

ORDINANCE NO. 408

AN ORDINANCE AMENDING CODE CONTROLLING SIGNS ON CITY PROPERTY AND IN CITY RIGHT-OF-WAYS.

WHEREAS, the City Council has previously directed by Resolution 905, that an ordinance be prepared prohibiting signs other than for health, safety and traffic control on City owned and maintained property including rights-of-way, directing staff only to place such authorized signs, providing for enforcement and penalties, and setting a public hearing for April 20, 1992; and

WHEREAS, the public hearing on this matter has been continued due to the complexity of the issue; and

WHEREAS, the City Council recognizes that the U. S. Constitution, First Amendment provides:

“Congress shall make no law...abridging the freedom of speech...”, and that the United States Supreme Court has recognized that reasonable time, place and manner regulation that focus on demonstrable, harmful effects of speech may be a valid subject for municipal regulation. Thus, the United States Supreme Court found in Members of City Council of City of Los Angeles v. Taxpayers for Vincent, 466. U.S. 789, 80 L. Ed 2d 772, 104 S. Ct. 2118 (1984), the visual assault on citizens presented by an accumulation of signs posted on public property constitutes a significant substantial evil within the City's power to prohibit; and

WHEREAS, the City Council recognizes that the Oregon Constitution, Art. 1, Sec. 8 provides:

“No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever, but every person shall be responsible for the abuse of this right.”, and the Oregon Supreme Court in City of Portland v. Tidyman, 306 Or 174, 759 P2d 242 (1988) has categorized valid prohibitions into three major classifications:

- (1) An old or modern version of a well established historical exception that the constitutional guarantees demonstrably were not meant to displace. 306 Or at 179.

(2) Time, place and manner regulation which specifies the harm and not only the expression and which is based upon demonstrable specified harm and nor mere apprehension. 306 Or at 191.

(3) A regulation of general applicability that incidentally restricts the exercise of a constitutional right. However, even handed exemptions from such regulation that promote protected activities are permitted. An example of such a regulation of general application is a restriction against placing signs on utility poles. 306 Or 183; and

WHEREAS, the City has experienced episodes of multiple signs, generally of a classification commonly referred to as lawn signs, which display a variety of messages, including, but not limited to, "For Rent", "Garage Sale", "Apartment for Rent" and campaign and candidate information, being erected on the City's property and right-of-ways. The City Council finds that the content of the signs to date has not presented any issue falling into any historical content exception such as libel per se. However, the proliferation of such lawn signs placed on City property and in certain locations in the public's right-of-way has created visual blight, interfered with sight clearance for safe traffic movement, distracted motorists from keeping a safe lookout, obscured traffic signs, damaged and interfered with the City's property and right-of-way landscaping and ability to maintain its landscaping and to mow its property and right-of-way areas, and in further situations, the placement, quantity, size, height and movement have created a nuisance to the occupancy or use of private property abutting the City's rights-of-way; and

WHEREAS, the City Council recognizes that certain locations of its right-of-way could reasonably accommodate lawn signs where landscape interference and maintenance does not present a problem and, that if lawn signs in these areas were limited to reasonable restrictions on size, height, brightness, or movement, the City could, for the most part, avoid the traffic safety and property protection and use issues set forth above. However, without further restrictions, this would still leave a proliferation of lawn signs clustered within certain portions of the right-of-way and the visual assault created by such proliferation; and

WHEREAS, the City Council finds in regards to the proliferation of lawn signs that even imposing reasonable restrictions to location, place, size, height, brightness and movement would still create a demonstrable visual blight. However, the City Council finds that campaign and candidate signs when subject to reasonable restrictions of location, place, size, height, brightness and movement, together with a limit on number and time of

placement (temporary) have historically been accorded a fundamental protection to be promoted and should be given great weight in balancing protection from visual blight. However, the placement of political signs in rights-of-way adjacent to publicly owned property is likely to create confusion and misinterpretation that the respective public entity is taking a political position on a candidate or measure; and

WHEREAS, the City Council further finds the other types of lawn signs such as "For Sale", "Garage Sale", and "Apartment for Rent" have remaining modes of communication which traditionally have been adequate such as simply posting on the affected private property or using the community newspaper want ads.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

(1) Except as provided herein, signs shall not be placed on City property, including the City's rights-of-way and rights-of-way over which the City has jurisdiction. City property includes:

- a) City Hall;
- b) The Community Development Annex;
- c) The Community Center;
- d) The Library;
- e) Boones Ferry Park including property known as the Burlington Northern acquisition;
- f) Tranquil Park;
- g) Wilsonville Memorial Park;
- h) The Montebello open space on Wilsonville Road;
- i) Fox Chase Park;
- j) The City's reservoir property.

(2) Signs necessary to locate and direct the public to City premises, or other governmental premises, may be placed on City property and/or City rights-of-way and rights-of-way over which the City has jurisdiction.

(3) Signs necessary for the public's health, safety and welfare authorized under law, regulation, ordinance, or order, including but not limited to traffic signs, may be placed on City property and/or on City rights-of-way and rights-of-way over which the City has jurisdiction.

(4) Signs and their placement as authorized in Sections (2) and (3) above shall meet all other applicable standards and criteria under law, regulation, ordinance, or order.

(5) Campaign and candidate lawn signs may be placed on City rights-of-way and rights-of-way over which the City has jurisdiction except those rights-of-ways

adjoining City properties listed in Section 1 or where prohibited on the following conditions:

(a) Prohibited right-of-way locations where the placement of campaign and candidate lawn signs could damage City landscaping or interfere with the City's maintenance of the rights-of-way, which are located as follows:

- 1) Either side of and median strips on French Prairie Road;
- 2) Either side of and median strips on Town Center Loop West;
- 3) Either side of and median strips on Town Center Loop East from Parkway Avenue to the Clackamas Community College driveway;
- 4) Wilsonville Road between Willamette Way West and Willamette Way East;
- 5) The north side of Wilsonville Road from Town Center Loop East to the western boundary of the Methodist Church property;
- 6) The north side of the "big curve" on Wilsonville Road, just past the eastern boundary of the Methodist Church property;
- 7) Either side of Wilsonville Road from the Boeckman Creek School driveway to the point at which the improved portion of the road ends;
- 8) Either side of and median strips on Parkway Center Avenue from Elligsen Road to the eastern boundary of the Burns Brothers truck lot;
- 9) The north side of Parkway Center Avenue from Parkway Avenue to the eastern boundary of the Burns Brothers truck lot;
- 10) The south side of Elligsen Road from the eastern boundary of the Burns Brothers truck lot to the eastern boundary of the Smith's Home Furnishings property; and
- 11) The western side of Boones Ferry Road adjoining Boones Ferry Park.

(b) A campaign or candidate lawn sign shall not be placed in a City right-of-way which is adjacent to other public owned property in order to avoid the appearance that a public entity is politically supporting a candidate(s) or measure(s). Other public owned property includes that of districts, county, regional, state and federal governmental entities.

(c) A campaign or candidate lawn sign shall not be placed within a City right-of-way in a manner which obstructs sight lines of the motoring public,

obscures traffic or other government signs, or creates a nuisance to the use or occupancy of private property.

(d) A campaign or candidate lawn sign shall meet the following criteria for placement within a City designated right-of-way:

- 1) Type: Temporary pole;
- 2) Number: A sign of a candidate or a sign of a campaign measure may be placed one every fifty feet within a right-of-way location;
- 3) Number of sides: No more than two (2);
- 4) Height: No higher than three (3) feet measured from the surface of the right-of-way to the top of the sign inclusive of pole;
- 5) Sign Face Area: No more than six (6) square feet.
- 6) Illumination: None;
- 7) Movement: None;
- 8) Time of Placement: Temporary. A campaign or candidate sign may be erected during the period sixty (60) days prior to a general, primary or special election and shall be removed within three (3) days after the election;
- 9) Placement: A candidate or campaign sign shall be placed within a right-of-way area at least ten feet away from any other placed candidate or campaign sign;

(6) Any sign placed in violation of the provisions of this ordinance shall be immediately removed by the City. As soon thereafter as reasonable, the City shall notify the owner or the owner's representative that the sign has been removed, the reason, and if not claimed within twenty (20) days, the sign will be deemed abandoned and subject to disposal by the City.

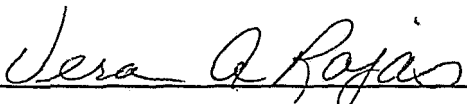
(7) Any sign or like sign which is intentionally replaced in violation of the provisions of this ordinance after having been notified of the initial sign removal and reason for its removal, shall subject the owner to a civil violation not to exceed \$100.00 as and for a civil fine.

(8) If any provisions of this ordinance is held to be unconstitutional or otherwise legally unenforceable, it shall not render the remaining provision unconstitutional or otherwise legally unenforceable. The provisions of this ordinance are intended to be severable.

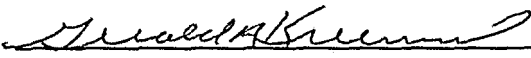
SUBMITTED to the Wilsonville City Council for first and second reading at a regular meeting thereof the 21st day of September, 1992, at which time the public hearing was continued until October 5th; read for the first time and scheduled for second reading on October 19, 1992, commencing at the hour of 7:00 p.m., at the Wilsonville City Hall Annex, Community Development Hearings Room.

  
VERA A. ROJAS, CMC/AAE, City Recorder

ENACTED by the City Council on the 19th day of October, 1992 by the following votes: YEAS: 5 NAYS: 0.

  
VERA A. ROJAS, CMC/AAE, City Recorder

DATED and signed by the Mayor this 20th day of October, 1992.

  
GERALD A. KRUMMEL, Mayor

SUMMARY of Votes:

Mayor Krummel AYE  
Councilor Chandler AYE  
Councilor Carter AYE  
Councilor Lehan AYE  
Councilor Van Eck AYE