as follows:

The following are prohibited and existing ones must be removed:

- B. Abandoned sign structures.

Chapter 32.22, Definitions, provides the following definitions:

- A. **Abandoned sign structure.** A sign structure where no sign has been in place for a continuous period of at least 6 months.

FFF. Structural alteration. Modification of a sign, sign structure or awning that affects size, shape, height, or sign location; changes in structural materials; or replacement of electrical components with other than comparable materials. The replacement of wood parts with mater parts, the replacement of incandescent bulbs with light emitting diodes (LED), or the addition of electronic elements to a non-electrified sign would all be structural alterations. Structural alteration does not include ordinary maintenance and repair, repainting an existing sign surface, including changes of message or image, exchanging painted and pasted or glued materials on painted wall signs, or exchanging display panels of a sign through release and closing of clips or other brackets.

RATIONALE:

The Sign Code provides the general framework for a citation based enforcement process for violations of Title 32. The Director is authorized to set fines for violation of the Code up to \$1,000 per day of non-compliance. This rule establishes the citation fine amounts; the manner by which a responsible party may appeal a citation, stop work order, and imposition of administrative enforcement fees; the manner by which OPDR will review appeals; and, when portable signs may be impounded and how they may be retrieved.

HEARING AND OPPORTUNITY TO COMMENT

A hearing will be held at the Office of Planning and Development Review
Rooms 5A and B, Fifth Floor
1900 SW 4th Avenue
Portland, Oregon 97201

Time: 9:30 a.m.
Date: May 9, 2001

Written comments will also be accepted until 5:00 p.m. on May 11, 2001 at 4:00 p.m.

OPDR, Attn: Kermit Robinson
Suite 5000
1900 SW 4th Avenue
Portland, OR 97201

Sign Code – Title 32 Temporary Rule:

A. Sign Code Citation Process

The process and fines established in this rule shall be the process followed by the Office of Planning Development Review (OPDR) for citing violations of the Sign Code (Title 32), collecting fines, impounding signs, considering appeals and imposing administrative enforcement fees.

Violations observed. When a violation of the Sign Code is observed, an OPDR inspector may issue a citation to the person or persons responsible for the violation (responsible party). The Sign Code defines a responsible party as either being the property owner or person authorized to act on the owner's behalf; or any person causing or contributing to a violation of the Sign Code. The responsible party may be the business owner, a sign contractor or installer or the property owner. When no other responsible party can be identified, the property owner is the responsible party. For temporary portable signs; for permanent portable signs not registered to a specific property or registered for placement in the right of way, the responsible party will be the owner of the business identified by the sign

Warnings. As the banner and portable sign programs are new commencing March 1, 2001, the OPDR sign inspectors may issue a warning citation which will carry no fine for violations of banner and portable sign standards or registration requirements. However, if a portable sign or banner registration has been issued to a business owner, any subsequent violation can be subject to a citation carrying a fine.

Fines and Corrections. The citation will state the section of the Sign Code violated, the fine imposed and the corrective action required.

Corrections not made. If corrections are not made within 30 days, the Chief Electrical Inspector may impose, in addition to any fines accumulated for the violation, the monthly Administrative Enforcement Fees established in Section 32.66.020.B.

Appeals. Both the issuance of a citation and the imposition of the Administrative Enforcement Fee may be appeal by requesting a review by the Director, see Sections F, G and H, below.

B. Fines

The following fines are established for violations of the Sign Code. These fines will be assessed as a result of a Sign Code citation/notice of violation. Fines must be paid to and received by the Office of Planning and Development Review by the 15th calendar day after the date on the citation, unless the citation is appealed, see Section F, below:

Specific Fines

1. No Permits (erecting or altering a sign without a permit)
Sec. 32.62.010.B As set by the Adopted Sign Fees

- 2. No Registration (displaying a banner, balloon, temporary sign
 Or portable sign without registration) \$35
 Sec.32.62.010.D
- 3. Dangerous sign or sign structure \$150 per day
 Sec.32.42.030.B
- 4. Failure to maintain a sign \$50 per day
 Sec.32.42.030.A
- 5. Failure to comply with a stop work order \$250 per day
 Sec.32.66.040
- 6. Erecting/Using a prohibited sign or strobe light \$50 per day
 Sec.32.12.030; 32.54.010
- 7. Erecting an excess number of signs (including banners and portable sign)...\$50 per day
 Sec. 32.32.030.G2
- 8. Violations of electrical installation standards.....\$50 per day
 Sec.32.42.020 (Title 26, National Electrical Code)
- 9. Non-conforming sign alteration.....\$100 per day

		Occurrence		
		<u>1st</u>	<u>2nd</u>	<u>3rd</u>
10.	Portable sign (A-board violations)			
a.	Sign larger than permitted in Right of Way Sec. 32.32.030.C.3 b.....	\$25	\$35	\$50
b.	Sign improperly located in right of way Sec.32.32.030.C.3. a, e.....	\$25	\$35	\$50
c.	Sign obstructs continuous pedestrian path Sec.32.32.030.C.3.f.....	\$25	\$35	\$50
d.	Sign obstructs ADA or other access Sec.32.32.030.C.3.g.....	\$25	\$35	\$50
e.	Sign obstructs sidewalk corner Sec.32.32.030.C.3.d.....	\$25	\$35	\$50
f.	Sign encroaches on vision clearance Sec.32.42.010.C.1.....	\$25	\$35	\$50
11.	Banners or Portable signs improperly placed:			
	Residential zone.....	\$50	\$75	\$100
	Non-residential zone.....	\$100	\$150	\$200

- 12. Portable sign impound fee.....\$105
Sec.32.66.020C

- 13. Other violation
Fines will be set on other violation citations based on the following factors:
presence of safety hazard; whether it is a first or repeat violation; whether the violation was isolated and temporary; OPDR’s cost of investigation; as well as other factors specified in Section 32.66.020.A. Other violations fines can be either a set, one time, amount or a per day fine.

Per day fines

Fines which are established in the above chart as accruing each day shall continue from the date on the citation until such day as the inspector determines that the violation has been corrected. It is the responsibility of the responsible party to call the inspector when the violation is corrected. When the inspector has inspected the site and concurred that the corrections have been made, the inspector will note in the TRACS system the date corrected and the total fines applicable.

Fines double after 15 days

When a responsible party has failed to pay the citation fines within 15 days of the date on the citation, or within 15 days of the final review of the Director or an appealed citation, the fine(s) indicated on the citation will be doubled.

C. Structurally Altering a Nonconforming Sign

The first time a sign is structurally altered, the responsible party will receive a citation requiring that the sign be restored to its condition prior to the structural alteration and requiring a payment of a fine established above.

The second time a sign is structurally altered, the responsible party will receive a citation which will require compliance with Section 32.36.020D, which requires that the sign be brought into conformance with the sign regulations. The following orders will be typical for such cases:

- 1. Roof signs: Complete removal of the sign and sign structure;
- 2. Too many freestanding signs on a site: Complete removal of the sign and sign structure;
- 3. Sign larger than maximum allowed in zone; but site is not in excess of sign area allowed: Reduce the sign to the maximum allowed in the zone.
- 4. Sign larger than maximum allowed in zone and the site exceeds sign area allowed: Complete removal of sign and sign structure(or reduce sign size until site complies with total allowed in in the zone);

5. Projecting sign where a freestanding sign is on the same street frontage: Complete removal of the sign and sign structure.
6. Projecting sign which extends too far into the right of way: Reduce sign until it complies with Section 32.32.030.C.1.
7. Other reduction or removal appropriate to the sign type and degree of nonconformity.

D. Impounding of Portable Signs

OPDR is authorized by Section 32.66.020.C to impound portable signs which have been the subject of multiple citations. In its adoption of the Sign Code, the City Council directed OPDR to impound signs which have received three citations. Portable signs, also known as A-boards, will be impounded by the sign inspectors when a third citation is issued. OPDR will release the impounded sign to the responsible party upon payment of the impound fine. If the sign is not retrieved by the responsible party within 15 calendar days, the impoundment fine will be doubled. OPDR assumes no liability for the condition of impounded signs.

Where a previously impounded sign has been retrieved by the owner and receives a fourth citation, the sign will again be impounded and the registration revoked.

E. Abandoned Sign Structures

The sign code requires that abandoned sign structures be removed. By definition a sign structure is considered abandoned when no sign has been in place for 6 or more consecutive months. When a sign structure that has the potential to become an abandoned sign structure comes to the attention of OPDR, the owner of the property will receive a warning citation from OPDR. If no sign has been installed on the structure within 6 months of the warning citation, the sign structure must be removed. If OPDR determines after 6 months that the sign structure remains abandoned and in place, a citation will be issued to the property owner.

F. Compliance and Citation Appeal Process

The responsible party has the option of correcting the violation and paying the fine as stated on the citation, or may appeal the citation.

Compliance.

Upon correcting a violation, the responsible party must call for an inspection of the property by a sign inspector. Even when the violation is corrected, the citation fine is still due. Per day fines do not end until the inspector has confirmed by his inspection that the violation has been corrected. Sign citation violation fines may be paid, in person, at the OPDR Development Services Center, 1900 SW 4th Avenue; or by mail to OPDR, Sign Compliance Program, Suite 5000, 1900 SW 4th Avenue, Portland, OR 97201. Checks should be made payable to "OPDR

Sign Compliance Program". To assure proper credit, the Serial Number on the face of the Sign Violation Citation should be included on the check and a copy of the citation form should also be returned with the payment.

Non-payment of fines.

Where a violation has been corrected and subsequently approved by the sign inspector, but the responsible party has neglected to pay the fines, no further sign permits or registrations will be issued to that responsible party until such fines are paid.

Citation Appeals – Review by the Director.

When a responsible party receiving a citation believes that the citation was issued in error, the responsible party may request that the citation be reviewed. The request to review must be made in writing within 15 days of the date of the citation. If the citation imposes a per day fine, the fine and the accumulation of daily fines, will be suspended during the ODPR review. The initial review will be conducted by the Chief Electrical Inspector. The Chief Electrical Inspector shall provide the Director with a recommended determination. The Director, upon review of the recommendation shall issue a final OPDR determination to the responsible party. The final determination will set the final citation fines, if any, due from the responsible party or may amend void the citation. The final determination will be mailed to the responsible party.

G. Administrative Enforcement Fees

Whenever a citation is unresolved, either because the violation is not corrected, or where the violation is corrected but the fine remains unpaid, and OPDR decides to impose the administrative enforcement fees, OPDR will provide written notice to the responsible party that the fees are to be imposed. The Administrative enforcement fees are in addition to any citation fines prescribed for the violation. Where a violation has not be corrected, the daily fines will continue to accumulate concurrent with the administrative enforcement fees. When a responsible party has received a notice that administrative enforcement fees are to be imposed, the responsible party may request that the assessment of administrative enforcement fees be reviewed by the Director. The request to review must be made in writing within 15 days of the first notice of assessment of fees. The review process will follow the same process as specified for review of citation, stated above, however, this review will only address assessment of administrative enforcement fees and will not address the appropriateness of the original citation.

H. Appeals – Codes Hearings Officer

The responsible party may appeal any final determination of the Director regarding citations or administrative enforcement fees to the Codes Hearings Officer in accordance with Chapter

22.10 of the City Code. Chapter 22.10 requires that these appeals be filed within 10 days of the final determination.

Approved: _____

Margaret M. Mahoney
Director
March 12, 2001