

ORDINANCE 121038

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2 **AN ORDINANCE** relating to signs on public property, amending Seattle Municipal Code Chapters 15.12 and  
3 15.48 to regulate the posting of signs on City-owned utility poles, lamp poles and traffic control devices  
that the court has held to be a traditional public forum.

4 **WHEREAS**, in 1994, the City of Seattle adopted Ordinance number 117066, which among other things,  
5 prohibited anyone from affixing any handbill, sign, or poster to any utility poles, lamp poles and traffic  
control devices; and

6 **WHEREAS**, on August 5, 2002, the Washington State Court of Appeals declared that Ordinance number 117066,  
7 now codified as Seattle Municipal Code 15.48.100, as it relates to utility poles, lamp poles and traffic  
control devices, violates Article 1, Section 5, of the Washington State Constitution to the extent that it  
8 prohibits signs in a traditional public forum, but also held that the time, place and manner of the use of  
this public forum can be regulated to effect the public purposes the City identified in that ordinance; and

9 **WHEREAS**, the City of Seattle has filed a petition in the Washington State Supreme Court for review of the  
10 Court of Appeals decision, but nevertheless wishes to protect the public interest by regulating the time,  
place, and manner of displaying handbills, sign, and posters on utility poles, lamp poles and traffic control  
11 devices for as long as they are deemed to be a traditional public forum by the court, but does not intend to  
create a dedicated public forum by this ordinance; and

12 **WHEREAS**, all members of the public should have reasonable opportunity and access to exercise their rights to  
13 use a traditional public forum; and

14 **WHEREAS**, signs contribute to traffic hazards and visual blight and it has been the City's policy to ban all signs,  
15 except as allowed in Seattle Municipal Code chapter 23.55, the Sign Code, and Title 11, the Traffic Code;  
and

16 **WHEREAS**, signs posted on utility poles, lamp poles and traffic control devices may additionally contribute to  
17 traffic hazards, including hazards to pedestrians and bicyclists, due to both the proximity of these sites to  
sidewalks and streets and the distraction from traffic safety and control messages that are posted on the  
18 same poles; and

19 **WHEREAS**, allowing signs to be posted on utility poles, lamp poles and traffic control devices may allow signs  
20 in zones where they are currently prohibited or may result in more signs being displayed than allowed  
under current zoning, which contributes to visual blight and/or traffic hazards; and

21 **WHEREAS**, outdated signs, torn signs and litter can contribute to visual blight; and

22 **WHEREAS**, the designation of utility poles, lamp poles and traffic control devices as a traditional public forum  
23 by the court provides an additional purpose for allowing signs, including off-premises commercial  
speech, that are otherwise banned or limited by the City, without diminishing the City's interests in  
regulating signs to promote its traffic safety and aesthetic purposes; and

24 **WHEREAS**, stop signs and yield signs in the City of Seattle that are erected on their own poles are designed so  
that the back of the sign and the entire post supporting the sign are part of the traffic control message,  
with the result that placing a handbill, sign, or poster on the sign pole or on the backside of the sign would  
interfere with its traffic control message in violation of Seattle Municipal Code, Title 11, the Traffic  
Code; and



1 **WHEREAS**, the benefits of providing access to a traditional public forum can be advanced and the negative  
2 impacts of using these utility poles, lamp poles and traffic control devices as a traditional public forum  
3 can be limited by regulating the material used for the signs, the manner of affixing the signs, the size of  
4 the signs, the location of the signs, the duration of their posting, and their removal and by allowing them  
5 to be posted at an accessible height under 12 feet above the surface of the ground;

6 **WHEREAS**, prompt enactment of regulations will promote these public interests;

7 **NOW, THEREFORE,**

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9 **Section 1.** Subsection 15.12.010A of the Seattle Municipal Code is amended as follows:

10 A. All signs in public places and their supports shall be reviewed as to structural strength and quality of  
11 materials and for conformance to all applicable ordinances by the Director of the Department of Design,  
12 Construction, and Land Use, except for sign kiosks in public rights of way and for signs on utility poles, lamp  
13 poles and traffic control devices that the court has declared to be a traditional public forum, which shall be  
14 reviewed by ((Seattle)) the Director of the Seattle Department of Transportation, formerly known as Seattle  
15 Transportation.

16 **Section 2.** Section 15.48.100 of the Seattle Municipal Code is repealed.

17 **Section 3.** A new Section is added to the Seattle Municipal Code to read as follows:

18 **15.48.105. Conformance to applicable regulations for posting.**

19 A. Handbills, signs and posters may be affixed to City-owned utility poles, lamp poles and traffic control  
20 devices under the control of the Seattle Department of Transportation, except for freestanding stop signs and yield  
21 signs, and their posts, in accordance the rules promulgated by the Director of the Seattle Department of  
22 Transportation pursuant to Chapter 3.02, the Seattle Administrative Code. Those rules shall regulate the time,  
23 place and manner of posting so as to advance the public purposes stated above so that (1) members of the public  
24 are afforded reasonable access to exercise their free speech rights, including being able to place signs at a height  
determined by the Director to be reasonable, consistent with other public purposes, which height shall  
not be greater than 12 feet from the surface of the ground; and (2) handbills, signs, and posters affixed to any



1 City-owned traffic control device, utility pole or lamp post will not unreasonably (a) contribute to a traffic hazard;  
2 (b) contribute to a safety hazard to anyone working on a utility pole, lamp pole or traffic control device; (c)  
3 contribute to a risk of fire; (d) contribute to visual blight; or (e) cause damage to City-owned property.

4 B. Pursuant to Seattle Municipal Code Chapter 23.55, handbills, signs and posters may also be affixed to  
5 City-owned poster boards and kiosks that are designated for handbills and signs.

6 C. A public agency may, with permission of the City, post traffic, parking and other regulatory signs on  
7 City-owned structures.

8 D. Other than as provided in this section, it is unlawful for anyone to affix any handbill, sign or poster  
9 upon a City-owned structure, or any City-owned tree or shrubbery in any public place. City-owned structures  
10 include, but are not limited to, bridges and overpasses, monorail supports, retaining walls, fences, street furniture  
11 and shelters, and poles and posts not under the control of Seattle Transportation. Wires and appurtenances to any  
12 City-owned structure are also a City-owned structure.

13 **Section 4.** Section 15.48.110 of the Seattle Municipal Code, is amended as follows:

14 **Section 15.48.110. City removal authorized.**

15 For the purposes SMC 15.48.120, ((F)) the following persons are authorized to remove any handbill, sign,  
16 or poster found affixed to any object, and to obliterate any of the foregoing that is not readily removed, in  
17 violation of Section(( 15.48.100)) 15.48.105:

18 A. Any City officer or employee in the scope and course of his or her duties;

19 B. Any volunteer authorized by the City official with jurisdiction over the property to which the handbill,  
20 sign, or poster was affixed or paint applied;

21 and

22 C. Whenever a pole or other facility is subject to joint use by the City and a franchisee, any officer or  
23 employee of the franchisee.

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1           **Section 5.** Section 15.48.120 of the Seattle Municipal Code is amended as follows:

2           **15.48.120 Responsibility for costs of removal.**

3           Any person responsible for any posting made ~~((unlawful by))~~ in violation of Section ((15.48.100 ))  
4 15.48.105 shall be liable to the City for the costs incurred by the City in removal thereof and, in event of a failure  
5 to pay, for billing and collection charges.

6           The Director of the Seattle Department of Transportation, or his or her designee, is authorized to effect  
7 the collection of the removal cost incurred by the City, and, if the charge is not paid promptly, interest and the  
8 costs of collection, including reasonable attorney's fees. The cost shall be determined in accordance with a rate  
9 schedule approved by the City by ordinance. Costs include, but are not limited to, direct labor, material and  
10 equipment costs, as well as department and general City overhead costs attributable to the removal of signs and to  
11 identifying the responsible person or persons and collecting from them the costs of removal.

12           If the person responsible for posting the handbill, sign or poster is a minor or indigent, the Director of the  
13 Seattle Department of Transportation, or his or her designee, is authorized to accept in settlement community  
14 service or labor in litter collection or removal of signs from public places equal in value to the City's cost of  
15 removal.

16           The Director of the Seattle Department of Transportation is authorized to promulgate rules for the  
17 implementation of the program to recover the costs of removal, including providing for an administrative hearing  
18 before the Director or his or her designee.

19           **Section 6.** This ordinance is not intended to create or expand a designated public forum.

20           **Section 7.** Any act consistent with the authority and prior to the effective date of this ordinance is  
21 hereby ratified and confirmed.

22           **Section 8. Severability.** The several provisions of this ordinance are declared to be separate and  
23 severable and the invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance,  
24 or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the  
remainder of this ordinance or the validity of its application to other persons or circumstances.



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**Section 9.** This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

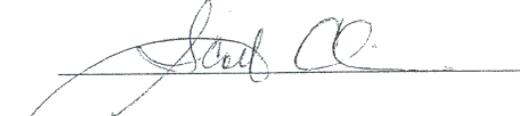
Passed by the City Council the 16<sup>th</sup> day of December, 2002, and signed by me in open session in authentication of its passage this 16<sup>th</sup> day of December, 2002.

  
\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this 20 day of December, 2002.

  
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Mayor

Filed by me this 28<sup>th</sup> day of December, 2002.

  
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City Clerk

(Seal)

