

CITY OF BURLINGTON

ORDINANCE 10.0
Sponsor: Councilors Carleton,
Bushor, Ellis, Montroll: Ordinance Com.

In the Year Two Thousand Three

Public Hearing Dates _____

First reading: 7/15/02

Referred to: Ordinance Committee

Rules suspended and placed in all stages of passage: _____

Second reading: 10/27/03

Action: adopted

Date: 10/27/03

Signed by Mayor: 10/31/03

Published: 11/05/03

Effective: 11/26/03

An Ordinance in Relation to

OFFENSES, MISCELLANEOUS PROVISIONS -
Signs in Public Ways; On Vehicles

It is hereby Ordained by the City Council of the City of Burlington, as follows:

That Chapter 21, Offenses, Miscellaneous Provisions, of the Code of Ordinances of the City of Burlington be and hereby is amended by amending Sec. 21-5 thereof to read as follows:

Sec. 21-5. Signs in public ways; on vehicles.

(a) As written.

(b) No person or business shall place or cause to be placed any advertisement or sign, sandwich board sign, or other type of advertising material or structure in or on any streets, sidewalks, greenbelts, or other rights-of-way within the limits of the city except as permitted in subsections (c), (d), and (e) of this section. The Code Enforcement Office shall be the lead department responsible for the enforcement of this ordinance and the director of the public works department or his/her designee, all Code Enforcement officers, and all law enforcement officials are authorized to enforce the provisions of this section.

Notwithstanding sec. 21-56 (a), a violation of subsections (b), (c), or (d) is punishable by a civil penalty of from one hundred fifty (\$150) to five hundred dollars (\$500) and the confiscation of the sign at the owner's expense. The waiver penalty for such offense is \$150.

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~~(b) (c) No person shall~~ For all businesses located within the Church Street Marketplace District, a person or business may, subject to the written consent of the Marketplace Commission, place or cause to be placed any advertisements or signs, sandwich board signs, or other type of advertising material or structure upon the streets or sidewalks within the limits of the city, except within the Church Street Marketplace District provided that within such district provided that the following provisions shall govern:

(1) - (4) As written.

(d) If applied for and permitted pursuant to this subsection, an advertisement or sign, sandwich board sign, or other type of advertising material or structure may be placed in or on a sidewalk or greenbelt adjacent to businesses located in the city's Commercial, Waterfront Commercial, General Commercial, Neighborhood Commercial, Central Business District (except the Church St. Marketplace District) and Enterprise zones.

Notwithstanding the limitations on districts in which signs may be permitted, existing businesses with existing authorized signs in the right of way shall be allowed under a permit applied for and granted under these provisions; this right shall expire upon the termination of the business. For signs in districts where they are allowed, signs that are currently licensed but do not meet the criteria can apply for a variance without the need to find extraordinary circumstances.

The public works director or his or her designee shall be responsible for granting or denying permits.

(1) Criteria. The following criteria shall apply to the granting of permits:

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(A) Location: The location of the sign shall be set forth on the permit. Signs must be placed adjacent to the premises as close to the place of business as safety and aesthetic concerns will allow. Signs shall not be permitted if, when placed, the sign is within twelve (12) feet of a previously permitted sign. Variances must be requested from the Public Works Commission for special permission to place signs in a place not adjacent to the business where permitted by Chapter 21 of Title 10 of the Vermont Statutes Annotated, provided that such signs shall be placed in a district in which signs permitted in subsection (d) are allowed.

(B) Size: Signs shall be:

- (i) no more than four (4) feet high (measured from the ground or pavement to the top of the sign) or wider than three (3) feet at its widest point and in no event shall a sign's total area exceed eight (8) square feet; or.
- (ii) no higher than two-and-a-half (2 ½) feet or wider than three (3) feet and in no event shall such a sign's total area exceed six (6) square feet, if it is
 - (*) within forty (40) feet of a street intersection; or
 - (**) within fifteen (15) feet of a driveway curb cut; or
 - (***) placed in a location not adjacent to the business pursuant to

(d)(1)(A).

(C) Number: There shall be no more than one sign per business permitted. Where more than one business is located on a property, the Public Works Commission may either deny all requests for a permit or grant a variance

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from the requirements in (d)(1)(A) and (B) (size and location) pursuant to the provisions on variances.

(2) Standard Conditions. Any terms or conditions in addition to the provisions of (d)(1) that are reasonably necessary to protect the public health, safety or welfare may be attached to the permit. The following shall be standard terms and conditions of any permit issued pursuant to this section:

- (A) All signs must be freestanding with no more than two sides and must not be attached to any other structure or object, including, but not limited to parking control signs, parking meters, trees, bushes, telephone and utility poles, mail boxes, or news racks.
- (B) All signs must be constructed of durable, weather resistant materials and finish, sufficiently weighted to the ground to prevent blow-down and shall not be electrified, illuminated or animated in any way. The permittee shall maintain the sign in a clean and original appearance and is solely responsible for any damage to the sign.
- (C) No sign shall be constructed, placed or maintained in a manner to obstruct driver or pedestrian visibility or use of the streets, parking meters, or sidewalks. No sign shall obstruct any intersection, crosswalk, access ramp, bus stop, fire hydrant, driveway, building entrance or emergency exit. No sign shall be placed in a manner that decreases the horizontal area for clear passage of pedestrians to less than five (5) feet. No sign shall be constructed,

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placed, or maintained in a manner that impedes or impairs the City's ability to maintain the road, sidewalk, street trees parking meters, and green belt.

(D) From March 21st through September 21st all signs must be removed from the sidewalk or greenbelt no later than 7 pm each evening or at anytime the establishment is closed, whichever occurs first. From September 22nd through March 20th, all signs must be removed from the sidewalk or greenbelt by 5 pm each evening or at anytime the establishment is closed, whichever occurs first. Signs shall not be placed out on the sidewalk or greenbelt before 6 am each morning.

(E) The permittee shall place the permit number sticker on the upper right corner of the sign.

(F) The permittee shall carry liability insurance in amounts required by the City's liability insurance company, and shall include the City of Burlington as an additional insured party. The permittee shall agree to indemnify and hold the city harmless and free from all liability arising out of its use of the street, greenbelt, sidewalk, or other right-of-way. Should the sign be damaged due to maintenance such as plowing or tree maintenance, the City of Burlington is not responsible for replacement of the sign.

(3) Denial, Appeal, Variance.

If it reasonably appears that granting the permit shall jeopardize the public's health, safety or welfare, the application shall be denied. Within ten days of the date of a denial from the director, or his or her designee, the applicant may appeal the decision in writing to the Public Works Commission. The Public Works Commission

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may deny or grant the permit application and may set terms and conditions consistent with the provisions of subsection (2) when it deems it necessary for the protection of the public's health, safety or welfare. No sign shall be placed on a street, sidewalk, greenbelt, or other city right-of-way pending the appeal of the director's decision.

An applicant may also seek a variance from the provisions of this section in the same manner that an appeal is taken to the commission. The commission may grant a variance if it finds that there are extraordinary and exceptional circumstances or situations that make strict compliance with the provisions of this section unusually difficult or would create an undue hardship. The commission shall have the power to vary from the strict application of the requirements of this section only to the least extent necessary to relieve the difficulties or hardships involved and only if the variance will not cause a detriment to the health, safety, and welfare of the public and will not cause an impairment of the intent and purpose of this section or the specific limitations set upon variances in this section.

- (4) Permit fees. The Public Works Department shall set fees for the permits subject to review and final approval of the city council. The fees established shall consider the administrative costs of the permitting process including costs of enforcement of this section to the city.
- (5) Signature, taxes paid, insurance required. No permit shall be issued unless the signature of the owner of the property on which the applicant's business is located appears on the application and the applicant is current on all taxes and fees owed to

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the City and a certificate of insurance has been provided to the Public Works Department showing current and effective insurance in the required amounts.

(6) Revocation.

(A) Revocation shall be automatic and without notice to cure when taxes and/or fees become delinquent or liability insurance has lapsed or does not comply with section (d)(2)(F). Revocation under this provision may result in the confiscation of the sign at the expense of the permit holder.

(B) For all other violations of the conditions of a permit, prior to revocation and confiscation of a sign, a notice of the violation and a date by which such violation must be cured shall be given to the permittee. Notice of any revocation shall be by first class mail. Failure to cure the violation by said date may result in the confiscation of the sign at the expense of the permit holder and the automatic revocation of the permit.

(C) Signs confiscated pursuant to this section shall be in the custody and possession of the code enforcement office for a period of thirty (30) days. The owner of a confiscated sign may reclaim the sign within 30 days of its confiscation upon payment of the cost of confiscation. The cost of confiscation shall be set by the Code Enforcement Office, subject to the review and final approval of the City Council. The chief code enforcement officer or his/her designee is empowered to dispose of the signs if such signs are not claimed within this thirty (30) day period.

(D) Permits that have been revoked pursuant to subsection (d)(6)(B) must be renewed in accordance with all the requirements of this section. Permits revoked pursuant to

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subsection (d)(6)(A) shall be automatically reinstated without need for reapplication upon the payment of all delinquencies or curing of any lapse in insurance compliance.

(7) Permit Term. Permits issued under this section shall be effective for up to two years from the date of issuance until April 30 of every even year unless:

(A) The establishment is no longer in business.

(B) The permit has been revoked pursuant to sec. 21-5(d)(6).

(C) The city has revoked a permit without cause after a 30-day notice to the permit holder.

The director shall provide an explanation as to the rationale for the no cause revocation.

(D) A shorter term has been requested and granted.

(e) Temporary signs for political candidates, parties, and organizations, signs for charitable organizations, and signs for garage/lawn/yard type sales are exempt from the district limitations and the requirement for a permit as long as the signs do not exceed the size limitations set forth in subsection (d)(1)(B)(ii) and do not obstruct the public rights of way or otherwise impair the public health, safety or welfare.

* Material stricken out deleted.

** Material underlined added.

AN ORDINANCE
IN RELATION TO

Offenses, Miscellaneous Provisions
Signs in Public Ways; On Vehicles

Introduced by

Ordinance Committee

Read in City Council first time

July 15

, 20 02

Attest,

Jo LaMarche, Asst. Clerk

Rules suspended, and ordinance placed in all stages of passage.

, 20

Attest,

Clerk

Read in City Council second time

October 27

, 20 03

Attest,

Jo LaMarche, Asst. Clerk

Passed in City Council at meeting held

October 27

, 20 03

Attest,

Jo LaMarche, Asst. Clerk

Approved

Oct 31

, 20 03

Charles H. Munsell, Mayor

Jo LaMarche Asst.

I, _____, City Clerk of the City of Burlington and Clerk of the City Council of said City, do hereby certify that the within written Ordinance has been duly published according to Law and the Charter of the City, and in compliance with said Charter this certificate is hereto attached.

And the within Ordinance was ordered published for 5th day, namely the Wednesday day of November, 20 03.

Adopted 10/27/03 Published 11/05/03 Effective 11/26/03

Jo LaMarche, Asst., City Clerk

Distribution

I hereby certify that this Ordinance has been sent to the following department(s) on

- Code Enforcement Office
- CSM
- DPW

Attest:
Lori Olberd
Administrative Assistant

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