

Chapter 377

1959 REPLACEMENT PART

Hedges, Trees and Advertising Along Public Highways

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HEDGES AND TREES

377.010 Planting hedge or trees on line of highway. Any person or company may lawfully 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. [Amended by 1959 c.382 §1]

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, if 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 [1955 c.541 §1; repealed by 1959 c.309 §22]

377.115 Declaration of public policy regarding advertising within view of public highways. The Legislative Assembly hereby finds and declares that to provide for the safe and efficient use and the orderly appearance of the public highways, it is necessary and in the public interest to regulate the erection and maintenance of advertising panels and structures inside or within view of the public highways. [1959 c.309 §1]

377.120 [1955 c.541 §2; repealed by 1959 c.309 §22]

377.125 Definitions for ORS 377.115 to 377.305. As used in ORS 377.115 to 377.305, unless the context requires otherwise:

(1) "Advertising panel" means any 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 panel" includes a group or series of not more than eight panels, conveying a single advertising message, each of which panels 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 panel.

(3) "Business of outdoor advertising" means the business of constructing, erecting,

operating, using, maintaining, leasing or selling advertising structures or advertising panels, but does not include the placing, erecting, constructing or maintaining of advertising structures or advertising panels pertaining exclusively to the business of the person placing, erecting, constructing or maintaining the structure or panel.

(4) "Class A sign" means an advertising panel or advertising structure that is not a Class B or Class C sign, that advertises exclusively a roadside service upon or within five miles of the highway or throughway beside which the panel or structure is located, when:

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

(b) There are not more than two such panels or structures in each direction from the roadside service beside each highway or throughway upon which, or within five miles of which, the roadside service is located;

(c) The advertising panel or structure is within five miles travel distance from the roadside service, measured along the highway or throughway and any access road or connecting road leading to the roadside service; and

(d) Either the roadside service is located outside the limits of an incorporated city, or the advertising panel or structure is located beside a throughway.

(5) "Class B sign" means an advertising panel or advertising structure that is not a Class C sign located beside a highway or throughway, where 50 percent or more of the frontage on the highway or throughway 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. Only that portion of a lot, tract or parcel of land upon which a structure having a foundation, floor and roof actually rests, is considered a building used for business.

(6) "Class C sign" means an advertising panel or advertising structure beside a highway or throughway:

(a) Erected upon farm property, which includes tree farms, by the owner or lessee of the farm when the panel advertises only the products or the location of the farm; or

(b) Erected for the purpose of advertising for sale or rent the real property upon which the panel 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; or

(c) Erected by a public utility or transportation company for the purpose of notices necessary for the information, safety or direction of the public; or

(d) Which bears only the name and address of the owner or occupant of the property; or

(e) Erected upon property by the occupant of the property when the panel advertises only the name of a publication regularly delivered to the property, if the panel or structure has an advertising area of less than five square feet; or

(f) Erected upon property by the occupant of the property when the panel advertises only the name, address, qualifications, slogan, picture and name of office sought by a candidate for public office. However, the panel and structure shall be removed by the occupant within 30 days after the election.

(7) "Class D sign" means any advertising panel or advertising structure located beside a highway or throughway except those described in subsections (4) to (6) of this section, and except as provided by ORS 377.135.

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

(9) "Highway" means the entire width between the boundary lines of every state highway as defined in subsection (9) of ORS 366.005, and every part of the National System of Interstate and Defense Highways.

(10) "Roadside service" means classes of pursuits customarily required and used by the traveling public, and intended predominantly for the traveling public. These include, but are 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.

(11) "Sign" means an advertising panel or advertising structure, or both, qualifying as a Class A, Class B, Class C or Class D sign.

(12) "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. [1959 c.309 §2]

377.130 [1955 c.541 §3; repealed by 1959 c.309 §22]

377.135 Exempted panels and structures. (1) ORS 377.115 to 377.305 do not apply to an advertising panel or advertising structure:

(a) Located within the limits of an incorporated city.

(b) Erected and maintained 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) Erected and maintained by any public officer or body for the purpose of giving a notice required by law or by a court.

(d) Located at a place not visible from any highway or throughway.

(e) Located within 300 feet of a business, if the panel or structure advertises only the name or nature of the business, or the products, facilities, goods or services thereof.

(f) Erected and maintained by a public utility for the purpose of giving warning of the location of an underground cable or other installation.

(2) Nothing in ORS 377.115 to 377.305 is intended to permit the erection or maintenance of any advertising panel or structure that is prohibited under any other law of this state or of any political subdivision thereof. [1959 c.309 §3]

377.140 [1955 c.377 §14; 1959 c.94 §1; repealed by 1959 c.309 §22]

377.145 Panels and structures within boundaries of highways; removal. (1) Except as otherwise provided by ORS 377.135 and subsection (2) of this section, no advertising panel or advertising structure shall be located inside the boundary lines of a highway or throughway.

(2) This section does not apply to a notice required by law to be posted or maintained, or to a panel giving information about scenic, historical, resort or recreational areas, or community or civic enterprises of a noncommercial nature, or the proximity of tourist facilities, directions or distances for the information of the traveling public, if the panel has been approved by the

State Highway Commission, the county court or the board of county commissioners.

(3) Any person may lawfully remove or destroy, without resort to legal proceedings, a notice or an advertising panel or advertising structure located inside the boundary lines of a highway or throughway in violation of this section. [1959 c.309 §4]

377.150 [1955 c.541 §4; repealed by 1959 c.309 §22]

377.155 Certain types of panels or structures within view of highways either regulated or prohibited. Except as otherwise provided by ORS 377.135, no advertising panel or advertising structure shall be located within view of any highway or throughway:

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

(2) In violation of the provisions of ORS 483.138; or

(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 panel 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; or

(4) Unless the panel 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; or

(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. [1959 c.309 §5]

377.160 [1955 c.541 §5; repealed by 1959 c.309 §22]

377.165 Class A, B and D signs upon trees or rocks prohibited. No Class A, Class B or Class D sign shall be located upon trees or rocks within view of any highway or throughway. [1959 c.309 §6]

377.170 [1955 c.541 §15; repealed by 1959 c.309 §22]

377.175 Class A and D signs near other panels or structures advertising same enterprise prohibited. No Class A or Class D sign shall be located within view of any highway or throughway within one-half mile, upon the same side of the highway or throughway, of any other advertising panel or advertising structure that advertises the goods, products, facilities, services or business of the same commercial enterprise. [1959 c.309 §7]

377.180 [1955 c.541 §6; repealed by 1959 c.309 §22]

377.185 Size and spacing limitations for Class D signs along highways. No Class D sign shall be located within view of any highway:

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

(2) Within 500 feet of any other Class D sign on the same side of the highway, if the total combined advertising area of both signs exceeds 130 square feet. [1959 c.309 §8]

377.190 [1955 c.541 §7; repealed by 1959 c.309 §22]

377.195 Size and spacing limitations for Class D signs along throughways. No Class D sign shall be located within view of any throughway:

(1) Within 1,000 feet of any other Class D sign upon the same side of the throughway; or

(2) If the total length of the sign exceeds 60 feet. [1959 c.309 §9]

377.200 [1955 c.541 §8; repealed by 1959 c.309 §22]

377.205 Provisions regarding application of size and spacing limitations. (1) The distances set forth in the spacing limitations contained in ORS 377.185 and 377.195 shall be measured lineally along the highway or throughway. For the purpose of applying the spacing limitations, two advertising panels or advertising structures which are immediately adjacent to each other on the same side of the highway or throughway shall be considered as one panel or structure.

(2) In determining the area or length of an advertising panel or advertising structure for the purposes of ORS 377.185 and 377.195, two advertising panels or 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 panel or structure.

(3) In determining the proper spacing under ORS 377.185 and 377.195 between an advertising panel or structure and a group or series of advertising panels as described in subsection (1) of ORS 377.125, the distance shall be measured from the nearest panel in the group or series. [1959 c.309 §10]

377.210 [1955 c.541 §9; repealed by 1959 c.309 §22]

377.215 Licenses required for persons engaged in business of outdoor advertising; fees, applications. (1) No person shall engage or continue in the business of outdoor advertising, involving panels or structures located outside the corporate limits of any city, without first obtaining an annual license therefor from the commissioner. The fee for this license is payable annually in advance, as follows:

(a) \$25 for persons owning one or more but fewer than 51 advertising signs subject to ORS 377.115 to 377.305.

(b) \$50 for persons owning more than 50 but fewer than 501 advertising signs subject to ORS 377.115 to 377.305.

(c) \$100 for persons owning more than 500 advertising signs subject to ORS 377.115 to 377.305.

(2) No person shall engage or continue in the business of outdoor advertising whose activities include construction, erection, operation, use, maintenance, leasing or selling, but not ownership, of advertising panels or structures located outside the limits of incorporated cities, without first obtaining an annual license therefor from the commissioner. The fee for this license is \$15, payable annually in advance.

(3) 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 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 before the date of expiration. Applications for the renewal of licenses shall be made not less than 30 days before

the date of expiration; and, in the event of a late application, the license fee is double the regular fee.

(4) Nothing in this section is intended to require any person to obtain a license who constructs, erects, operates, uses or maintains an outdoor advertising panel or structure or outdoor advertisement that advertises only his own business and which is erected on his property. [1959 c.309 §11]

377.220 [1955 c.541 §10; repealed by 1959 c.309 §22]

377.225 Revocation of licenses. 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 provision of ORS 377.115 to 377.305, the commissioner has authority, after 30 days' notice in writing to the licensee, to revoke any license granted by him unless the licensee, before the expiration of the 30 days, corrects the false or misleading information and complies with ORS 377.115 to 377.305. [1959 c.309 §12]

377.230 [1955 c.541 §11; repealed by 1959 c.309 §22]

377.235 Permits required for signs; applications, fees. No Class A, Class B or Class D sign shall be constructed, erected, operated, used or maintained unless an annual permit therefor has been issued. Any person interested may apply for a permit to the commissioner on forms furnished by the commissioner. The application shall include a precise description of the location of the sign, a statement that the sign complies in all respects with ORS 377.115 to 377.305, and such other information as the commissioner considers necessary or desirable. The application shall be accompanied by the annual permit fee as follows:

(1) 50 cents, if the advertising area does not exceed 15 square feet.

(2) \$1, if the area exceeds 15 but does not exceed 50 square feet.

(3) \$2, if the area exceeds 50 but does not exceed 200 square feet.

(4) \$3, if the area exceeds 200 but does not exceed 500 square feet.

(5) \$4, if the area exceeds 500 square feet. [1959 c.309 §13]

377.240 [1955 c.541 §12; repealed by 1959 c.309 §22]

377.245 Miscellaneous provisions applicable to permits; revocation of permits.

(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; however, the total advertising area shall be computed in determining the amount of the fee. Separate permits are required for separate advertising structures, even though the structures are immediately adjacent. Advertising copy may be changed at any time without the payment of an additional fee. An additional fee is required upon a change in location or reconstruction of a panel or structure.

(2) The commissioner shall issue a permit for the panel or structure covered by application duly made, unless the panel or structure is in violation of ORS 377.115 to 377.305.

(3) The commissioner may revoke a permit after hearing if he finds that any statement made in the application therefor was false or that the panel or structure covered thereby is in violation of ORS 377.115 to 377.305 and is not brought into compliance within 30 days after written notification thereof. [1959 c.309 §14]

377.250 [1955 c.541 §16; repealed by 1959 c.309 §22]

377.255 Procedure for awarding permits for panels or structures violating size and spacing limitations and erected before August 5, 1959. If the commissioner finds that two or more advertising panels or advertising structures that were erected before August 5, 1959, are in violation of the spacing requirements of ORS 377.150 to 377.170 (1957 Replacement Part), he shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the panels or structures and award the permit or permits to the applicants whose panels or structures were first erected. [1959 c.309 §15]

377.260 [1955 c.541 §18; repealed by 1959 c.309 §22]

377.265 Signs to be marked with permit numbers. The commissioner shall assign to

every permit issued by him a separate identification number; and each permittee shall fasten to each advertising sign a weather-proof label or marker which shall be furnished by the commissioner and on which is the permit number. The absence, from an advertising sign, of such a label or marker is prima facie evidence that the sign does not comply with ORS 377.115 to 377.305. [1959 c.309 §16]

377.270 [1955 c.541 §17; repealed by 1959 c.309 §22]

377.275 Removal of panels and structures not covered by permits or not maintained by licensed persons. (1) Any advertising panel or advertising structure not covered by a current permit as required by ORS 377.235 and 377.265, or that is owned, operated, leased or maintained by a person engaged in the business of outdoor advertising without a license, contrary to ORS 377.215, hereby is declared to be a public and private nuisance. The commissioner may enter upon private property to remove it without incurring any liability therefor.

(2) If the panel or structure does not bear the name and address of its owner, the commissioner may remove it immediately. The commissioner may recover the cost of removal from the owner, the recovery to be not less than \$25.

(3) If the panel or structure bears the name and address of its owner, the owner shall be given written notice to remove the panel or structure within 30 days after the receipt thereof, after which the commissioner may remove it and recover the cost of removal from the owner as under subsection (2) of this section.

(4) The commissioner shall, after removing a panel or structure, place it in storage for an additional 30 days while he makes a diligent effort to find its owner. If the owner cannot be found within 30 days, the commissioner may destroy or otherwise dispose of the panel or structure. If the owner is found within 30 days, he may be required to remove the panel or structure from storage; and if he is found at any time, the commissioner may recover from him the cost of storage. This cost is in addition to the cost of removal under subsection (2) or (3) of this section.

(5) Any panel or structure less than six square feet in area located in violation of ORS 377.115 to 377.305 may be immediately

removed or destroyed by the commissioner. The commissioner may recover from its owner the cost of removal or destruction, or \$10, whichever is greater.

(6) If a panel or structure does not bear the name and address of its owner, the advertisement thereon of the goods, products, facilities, services or business of a person or commercial enterprise is prima facie evidence of ownership of the panel or structure by that person or commercial enterprise. [1959 c.309 §17]

377.280 [1955 c.541 §13; 1957 c.465 §2; repealed by 1959 c.309 §22]

377.285 Requirements regarding non-conforming panels and structures. (1) Any advertising panel or advertising structure lawfully erected before August 3, 1955, and not conforming to ORS 377.150 to 377.170 (1957 Replacement Part) shall be removed by its owner before August 3, 1960.

(2) The commissioner may remove advertising panels and advertising structures erected, replaced or reconstructed after August 2, 1955, and before August 5, 1959, at locations then prohibited by law; and he may institute proceedings to enforce penalties, or recover costs, then incurred.

(3) Except as provided by subsection (1) of this section, any advertising panel or advertising structure lawfully erected before August 5, 1959, and not conforming to ORS 377.185 or 377.195, shall be removed by its owner before five years after August 5, 1959.

(4) No advertising panel or advertising structure at a location prohibited by ORS 377.115 to 377.305 shall be replaced or reconstructed after August 5, 1959.

(5) No lease of real property used or intended solely for the placing, erecting or maintaining of an advertising panel or advertising structure at a location prohibited by ORS 377.115 to 377.305 shall be renewed after August 5, 1959. [1959 c.309 §18]

377.295 Applicability of Administrative Procedures Act. (1) Under ORS 183.310 to 183.510, the commissioner may make, amend, repeal, promulgate and enforce rules to carry out ORS 377.115 to 377.305.

(2) All proceedings in the administration of ORS 377.115 to 377.305 shall be conducted under ORS 183.310 to 183.510. [1959 c.309 §19]

377.305 Disposition and use of money received under ORS 377.115 to 377.305. All money received by the commissioner under ORS 377.115 to 377.305 shall be paid by the commissioner into the State Treasury, credited to the Bureau of Labor Account and used only for the administration of ORS 377.115 to 377.305. [1959 c.309 §20]

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 (4) of ORS 377.995 do not prevent the posting or maintaining of any notice required by law to be posted

or maintained, or the placing and maintaining of signs giving information about scenic, historical, resort or recreational areas, or community or civic enterprises of a noncommercial nature, or the proximity of tourist facilities, 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. [Amended by 1957 c.663 §3]

377.370 to 377.980 [Reserved for expansion]

PENALTIES

377.990 [Amended by 1953 c.335 §2; subsection (4) of 1957 Replacement Part enacted as 1955 c.541 §19; repealed by 1959 c.309 §22]

377.995 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 of not more than \$100, or imprisonment in the county jail for not more than 30 days, or both.

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

(3) Violation of any provision of ORS 377.115 to 377.305 is punishable, upon conviction, by a fine of not more than \$50.

(4) Violation of any provision of ORS 377.340 to 377.360 is punishable, upon conviction, by a fine of not less than \$5 nor more than \$50. [1959 c.309 §21]

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 November 1, 1959.

Sam R. Haley
Legislative Counsel

CHAPTERS 378 TO 380

[Reserved for expansion]