

CHAPTER 19

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PART 1

BILLBOARD CONTROL

§101. EXPLANATION.

The Billboard Control Ordinance is an ordinance regulating large outdoor signs in the Borough of Portage.

(Ord. 4-2009, 5/18/2009, §1)

§102. PURPOSE AND APPLICABILITY.

1. The citizens of the Borough of Portage, acting through the Borough Council and Planning Commission and in various other forums have indicated a desire to maintain and enhance the character and beauty throughout the Borough. This Part builds on those efforts by providing additional protection not available under County or State regulations.
2. This Part regulates all billboards in the Borough of Portage that are visible from the public highway right-of-way, public facilities, trails open to the public.
3. Maintain and enhance the visual quality (aesthetics) of the community.
4. Protect and enhance economic viability by assuring that Portage Borough will be a visually pleasant place to visit or live.
5. Protect property values and private/public investments in property.
6. Protect views of the natural landscape and sky.
7. Avoid personal injury and property damage from structurally unsafe billboards.
8. Provide businesses with effective and efficient opportunities for identification by reducing competing demands for visual attention.
9. Allow for expression by signage subject to reasonable regulation.

(Ord. 4-2009, 5/18/2009, §2)

§103. DEFINITIONS.

ABANDONED SIGN -

- A. Any sign that does not display a well-maintained message for a consecutive 120-day

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period.

- B. Any sign the owner of which cannot be located at owner's last address as reflected on the records of the Department.
- C. Any sign no longer fully supported, by the structure designed to support the sign, for a consecutive 120-day period.

AREA OF A SIGN - the area of one side of a sign is calculated from the smallest rectangle that encompasses all the exposed face that could be filled with a message or graphics.

BANNERS - sign placed without a permanent structure containing a time-bound message and used in aggregate no more than 7 days in any calendar on any private parcel.

BOROUGH - the Borough of Portage has the responsibility for administering this Part.

DOUBLE-FACED SIGN - sign with a message on both sides of a support structure thus counting as two sign faces.

GOVERNMENT SIGN - a sign authorized by this municipality, another governmental agency, the State of Pennsylvania, or the Federal government.

HIGHWAY - any roadway that is accessible to the public and maintained by the Borough or by the State for purposes of vehicular traffic.

NON-CONFORMING SIGN - a sign in place before the effective date of this Part that does not comply with all of the requirements of this Part.

OWNER - a person, corporation or other entity who owns the real property upon which a sign is placed.

PERSON - any individual or entity, including a firm, partnership, association, corporation, limited liability company, trustee, and their legal successors.

SIGN - an object, including a structure, wall, image, or movable device displaying any message visible to the public. Notices legally placed on public property and removed on a daily basis are not considered signs. Letters individually painted on or attached to a building that merely identify the owner or occupant or name of the establishment are not considered signs.

SPECIAL EVENT SIGN - a sign for events such as grand openings, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events and that in aggregate are used not more than 15 days in any calendar year on any private parcel.

WARNING SIGN - a sign, less than 3 square feet, that warns the public about trespass to private property, dangerous conditions such as an aggressive dog and unusual hazards such as drop-offs, high voltage, fire dangers and explosives.

(Ord. 4-2009, 5/18/2009, §3)

§104. PROHIBITED SIGNS.

No new outdoor sign may be constructed in the Borough of Portage that has any of the following characteristics:

- A. An area of more than 26 square feet.
- B. A combined area of all sign faces on any one parcel of more than 70 square feet.
- C. A height of any part of the sign that is more than 10 feet above the uniform finished grade.

(Ord. 4-2009, 5/18/2009, §4)

§105. EXEMPTIONS TO THIS PART.

1. Governmental signs and flags.
2. Banners.
3. Warning signs.
4. Special event signs.

(Ord. 4-2009, 5/18/2009, §5)

§106. NON-CONFORMING SIGNS.

1. Intent. This Part is intended to encourage the eventual elimination of signs which do not comply with this Part. The elimination of non-conforming signs is important to the purpose stated in §102; however, it is also the intent of this Part to avoid unreasonable invasion of property rights while accomplishing the removal of non-conforming signs.
2. Compliance. A sign not complying with this Part, but in place on the effective date of this Part, shall be "grandfathered" and not affected by this Part.
3. Continuance. A non-conforming sign may be continued if it is maintained in good condition. It shall not, however, be replaced by another non-conforming sign. It may not be structurally altered so as to prolong the life of the sign. It may not be reestablished after damage or destruction if the Office determines that the estimate cost of reconstruction exceeds 50% of the estimated replacement value.

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4. Nuisance. An unsafe or abandoned sign is declared to be a nuisance, which shall be abated within 60 days of receiving notice from the Borough Police Department. After 60 days, the sign may be removed by the Borough's Public Works Department.

(Ord. 4-2009, 5/18/2009, §6)

§107. VARIANCES.

Appeals to denials of a permit application shall be made in writing within 30 days of said denial directly to the Borough Council who shall conduct a noticed public hearing and decide the request within 60 days. Variances may be granted if all of the following criteria are fulfilled:

- A. The circumstance are not of the applicant's making.
- B. The applicant's request mitigates unusual site conditions.
- C. The applicant's request would not create a detriment to the neighborhood or reduce property value.
- D. The applicant's request is consistent with the spirit and intent of this Part.
- E. Without the variance, the applicant would experience a hardship and cannot make any reasonable use of the property.

(Ord. 4-2009, 5/18/2009, §7)

§108. FIRST AMENDMENT PROTECTION.

Any sign allowed under this Part may contain, in lieu of any other text, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity or service for sale and that complies with all other provisions of this Part including the specific provisions for signage in the land use category on which the sign is placed. The owner of any sign which is otherwise allowed by this Part may substitute noncommercial copy in lieu of any other copy without additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary.

(Ord. 4-2009, 5/18/2009, §8)

§109. ADMINISTRATION.

1. Administration. The Borough shall appoint personnel to administer and enforce the terms and conditions of this Part.

2. Enforcement. The Borough shall issue permits as required by this Part. The Borough shall also ensure that signs comply with this Part and any other applicable law. The Borough shall also enforce the requirement that all sign owners properly comply with this Part by procuring a permit. The Borough shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this Part and other applicable laws.
3. Borough Powers. The Borough shall have the power and authority to administer and enforce this Part, included among such powers are the following specific powers:
 - A. Upon presentation of proper identification to the owner or owner's agent, the Borough may enter the sign area for purposes of inspecting the sign's area and height. In cases of emergency, where imminent hazards to persons or property are known to exist, and where the owner, or owner's agent, is not readily available, the Borough may enter the sign area for purposes of inspection or remediation. When on private property, the Borough shall observe rules and regulations concerning safety, internal security, and fire protection, If the Borough is denied admission to inspect any sign, inspection shall be made only under authority of a warrant issued by a court of proper jurisdiction, when applying for such warrant, the Borough shall submit an affidavit setting forth a belief that a violation of this Part exists with respect to a particular sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the person believed to own or possess the sign. If the court finds probable cause exists for the search of the sign, and supporting structure, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Borough to enter the sign area and to inspect the property.
 - B. Upon issuance of a stop order from the Borough, work on any sign that is being conducted in any manner contrary to this Part shall be immediately stopped, this notice and order shall be in writing and shall be given to the owner of the parcel, the owner, or to the person performing the work. The stop order shall state the conditions under which work may be resumed; The Borough Police Department shall have authority to enforce a stop order.
 - C. The Borough has the authority to revoke any permit authorized by this Part if the sign violates this Part or another law, provided that the Borough shall offer the owner an opportunity to be heard. The person whose permit is under consideration shall be given at 10 days written notice of the time, place, and reason for the hearing. The owner and/or person identified in the permit shall be permitted to present relevant facts and legal argument concerning the pending revocation. Following this hearing, the Borough shall consider the merits of the case and shall present a written decision. If the Borough determines that a violation has occurred, the owner shall have 30 days to remove the sign. If, however, the Borough believes violation of this Part is causing imminent danger, the Borough may immediately revoke any sign permit and order immediate removal.
 - D. A sign installed after the effective date of this Part, and not conforming to this Part,

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shall be removed by the owner. The owner shall not be entitled to compensation for the sign removal and shall reimburse the Borough for any cost incurred in connection with the removal.

- E. Any person violating any provision of this Part shall upon adjudication forfeit not less than \$100 and not more than \$600 for each violation. Each day, subsequent to the 30-day removal timetable, on which a violation continues to occur shall constitute a separate offense. In addition, the Borough Solicitor is authorized to take all action, legal, injunctive and equitable, to assure compliance with this Part.

(Ord. 4-2009, 5/18/2009, §9)