

Chapter 377

1955 REPLACEMENT PART

Hedges, Trees and Advertising Along Public Highways

HEDGES AND TREES

- 377.010 Planting hedge or trees on line of highway; temporary protection fence
- 377.020 Planting trees on roads within irrigation projects; protecting fences
- 377.030 Destruction or removal of trees on state highways without permission prohibited
- 377.040 Application to highway commission to remove trees along state highways
- 377.050 Consent of highway commission for removal of trees along state highways

ADVERTISING

- 377.110 Declaration of public policy regarding advertising within view of public highways
- 377.120 Definitions for ORS 377.110 to 377.280
- 377.130 Certain types of signs or structures either regulated or prohibited
- 377.140 Exempted signs and structures
- 377.150 Size and spacing limitations for signs and structures along highways
- 377.160 Size and spacing limitations for signs and structures along throughways
- 377.170 Provisions regarding application of size and spacing limitations
- 377.180 Licenses required for persons engaged in business of outdoor advertising
- 377.190 Revocation of license, grounds for
- 377.200 Permits required for signs and structures; applications, fees

- 377.210 Miscellaneous provisions applicable to permits; revocation of permits, grounds for
- 377.220 Procedure for awarding permits for signs or structures violating spacing limitations and erected prior to August 3, 1955
- 377.230 Signs and structures to be marked with permit numbers
- 377.240 Removal of signs and structures not covered by permits or not maintained by licensed persons
- 377.250 Requirements regarding nonconforming signs and structures erected prior to August 3, 1955
- 377.260 Rules and regulations authorized for carrying out ORS 377.110 to 377.280
- 377.270 Judicial review of commissioner's acts; appeal authorized
- 377.280 Outdoor Advertising Account established for use in administering ORS 377.110 to 377.280
- 377.340 Posting signs near public highway regulated
- 377.350 Removal of prohibited signs
- 377.360 Posting signs near public highway lawful in certain cases

PENALTIES

- 377.990 Penalties

CROSS REFERENCES

- Acquisition and development of scenic places adjacent to state highways, 366.345
- Logs and trees deposited on state highways or county roads, removal of, 98.640 to 98.644, 98.650 to 98.654
- Restriction on use of property adjoining proposed road may be imposed by municipal corporation, 281.530

377.030

- Digging or injuring plants along rights of way prohibited, 564.020

377.240

- Removal, by highway commission, of advertising signs and other unlawful structures on or adjoining state highways, 366.455, 483.138

377.280

- Expenditures from dedicated funds, 291.238

377.340

- Signs resembling official traffic signs prohibited, removal, 366.455, 483.138

377.350

- Removal, by highway commission, of advertising signs and other unlawful structures on or adjoining state highways, 366.455, 483.138

HEDGES AND TREES

377.010 Planting hedge or trees on line of highway; temporary protecting fence. Any person or company may lawfully:

(1) Plant, for cultivation and growth, any hedge fence or trees for use or ornament along any public highway or road in this state, on the line of his or its land and the highway.

(2) Use temporarily, for the protection of such hedge or trees, a space in the highway not to exceed eight feet for cultivating the hedge or trees.

(3) Construct and maintain a temporary fence within such space for the period of four years first after such hedge or trees have been planted.

377.020. Planting trees on roads within irrigation projects; protecting fences. Where any county road within the limits of any irrigation project under the control of the United States Bureau of Reclamation exceeds 50 feet in width, the county court of the county in which the project is situated may, in its discretion:

(1) Upon a petition presented to it by the landowner or entryman, permit any such landowner or entryman whose land is contiguous to the road to use a portion of the road which adjoins the land for the purpose of planting trees therein.

(2) Permit the landowner or entryman to enclose and fence in the portion of road in order to protect the trees so planted. In no case shall the permission so granted for said purposes cause any road to be decreased to a width of less than 50 feet.

377.030 Destruction or removal of trees on state highways without permission prohibited. No person shall dig up, cut down, injure, destroy or in any manner remove any trees growing upon the right of way of any state highway without first procuring the written consent of the State Highway Commission.

377.040 Application to highway commission to remove trees along state highways. Whenever any person, firm or corporation, including any public, municipal or private corporation and any privately or publicly-owned utility or cooperative association, desires to dig up, cut down, injure, destroy or in any manner remove any trees growing upon the right of way of any state highway, such person shall file with the

State Highway Commission an application in writing, setting forth the reasons and purpose for the removal or destruction of the trees.

377.050 Consent of highway commission for removal of trees along state highways. (1) Upon the filing of the application mentioned in ORS 377.040 the State Highway Commission may, in its judgment and discretion the destruction or removal of the trees will not mar or in any way affect the scenic beauty of or otherwise harm, injure or affect the highway, issue a permit authorizing the cutting down, digging up, removal or destruction of the trees under such conditions and in such manner as the commission may in such permit designate.

(2) Such permits may be granted when it becomes necessary to cut or remove brush and tree growth which otherwise would be hazardous to the operation or maintenance of lines for the transmission of electric energy or communication, or which would impair the efficiency of the service of such lines to the public, but such cutting or removal shall be done in such manner as not substantially to impair the scenic beauty of the highway.

377.060 to 377.100 [Reserved for expansion]

ADVERTISING

377.110 Declaration of public policy regarding advertising within view of public highways. The Legislative Assembly hereby finds and declares that in order to provide for the safe and efficient use, and the orderly appearance, of the public highways, it is necessary and is in the public interest to regulate the erection and maintenance of advertising structures and signs within view of the public highways. [1955 c.541 §1]

377.120 Definitions for ORS 377.110 to 377.280. As used in ORS 377.110 to 377.280, unless the context requires otherwise:

(1) "Advertising sign" means any card, cloth, metal, glass, plastic, wooden or painted display, message, emblem or device, designed, used or intended for advertising purposes or to attract the attention of the public, except an advertising structure. "Advertising sign" includes a group or series of not more than eight signs, conveying a single advertising message, each of which signs has an area of not more than six square feet.

(2) "Advertising structure" means any structure of any kind or character, including statuary, designed, used or intended for advertising purposes, or for the placing or support of an advertising sign.

(3) "Business district" means the territory contiguous to a highway or throughway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides of the highway or throughway, is occupied by buildings used for business.

(4) "Business of outdoor advertising" means the business of constructing, erecting, operating, using, maintaining, leasing or selling advertising structures or advertising signs, but does not include the placing, erecting, constructing or maintaining of advertising structures or advertising signs pertaining exclusively to the business of the person placing, erecting, constructing or maintaining the structure or sign.

(5) "Commissioner" means the Commissioner of the Bureau of Labor.

(6) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic, except a throughway.

(7) "Roadside service" means classes of pursuits customarily required and used by the traveling public, and intended predominantly for the traveling public, such as and including, but not limited to, gasoline filling stations, garages and automobile repair shops, refreshment stands, motels, hotels, restaurants and eating places, tourist or automobile parks and lodges and similar pursuits and services intended primarily for the convenience and accommodation of the traveling public, as such.

(8) "Throughway" means any highway adopted, located, relocated, established, constructed or designated as, or converted into, a throughway by the State Highway Commission under the provisions of ORS 374.005 to 374.095. [1955 c.541 §2]

377.130 Certain types of signs or structures either regulated or prohibited. Except as otherwise provided by ORS 377.140, no advertising sign or advertising structure shall be placed, erected or maintained upon property within view of any highway or throughway:

(1) Without the written consent of the owner of the property upon which the sign or structure is located.

(2) In violation of the provisions of ORS 483.138.

(3) In such manner or at such location as to prevent the driver of a vehicle upon the highway or throughway from obtaining, by reason of the sign or structure itself, a reasonably clear view of approaching vehicles for a distance of 500 feet along the highway or throughway, or, after the driver is at any point within 300 feet of the intersection, for a distance of 300 feet in both directions along any intersecting highway, throughway or railway.

(4) Unless such sign or structure is so constructed, erected and maintained as to be able to withstand a wind pressure of at least 20 pounds per square foot of exposed surface, and is at all times maintained in a neat, clean and attractive condition.

(5) Which bears or contains statements, words or pictures of an obscene, indecent or immoral character, or such as will offend public morals or decency.

(6) Upon rocks or trees.

(7) Within one-half mile, upon the same side of the highway or throughway, of any other advertising sign or advertising structure which advertises the goods, products, facilities, services or business of the same commercial enterprise. [1955 c.541 §3]

377.140 Exempted signs and structures.

(1) The provisions of ORS 377.110 to 377.280 shall not apply to any advertising sign or advertising structure placed, erected or maintained:

(a) Within the limits of an incorporated city.

(b) By or under authority of any federal, state, county or city authority for the purpose of conveying information, warnings, distances or directions to persons upon the highway or throughway.

(c) By any public officer or body for the purpose of giving a notice required by law or by a court.

(d) At a location not visible from any highway or throughway.

(2) The provisions of ORS 377.150, 377.160 and 377.180 to 377.240 shall not apply to any advertising sign or advertising structure erected or maintained:

(a) Within 300 feet of any business, when the sign or structure advertises only the name or nature of the business, or the products, facilities, goods or services thereof.

(b) Upon farm property by the owner or lessee of the farm when the sign or struc-

ture advertises only the products of the farm.

(c) For the purpose of advertising for sale or rent the real property upon which the sign or structure is erected, or of warning of hazard or danger upon such property, or of warning against hunting, fishing or trespassing upon such property.

(d) By any public utility or transportation company for the purpose of notices necessary for the information, safety or direction of the public.

(e) Which bear only the name and address of the owner or occupant of the property.

(3) The provisions of ORS 377.150 and 377.160 shall not apply to any advertising sign or advertising structure advertising exclusively a roadside service located upon or within five miles of the highway or throughway upon which the sign or structure is placed, if:

(a) The advertising sign or structure has an advertising area of less than 250 square feet;

(b) The advertising sign or structure is located not more than two miles distant from either the roadside service which it advertises or an access road or connecting road leading to such roadside service; and

(c) There are not more than two such signs or structures in each direction from the roadside service on each highway or throughway upon which, or within five miles of which, the roadside service is located.

(4) The provisions of subsection (7) of ORS 377.130 and of ORS 377.150 and 377.160 shall not apply to any advertising sign or advertising structure placed, erected or maintained within a business district. [1955 c.377 §14]

377.150 Size and spacing limitations for signs and structures along highways. Except as otherwise provided by ORS 377.140 or 377.170, no advertising sign or advertising structure shall be placed, erected or maintained upon property within view of any highway:

(1) Within 300 feet of any other advertising sign or advertising structure on the same side of the highway, if the total combined advertising area of both such signs or structures is 130 square feet or less; or

(2) Within 500 feet of any other advertising sign or advertising structure on the same side of the highway, if the total com-

bined advertising area of both such signs or structures exceeds 130 square feet. [1955 c.541 §4]

377.160 Size and spacing limitations for signs and structures along throughways. Except as otherwise provided by ORS 377.140 or 377.170:

(1) No advertising sign or advertising structure shall be placed, erected or maintained upon property within view of any throughway within 1,000 feet of any other advertising sign or advertising structure upon the same side of the throughway.

(2) No advertising sign or advertising structure exceeding a total length of 60 feet shall be placed, erected or maintained upon property within view of any throughway. [1955 c.541 §5]

377.170 Provisions regarding application of size and spacing limitations. (1) The distances set forth in the spacing limitations contained in ORS 377.150 and 377.160 shall be measured lineally along the highway or throughway; and, for the purpose of applying such spacing limitations, two advertising signs or advertising structures which are immediately adjacent to each other on the same side of the highway or throughway shall be considered as one sign or structure.

(2) In determining the area or length of an advertising sign or advertising structure for the purposes of ORS 377.150 and 377.160, two advertising signs or advertising structures which are immediately adjacent to each other on the same side of the highway or throughway shall be considered and measured as a single advertising sign or structure.

(3) In determining the proper spacing under ORS 377.150 and 377.160, between an advertising sign or advertising structure and a group or series of advertising signs as described in subsection (1) of ORS 377.120, the distance shall be measured from the nearest sign in the group or series; and, in determining areas under ORS 377.150 and 377.160, the total combined area of all the signs in the group or series shall be considered the area of a single advertising sign or advertising structure.

(4) Advertising signs and advertising structures listed in ORS 377.140 shall not affect or control the spacing limitations applicable to other advertising signs and structures under the provisions of ORS 377.150

and 377.160 and shall not be considered in determining the required spacing. [1955 c.541 §15]

377.180 Licenses required for persons engaged in business of outdoor advertising.

(1) No person shall engage or continue in the business of outdoor advertising outside the corporate limits of any city without first obtaining an annual license therefor from the commissioner. The fee for such license hereby imposed shall be payable annually in advance, as follows:

(a) Twenty-five dollars for persons having 50 or less advertising structures and signs subject to ORS 377.110 to 377.280.

(b) Fifty dollars for persons having more than 50 but less than 501 advertising structures and signs subject to ORS 377.110 to 377.280.

(c) One hundred dollars for persons having more than 500 advertising structures and signs subject to ORS 377.110 to 377.280.

Application for licenses or renewal of licenses shall be made on forms furnished by the commissioner, shall contain such pertinent information as the commissioner may require and shall be accompanied by the annual fee. Licenses granted under this section shall expire on June 30 of each year and shall not be prorated. The commissioner shall send each licensee a notice of expiration of license and renewal application forms not less than 60 days prior to the date of expiration. Applications for the renewal of licenses shall be made not less than 30 days prior to the date of expiration; and, in the event of a late application, the license fee shall be increased to \$150.

(2) Nothing in this section is intended to require any person to obtain a license who constructs, erects, operates, uses or maintains an outdoor advertising sign or structure or outdoor advertisement which advertises only his own business and which is erected on his property. [1955 c.541 §6]

377.190 Revocation of license, grounds for. In any case where he finds that any material information required to be given in the application for the license is knowingly false or misleading or that the licensee has violated any of the provisions of ORS 377.110 to 377.280, the commissioner shall have authority, after 30 days' notice in writing to the licensee, to revoke any license granted by him, unless such licensee, before the expiration of the 30 days, corrects such false or misleading information and complies

with the provisions of ORS 377.110 to 377.280. [1955 c.541 §7]

377.200 Permits required for signs and structures; applications, fees. Except for those advertising signs or advertising structures described in ORS 377.240 and except as otherwise provided by ORS 377.140, no advertising sign or advertising structure shall be constructed, erected, operated, used or maintained unless an annual permit therefor has been issued. Any person interested may apply for such permit to the commissioner on forms furnished by him. Such applications shall include a precise description of the location of the sign or structure, a statement that the sign or structure complies in all respects with the provisions of ORS 377.110 to 377.280, and such other information as the commissioner deems necessary or desirable. The application shall be accompanied by the annual permit fee as follows:

(1) Fifty cents, if the advertising area does not exceed 50 square feet.

(2) One dollar, if such area exceeds 50 but does not exceed 250 square feet.

(3) Two dollars, if such area exceeds 250 but does not exceed 500 square feet.

(4) Three dollars, if such area is in excess of 500 square feet. [1955 c.541 §8]

377.210 Miscellaneous provisions applicable to permits; revocation of permits, grounds for. (1) Permits shall be issued for the calendar year and may be renewed by payment of the applicable annual permit fee for the new year without the filing of a new application. Fees shall not be prorated for fractions of the year. When an advertising structure contains advertising on both sides, only one permit is required for the entire structure. Advertising copy may be changed at any time without the payment of an additional fee.

(2) The commissioner shall issue a permit for the sign or structure covered by application duly made, unless the sign or structure is in violation of ORS 377.110 to 377.280.

(3) A permit may be revoked after hearing if the commissioner finds that any statement made in the application therefor was false or that the advertising structure or sign covered thereby is in violation of ORS 377.110 to 377.280 and is not brought into compliance within 30 days after written notification thereof. [1955 c.541 §9]

377.220 Procedure for awarding permits for signs or structures violating spacing limitations and erected prior to August 3, 1955. In case the commissioner finds that two or more structures or signs which have been erected prior to August 3, 1955, are in violation of the spacing requirements of ORS 377.150 or 377.160, he shall accord the respective interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of such structures or signs and award the permit or permits to the applicants whose structures or signs were first erected. [1955 c.541 §10]

377.230 Signs and structures to be marked with permit numbers. Every permit issued by the commissioner shall be assigned a separate identification number; and each permittee shall fasten to each advertising structure and advertising sign, a weatherproof label or marker not larger than two inches by three inches, which shall be furnished by the commissioner and on which shall be plainly visible the permit number. The absence, from an advertising structure or sign, of such a label or marker is prima facie evidence that the structure or sign does not comply with the provisions of ORS 377.110 to 377.280. [1955 c.541 §11]

377.240 Removal of signs and structures not covered by permits or not maintained by licensed persons. Any advertising structure or advertising sign not covered by a current permit as required by ORS 377.200, or which is owned, operated, leased or maintained by a person engaged in the business of outdoor advertising without a license, contrary to ORS 377.180, hereby is declared to be a public and private nuisance and, except as otherwise provided in this section, may be removed forthwith by the commissioner. The commissioner, for that purpose, may recover from the owner thereof the cost of removal, the recovery to be not less than \$25, and may enter upon private property without incurring any liability therefor. As a prerequisite to such removal and recovery, if any outdoor advertising structure or sign bears thereon the name and address of the owner thereof, the owner must be given written notice to remove the structure or sign within 30 days after the receipt thereof, after which the commissioner may remove same as aforesaid. [1955 c.541 §12]

377.250 Requirements regarding non-conforming signs and structures erected

prior to August 3, 1955. (1) Any advertising sign or advertising structure lawfully erected prior to August 3, 1955, and not conforming with the provisions of ORS 377.150 and 377.160 shall be removed by the owner thereof within five years after August 3, 1955.

(2) No advertising sign or advertising structure at a location prohibited by ORS 377.110 to 377.280 shall be replaced or reconstructed after August 3, 1955.

(3) No lease of real property used or intended solely for the placing, erecting or maintaining of an advertising sign or advertising structure at a location prohibited by ORS 377.110 to 377.280 shall be renewed after August 3, 1955. [1955 c.541 §16]

377.260 Rules and regulations authorized for carrying out ORS 377.110 to 377.280. The Commissioner of the Bureau of Labor may make, amend, repeal and promulgate rules and regulations for the purposes of carrying out the provisions of ORS 377.110 to 377.280. [1955 c.541 §18]

377.270 Judicial review of commissioner's acts; appeal authorized. (1) Any person or persons aggrieved by any act or refusal to act of the commissioner may appeal therefrom, within 30 days from the date of such act or of written notice of such refusal to act, to the Circuit Court for Marion County by filing in the court a verified complaint, by serving such complaint in the manner prescribed by law for the service of summons in civil actions, upon the commissioner, setting forth the facts upon which the request for a judicial review is based.

(2) Any judgment, order or decree of the circuit court made in connection with such appeal may be appealed, either by the commissioner or other party, to the Supreme Court of Oregon. [1955 c.541 §17]

377.280 Outdoor Advertising Account established for use in administering ORS 377.110 to 377.280. All moneys received by the commissioner under the provisions of ORS 377.110 to 377.280 shall be paid by the commissioner into the State Treasury and shall be credited to an account in the General Fund known as the "Outdoor Advertising Account." The moneys deposited to the credit of such account hereby are continuously appropriated to the commissioner for use in the administration of ORS 377.110 to 377.280. [1955 c.541 §13]

377.290 and 377.300 [Reserved for expansion]

377.310 [Repealed by 1953 c.335 §1]

377.320 [Repealed by 1953 c.335 §1]

377.330 [Repealed by 1953 c.335 §1]

377.340 Posting signs near public highway regulated. Except as provided in ORS 377.360, no person, firm or corporation shall paste, paint, brand or in any manner whatsoever place or attach to any building, fence, gate, bridge, tree, rock, board, structure or anything whatever within the limits of any public highway, or on the property of another within view of the public highway without such owner's written consent, any written, printed or painted advertisement, bill, notice, sign, picture, card or poster, except within the limits of any city, town or village through which the public highway runs.

377.350 Removal of prohibited signs. Any person may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card or poster placed in violation of ORS 377.340.

377.360 Posting signs near public highway lawful in certain cases. ORS 377.340, 377.350 and subsection (3) of ORS 377.990 do not prevent the posting or maintaining of any notice required by law to be posted or maintained, or the placing and maintain-

ing of signs giving directions or distances for the information of the traveling public, when such signs are approved by the State Highway Commission or the county court or board of county commissioners.

377.370 to 377.980 [Reserved for expansion]

PENALTIES

377.990 Penalties. (1) Violation of the conditions and provisions of a permit procured under ORS 377.050 by any person having procured the permit is punishable, upon conviction, by a fine not to exceed \$100, or imprisonment in the county jail not to exceed 30 days, or both.

(2) Violation by any person of any of the provisions of ORS 377.030 to 377.050 is punishable, upon conviction, by a fine not to exceed \$100, or imprisonment in the county jail not to exceed 30 days, or both.

(3) Violation of any provision of ORS 377.340 to 377.360 is punishable, upon conviction, by a fine not less than \$5 nor more than \$50.

(4) Any person convicted of violating any provision of ORS 377.110 to 377.280 shall be punished by a fine of not more than \$50. [Amended by 1953 c.335 §2; subsection (4) enacted as 1955 c.541 §19]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

CHAPTERS 378 TO 380

[Reserved for expansion]