

## 734-060-0175 Temporary Signs

(1) This rule is enacted pursuant to ORS 377.735 regarding the permit exemption for temporary signs and in furtherance of the Oregon Motorist Information Act (OMIA, ORS 377.700 through 377.840 and 377.992).

(2) Location generally. A temporary sign may be erected outside of state highway right of way, within view of a state highway, subject to the requirements of the local jurisdiction and the OMIA. A sign that complies with all the provisions of ORS 377.735(1)(b) may be erected without prior approval of the Department. A sign that requires a variance to comply must obtain that variance before erecting the sign. The Department may, at its discretion, retroactively grant a variance.

(3) Changes in copy or location. For the sake of the time limits described in ORS 377.735(1)(b), the following will be considered one sign:

(a) The same sign structure, regardless of copy, moved less than 600 feet from a former site; or

(b) A different sign structure, regardless of copy, in approximately the same location as another sign that was removed.

(3) Variance Procedure.

(a) A variance request must be in writing on a form provided by the Department. The request must be sent to the Outdoor Advertising Sign Program. There is no fee for a variance.

(b) A variance request must describe the specific location including:

(A) Name or number of highway;

(B) Side of highway; and

(C) Approximate milepoint, distance from a known highway feature (e.g. an intersection), or physical address.

(c) A variance request must describe the reason that constitutes good cause to grant the variance. If a reason is the amount of copy itself, requester must include the proposed copy. The Department may consider the amount, not the substance, of the copy.

(d) The request must include the name and mailing address of the requester. If the requester wants the Department to be able to make contact in any other way, such as to obtain supplemental information to process the request, requester may also include that contact information. The requester will be considered a sign owner for the sake of violation of sign laws.

(e) The request must include the date the sign will be posted and the date it will be removed so as to comply with the time limits to qualify for the exemption.

(f) Requester must certify that he or she:

(A) Has permission from the person in control of the property to post the sign;

(B) Will comply with all requirements of the local jurisdiction;

(C) Will not pay or receive any form of compensation for posting the sign; and

(D) Will comply with all requirements of the OMIA.

(g) The Department must grant or deny the request within 14 days after the Outdoor Advertising Sign Program receives it. The Department may deny applicant's variance request due to lack of required information; the applicant may re-submit

the request. If the Department denies a request, fails to make a decision within 14 days, or grants and later revokes a variance, the requester may request a contested case hearing. Failure of the Department to meet the time limits required by this rule does not require that the variance be granted.

(h) If the Department determines a requester provided false information, including a false certification under (3)(f), it may deny the request and revoke any variance already granted to that person or the organization the applicant represents.

(i) Variances for both size and time will not be granted to the same sign or location. The Department will not grant more than 10 variances to one requester or organization for the same period of time.

#### (4) Specific Variance Criteria.

(a) Variance for size. The Department may grant a variance for size up to 32 square feet per side of a back-to-back sign. Good cause to grant a size variance may include, but is not limited to the following:

(A) Due to highway speed, width of right of way, topography, or other similar reasons beyond the applicant's control, the sign copy will not be legible to motorists if the sign is 12 square feet or less;

(B) Due to the amount of copy on the sign, the copy will not be legible to motorists if the sign is 12 square feet or less; or

(C) The sign was manufactured before the 12/13/2001 change in administrative rules regarding exempt signs, and the sign continues to comply with those former rules.

(b) Variance for time. The Department may grant a variance for time up to a total of 90 continuous days in a calendar year. The Department may grant the variance for good cause shown. Good cause may include, but is not limited to, a showing that:

(A) The applicant is attempting to obtain an outdoor advertising sign permit for the sign but will be unable to complete the application process within 60 days;

(B) Due to conditions of the land, weather, or similar reasons beyond requester's control, requester will be unable to remove the sign within 60 days.

#### (5) Prohibitions and penalties.

(a) Other than official traffic control devices, signs are prohibited in state highway right of way. Accessing a sign or sign site by crossing access-controlled right of way is prohibited. Violations of this rule are subject to ORS 377.725(9) and any other removal or penalty provision under law. Signs in or overhanging state highway right of way may be removed pursuant to ORS 377.650 and OAR 734-060-0060 to 734-060-0070.

(b) Signs outside of right of way are subject to the removal procedures of ORS 377.775, and the penalty provisions of ORS 377.992 as well as any other penalty provision under law.

(c) If the sign or site has been accessed from access-controlled right of way, or the sign has been placed in or overhanging right of way, the Department may revoke any variance for that sign, by that requester, or by the represented organization. The Department may deny any subsequent variance request for that sign, by that requester, or by that organization at any location. If the Department discovers multiple violations of (a) above, it may file for an injunction under ORS 374.415.

(6) Signs erected under this rule are subject to the provisions of ORS 377.720 and to all applicable state and federal requirements.

Stat. Auth.: ORS 184.616, 184.619 & 377.735

Stats. Implemented: ORS 377.735

Hist.: HWY 1-1989, f. & cert. ef. 5-2-89; TO 7-2001, f. & cert. ef. 12-13-01; HWD 1-2009, f. & cert. ef. 2-20-09