

Portland, Oregon  
**FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT**  
**For Council Action Items**

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Kurt Krueger	2. Telephone No. 503-823-6964	3. Bureau/Office/Dept. PBOT/Development & Capital/Development Review
4a. To be filed (date):  February 12, 2014	4b. Calendar (Check One)  Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>	5. Date Submitted to Commissioner's office and CBO Budget Analyst:  January 29, 2014
6a. Financial Impact Section: <input checked="" type="checkbox"/> Financial impact section completed		6b. Public Involvement Section: <input checked="" type="checkbox"/> Public involvement section completed

**1) Legislation Title:**

Repeal TRN 8.05, 8.07, and 10.01 for inclusion in TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

**2) Purpose of the Proposed Legislation:**

Repealing duplicative rules that have been consolidated into the adopted TRN 8.08

**3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?**

- |  |                                    |                                    |                                |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast             | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East  |
| <input type="checkbox"/> Central City                  |                                    |                                    |                                |

**FINANCIAL IMPACT**

<b>Revenue and/or Expense:</b> Is ALL the Revenue and/or Expense a part of the current year's budget? or 5-yr CIP? _____ SAP COST OBJECT No(s): _____ All Revenue and Expense financial questions must be completed regardless of the current year's budget. Documents may be returned where the FIPIS portion has not been sufficiently completed.
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**4) Revenue:** Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

No.

**5) Expense:** What are the costs to the City related to this legislation? What is the source of funding for the expense? *(Please include costs in the current fiscal year as well as costs in future year, including Operations & Maintenance (O&M) costs, if known, and estimates, if not known. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the level of confidence.)*

None.

**6) Staffing Requirements:**

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)*

No.

- **Will positions be created or eliminated in future years as a result of this legislation?**

No.

*(Complete the following section only if an amendment to the budget is proposed.)*

**7) Change in Appropriations** *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)*

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

**[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]**

## PUBLIC INVOLVEMENT

**8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:**

☐ **YES:** Please proceed to Question #9.

☒ **NO:** Please, explain why below; and proceed to Question #10.

**9) If "YES," please answer the following questions:**

**a) What impacts are anticipated in the community from this proposed Council item?**

**b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**

**c) How did public involvement shape the outcome of this Council item?**

**d) Who designed and implemented the public involvement related to this Council item?**

**e) Primary contact for more information on this public involvement process (name, title, phone, email):**

**10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.**

No. TRN 8.05, 8.07, and 10.01 are being repealed for inclusion in TRN 8.08 Encroachments in the Public Right Of Way administrative rules. The process for the encroachment manual included a robust advisory committee. This will prove clearer guidance regarding encroachments and permitting process related to encroachments. Future additions to policies based on new issues will be addressed in the TRN 8.08 framework but will need similarly robust outreach with the community before future new additions.

KK 1-17-14

BUREAU DIRECTOR LEAH TREAT, Bureau of Transportation

## **EXHIBIT A**

### **TRN-8.05 - Security Gate & Doorswing Appeals Affecting the Right-of-Way**

#### **~~SECURITY GATE AND DOORSWING APPEALS AFFECTING THE RIGHT OF WAY~~**

*Administrative Rule Adopted by Bureau of Transportation Engineering & Development Pursuant to Rule-Making Authority*

ARB-TRN-8.05

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#### **MEMORANDUM**

August 13, 1996

TO: Chuck Stalsberg, Bureau of Buildings

FROM: Bob Johnson, Transportation Engineering & Development

RE: Building Code Appeals Affecting the Right-of-Way

Transportation has no objection to granting appeals for security gates and doorswings provided they meet the requirements outlined below:

#### **Security Gates at Recessed Doorways**

- 1.—The gate operates independently of the door, i.e. the gate and the door are not connected to each other in any manner.
- 2.—The gate is locked in the open position at the start of the day and is closed at the end of the day. PDOT will not permit gates that are designed to be opened and closed throughout the day.

#### **Doorswings in Excess of 12" over the R/W**

- 1.—The door functions as an emergency exit only.
- 2.—The door has no external hardware.
- 3.—Audio alarms sound when the door is opened.
- 4.—The door is signed as emergency exit only.

We propose that appeals which meet these requirements be granted by the Building Bureau without further PDOT review.

Administrative Rule now consolidated into TRN 8.08, Encroachments in the Public Right-Of-Way

### **TRN-8.07 - Public Right-of-Way Planter Boxes (raised beds or pots) within the Furnishing Zone (planting strip)**

#### **~~PUBLIC RIGHT-OF-WAY PLANTER BOXES (RAISED BEDS OR POTS) WITHIN THE FURNISHING ZONE (PLANTING STRIP)~~**

*Administrative Rule Adopted by Bureau of Transportation, Development and Capital Program Pursuant to Rule-Making Authority*

ARB-TRN-8.07

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#### **I. Introduction**

Maintained plants, gardens, and landscaping provide a community benefit by enhancing the pedestrian zone and helping to achieve the City's sustainability goals.

Planter boxes (raised beds or pots) are private structures. They are allowed in the public right-of-way under this Rule with a valid Encroachment Permit. The purpose of these structures is to contain plants and gardens.

Note that this policy does not cover planter boxes adjacent to buildings, which are more typical in the Central Business District and other commercial areas.

Landscaping is allowed in the public right-of-way provided it does not obstruct access, compromise safety or conflict with other right-of-way needs, and must be maintained in accordance with City Code title 29.20.

Encroachment Permits are revocable and considered temporary. (Encroachments must be removed from the public right-of-way upon notice by the City Engineer).

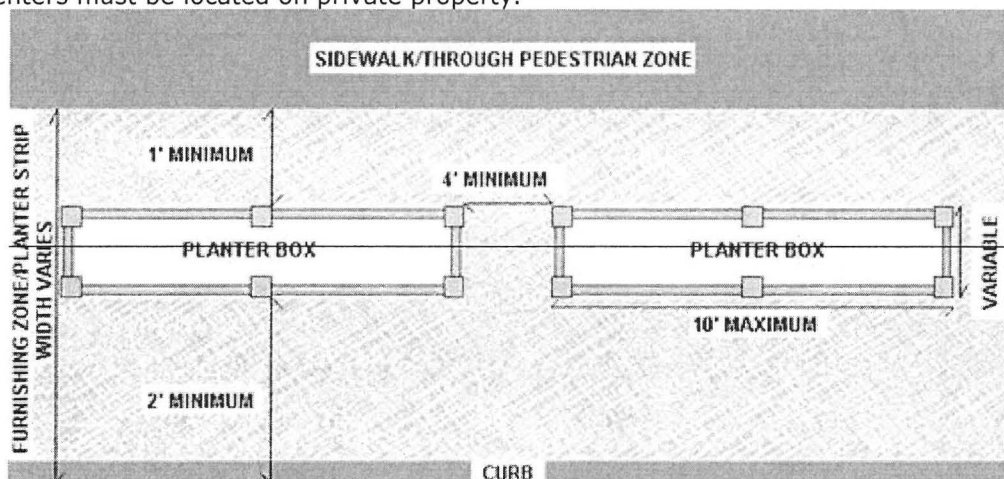
## II. Administrative Rule

Planter boxes (raised beds or pots) within the Furnishing Zone (planting strip) may be allowed in the public right-of-way with a permit from the City Engineer. Refer to the attached sketch. Terms are per the Portland Pedestrian Design Guidelines.

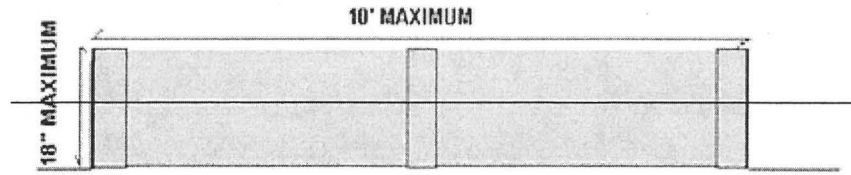
Planter boxes (raised beds or pots) within the Furnishing Zone (planting strip) must meet the following requirements in order to be considered:

- Shall be located a minimum of two (2) feet from the curb face (to allow access to on-street parking)
- Shall be located a minimum of one (1) foot from the Through Pedestrian Zone, which is the concrete sidewalk in most cases (to provide a safe offset for pedestrians, strollers, tricycles, etc.)
- Shall not exceed a maximum of ten (10) feet in length (to maintain access from the sidewalk to the street)
- Shall maintain a minimum of four (4) feet of separation between adjacent planter boxes (for pedestrian access.)
- Landscaping and planter boxes (raised beds or pots) shall not create a visual barrier between the sidewalk and the street. As a general guideline, the planter box(es) (raised beds or pots) shall not exceed eighteen (18) inches in height
- Landscaping and soil within the planter box may not exceed thirty (30) inches in height (as measured from the top of curb) when located within twenty five (25) feet from an intersection
- Shall be located a minimum of five (5) feet from any utility or apparatus (street lights, utility poles, water meters, fire hydrants, etc.) (to allow access and maintenance by the utility)
- Shall not be located within the drip line of any street tree (to protect the health of the tree)
- Planter Boxes must be maintained in accordance with these provisions and the Encroachment Permit conditions.

In design districts, planter boxes in the right-of-way may be subject to Design Review. Irrigation systems with non-pressurized plastic feeder lines and sprinkler heads may be installed within the public right-of-way without a permit. Control valves and back-flow preventers must be located on private property.



Example — Plan View



## Example — Elevation

### III. General Requirements

The revocable encroachment permit is issued to the abutting property and runs with the land. The revocable encroachment permit may also be issued, with the abutting property owner's consent, to a business association, a neighborhood association, a district coalition, a non-profit organization, or a government agency. Reference Chapter 17.44.015.B.

Exceptions to the consent requirement will be made when the applicant is able to demonstrate underlying fee ownership of the right-of-way where the encroachment is to be placed. Reference Chapter 17.44.015.B.

The City Engineer will evaluate the acceptability of encroachments based on adopted policy and regulations, safety, right-of-way usage, management and operations, and legal issues. The City Engineer may deny a permit, revoke a permit, or require removal of an encroachment at any time, unless otherwise specified in Title 14 or Title 29 of City Code, based on their evaluation. Unless otherwise specified in City Code or in the permit, the party responsible for maintenance of the right-of-way as specified in Chapter 17.28.020 shall remove the encroachment from the right-of-way upon notice by the City Engineer, with no liability and at no cost to the City.

Failure to maintain the landscaping and/or planter box(es) (raised beds or pots), or failure to repair or replace any portion of the landscaping and/or planter box(es) (raised beds or pots), immediately upon notification from City, shall be cause for the City to declare the landscaping and/or planter box(es) (raised beds or pots) a nuisance. The City may summarily abate the nuisance, initiate proceedings through the Code Hearings Officer, file civil suit or take any other action necessary to ensure the permittee, transferee or assignee performs the required repairs to the public right-of-way.

Planter boxes (raised beds or pots) within the Furnishing Zone (planting strip) that do not meet this administrative rule may be appealed in writing to the Development Services Division Manager to be considered by the Bureau of Transportation development appeal committee. The appeal should indicate how your proposal meets the intent of this rule. Such appeals may be subject to Design Review.

### IV. Reference

City Code Title and Chapter 17.24 and 17.44

Pursuant to Rule Making Authority City Code Title and Chapter 3.12

Administrative Rule now consolidated into TRN 8.08, Encroachments in the Public Right-Of-Way

### TRN-10.01 - Banner Across the Right-of-Way Permits

#### BANNER ACROSS THE RIGHT-OF-WAY PERMITS

*Administrative Rule Adopted by Bureau of Transportation Engineering & Development Pursuant to Rule-Making Authority*

ARB-TRN-10.01

#### I. Definition

The City periodically receives requests to place banners in the right of way for the purpose of identifying a neighborhood or a public charitable event. Permits are issued for three types of banners placed on one of three types of structures: street light poles, utility poles or Transit Mall banner standards (as defined in 17.45.020). For banners that hang over the public right-



of-way affixed to utility poles and on the Transit Mall banner standards, permits are issued through Street Systems Management. Permits issued for hanging banners on street lights are issued by the Street Lighting Division of The Bureau of Transportation System Management.

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## **II. Transit Mall Banner Reference**

City Code Title & Chapter 17.45

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## **III. Administrative Rule for Banners Outside of the Transit Mall**

1. The banner and group making the request must meet the following conditions:
  - a. The banner may be in place for a maximum of three weeks.
  - b. The banner must be installed in the vicinity of the neighborhood or public charitable event it is announcing.
  - c. Logos of commercial supporters who help defray the cost of a banner shall be unobtrusive (typically less than 18" in diameter on a 3' by 24' banner).
  - d. Installation of banners at intersections, in the underground wiring districts and on City street light or traffic signal poles is not permitted.
  - e. Banners shall be installed with the bottom of the banner a minimum of 18 feet above the travel way and a minimum of 10 feet above the sidewalk area.
  - f. The banner shall be fabricated with crescent shaped slots held closed with a small piece of material or thread, which will blow open if a wind gust hits the banner, or some other equivalent means of reducing wind loading.
  - g. The banner shall be hemmed, fitted with grommets and constructed with a 5/16" or larger nylon rope for mounting to the support cable. The banner is mounted to a 3/8" or larger steel cable strung between the cable mounts.
  - h. The applicant must provide the City with a letter of authorization from whomever owns the structure on which the banner will be mounted.
  - i. A letter of support should be submitted from one of the recognized neighborhood associations.
  - j. Liability insurance shall be provided by one of the recognized neighborhood associations/district neighborhood coalitions or by a non-profit agency. See insurance requirement for right-of-way permits.
2. Application requirements for banner permits include:
  - a. Letter requesting a banner permit which includes a description of the event and the requested location, dates, contact person and phone number;
  - b. Information on the banner including the layout, design, construction, method of hanging the banner and any necessary engineering calculations demonstrating the mounting system will support the banner from failing;
  - c. Letter(s) of authorization from whomever owns the structure on which the banner will be hung
  - d. Liability insurance certificate and additional insured form that meet City of Portland Office of Transportation insurance requirements.
3. For further information, you may contact 503.823.7002.
4. Fees are full cost recovery per City Code 17.24.020.

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## **IV. REFERENCE**

City Code Title and Chapter 17.45

Pursuant to Rule Making Authority City Code Title and Chapter 3.12

Administrative Rule now consolidated into TRN 8.08, Encroachments in the Public Right-Of-Way

**ORDINANCE No.**

*Referred to Commissioner of  
Public Safety*

Repeal TRN 8.05, 8.07, and 10.01 for inclusion in TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City's Encroachment Policy (TRN 8.01) was adopted in June 1982 and establishes three categories of encroachments: Above Grade (sky bridges, arcaded structures), At Grade and Below Grade.
2. Although TRN 8.01 mentions At-Grade encroachments, there is very little guidance for Transportation staff and community members to understand what the parameters are for permitting and how Transportation interprets and implements regulation on At-Grade encroachments in the public Right Of Way.
3. Over time, on an as needed basis, Transportation has adopted business practices or developed administrative rules regarding some aspects of encroachments in the public Right Of Way.
4. The Portland Bureau of Transportation (PBOT) established a work group and conducted outreach to internal and external stakeholders through a rule development process regarding encroachments in the public Right Of Way to create a framework for and consolidation of existing policies and related procedures.
5. PBOT completed a draft Encroachments in the Public Right-Of-Way manual and made it available for comment and review.
6. PBOT has taken steps to modify the City's Encroachment Policy (TRN 8.01) to be retitled "Major Encroachments Policy" and is also providing for the repeal of several disparate encroachment policies once they are consolidated within TRN 8.08 and it becomes effective.
7. The repeal of TRN 10.01 Banners Across the Right-Of-Way Permits, TRN 8.05 Security Gate & Doorswing Appeals Affecting the Right-of-Way, and TRN 8.07 Public Right-of-Way Planter Boxes (raised beds or pots) within the Furnishing Zone (planting strip) and inclusion in the newly adopted TRN 8.08 Encroachments in the Public ROW will allow for clearer guidance regarding encroachments and permitting process related to encroachments.



NOW, THEREFORE, the Council directs:

- a. That the City of Portland repeals TRN 10.01 Banners Across the Right-Of-Way Permits, TRN 8.05 Security Gate & Doorswing Appeals Affecting the Right-of-Way, and TRN 8.07 Public Right-of-Way Planter Boxes (raised beds or pots) within the Furnishing Zone (planting strip) in their entirety for inclusion in TRN 8.08 Encroachments in the Public Right of Way as shown in the attached policy document attached Exhibit A as Non-Binding City Policy.
- b. The repeal of these administrative rules shall not be effective until TRN 8.08, Encroachments in the Public Right-Of-Way, as an administrative rule is deemed to be effective.

Passed by the Council,

Commissioner Steve Novick  
Prepared by: Kurt Krueger:slg  
Date Prepared: January 16, 2014

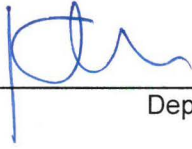
**LaVonne Griffin-Valade**  
Auditor of the City of Portland  
By

Deputy

151

Agenda No.  
**ORDINANCE NO.**  
 Title

Repeal TRN 8.05, 8.07, and 10.01 for inclusion in TRN 8.08 Encroachments in the Public Right Of Way administrative rules (Ordinance)

<p><b>INTRODUCED BY</b>          Commissioner/Auditor:  <b>COMMISSIONER STEVE NOVICK</b></p>	<p>CLERK USE: DATE FILED <u>FEB 07 2014</u></p>
<p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p>	<p style="text-align: center;">LaVonne Griffin-Valade          Auditor of the City of Portland</p> <p>By:  Deputy</p>
<p><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Transportation          Interim Group Mgr. Christine Leon          Development &amp; Capital Program          Other: Greg Jones</p> <p>Prepared by: Kurt Krueger: slg          Date Prepared: February 16, 2014</p> <p>Financial Impact &amp; Public          Involvement Statement          Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document          If "Yes" requires City Policy paragraph stated          in document.          Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date  <b>February 12, 2014</b></p> <p><b>City Auditor Office Approval:</b>          required for Code Ordinances</p> <p><b>City Attorney Approval:</b>          required for contract, code, easement,          franchise, comp plan, charter</p>	<p><b>ACTION TAKEN:</b></p> <p><b>FEB 12 2014 REFERRED TO COMMISSIONER OF          PUBLIC SAFETY</b></p>

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____          (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/> (1 of 2)</p> <p>Total amount of time needed: <u>10 MIN</u>          (for presentation, testimony and discussion) <b>TOTAL</b></p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Novick	4. Novick		
Hales	Hales		