

**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS**

ORDER NO. 175,208

AMENDING AND RESCINDING DPW ORDER NO. 165,292, APPROVED FEBRUARY 23, 1994 AND REVISING GUIDELINES FOR INSTALLING VERTICAL BANNERS ON CITY-OWNED UTILITY POLES, EFFECTIVE FEBRUARY 22, 2005.

I. PURPOSE: An Ordinance amending and adding to Article 5.6, Section 184.78 of the Public Works Code, adopted January 11, 2005, which originally rescinded Article 10, Section 675 of the Police Code, establishes rules and regulations governing the posting of banners on City-owned utility poles. This Department of Public Works (DPW) Order provides detailed implementation guidelines.

II. APPLICATION AND APPROVAL PROCESS:

- A. Requests to install vertical banners on City-owned utility poles shall include the following:
1. An application stating the name of the person or organization requesting the permit, including a contact person and phone number, streets and number of poles to be used, the name and date(s) of the event, date(s) of banner installation and removal, proposed size, design (or logo), description of hardware, banner material, and method of attachment to the pole(s).
 2. A detailed plan indicating: a) streets and street names; b) location of all poles on a street, including those proposed to be used for banners; c) detail and design/logo of banner, and method of attachment to the pole(s); i.e. a specification sheet for a bracket.
 3. A Certificate of Insurance naming the City and County of San Francisco as additional insured, with general liability coverage of not less than \$1 million.
 4. A processing fee of \$65 and an inspection fee of \$130, payable to DPW, for the first 20 banners sought, to compensate DPW for the cost of processing and administering the permit.
- B. If the application meets all design guidelines set forth in this Order, DPW will issue permit.
- C. If the application does not meet guidelines set forth in this Order, the applicant may revise their application and plan in order to meet said guidelines.
- D. If the application is disapproved by DPW, the applicant may appeal DPW's decision to the Board of Appeals within 15 days of DPW's decision.

III. GUIDELINES FOR APPROVAL:

A. Banners installed on the upper portion of City-owned utility poles are an important medium for providing notice to San Francisco residents, as well as those who work in and visit San Francisco, about City-sponsored, City-funded and City-wide special events, City convention facility events, and the locations of the City's diverse neighborhoods; thus, the following types of banners may be posted on City-owned utility poles:

1. A "**city-sponsored banner**" which would announce event(s) conducted by the City or any of its departments, boards, commissions or agencies; or announcing a facility operated by the City or any of its departments, boards, commissions, etc.
2. A "**city-funded event banner**" which would announce event(s), which have received funding of \$5,000 or more from the City or any of its departments, boards, commissions, etc.
3. A "**city-wide special event banner**" which would announce event(s) of interest to a significant portion of the residents of San Francisco and/or tourists, which are not a purely commercial enterprise; and where the proceeds, if any will directly benefit either a federal, state, or local government agency or a charitable non-profit organization that maintains tax-exempt status under the Internal Revenue Code Section 501(c)(3); or the event(s) will take place on City-owned property and further a public purpose.

- a. "Event(s) of interest to a significant portion of the residents of San Francisco" are event(s) that take place in the City and that reasonably expect an in-person attendance of 500 or more people for a single event or 1000 or more people for a series of events.
- b. Expected attendance may be demonstrated by attendance at that same or similar event(s) in previous years, by attendance projections for event(s) based on sales of tickets or subscriptions, or for an event being organized for the first time, by another reasonable measure of expected in-person attendance to be determined by DPW.

4. A "**city convention facility banner**" which would announce event(s) currently being held at a City-owned convention center facility and may only be installed on the following streets located proximate to the City's convention center facilities, at which the event the banner announces is being held:

3rd Street between Folsom & Mission Streets (west side only);
Folsom Street between 3rd & 4th Streets (north side only);
Howard Street between 3rd & 5th Streets (both sides);
Mission Street between 3rd & 4th Streets (south side only);
4th Street between Mission & Howard Streets (both sides);
4th Street between Howard & Folsom Streets (east side only);
Grove Street between Polk & Larkin Streets (both sides).

- a. A "**city convention facility banner**" may only be installed 10 days prior to an event and may not remain posted for more than 10 days after an event.

- K. Should an organization identify corporate sponsorship logo(s) on their permit application, the logo shall occupy no more than 15 percent of the overall size of the banner. Sponsors will be restricted to their logo or company name in the bottom 15 percent of the proposed banner and shall not include any advertisement or slogan.
- L. Stainless steel bands, or other types of bands approved by the City, and a protective material such as neoprene shall be installed to protect the surface of the poles.
- M. The banner shall not obstruct the public's view of traffic signals, street signs, or any other regulatory, directional, or other City approved signs, in any way.
- N. The banner shall not be hung from the arm of the pole in any manner.
- O. Banners shall be inspected frequently by the Permittee for any damage or tears to the banner, associated hardware, or the approved pole. If any damage or tears exist, the banner and all its attachments shall be removed immediately by the Permittee at no cost to the City.
- P. All banners shall bear the name of the installer and a local or toll-free phone number, labeled "Service Number", located on the face or edge of the banner at a minimum size of 2 inches, where citizens may contact or leave word for the installer of the banner regarding maintenance or repair problems.
- Q. Areas of the City under jurisdiction of another local or state governmental agency; e.g. Port Commission, Caltrans; will be required to obtain and submit a copy of a permit, or other approval from said agencies prior to the approval and issuance of a permit by DPW.
- R. Any persons violating the provisions of this DPW Order and/or Article shall be guilty of an infraction. Each banner determined to be an infraction is punishable by (1) a fine of \$100 for a first time violation; (2) a fine not exceeding \$200 for a second violation within one year; and (3) a fine not exceeding \$500 and revocation of the Permittee's banner permits for a third violation within one year.
 - 1. A fee equal to the cost of time and materials expended by DPW may be imposed for investigation of banners being maintained without or in violation of a valid permit.
 - 2. The nonpayment of such fee or fine, or the continued existence of a condition in violation of this Order and/or Article, shall be grounds for DPW to deny a permit for a banner to the responsible owner or applicant until such penalty has been paid and the condition corrected.
 - 3. DPW may, at their discretion, require that a performance bond, not to exceed \$25,000, be posted before a banner permit is granted to any Permittee that has violated this Order/Article, or any of the regulations imposed by DPW, more than three times within the year proceeding the banner permit request.
- S. The Department of Public Works shall not discriminate on the basis of the viewpoint in a banner in its administration and interpretation of this Section and any rules or regulations adopted under this Section

IV. HOLD HARMLESS CLAUSE:

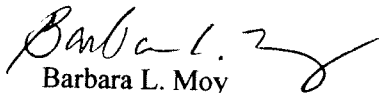
- A. In consideration of this Permit being issued for the work described herein, the Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.
- B. The Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including without limitation, attorneys' fees and costs (collectively "claims") of any kind allegedly arising directly or indirectly from (I) any act by, omission by or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities, or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety to the environment.
- C. The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. The Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. The Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

- D. The Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any operations under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.
- E. The Permittee and any permitted successor or assign recognize and understand that this Permit may create a possessory interest.

This DPW Order supersedes and rescinds DPW Order No. 165,292, approved February 23, 1994.

Edwin M. Lee
Director of Public Works

RECOMMENDED:



Barbara L. Moy
Bureau Manager
Street-Use & Mapping


APPROVED:

Robert P. Beck
Deputy Director
for Engineering

DISTRIBUTION:

Outside BSM
Department Files (2)
Mohammed Nuru, Deputy Director, Operations
SFFD – Chief Chin
BLHP – R. Muros, Jr.
DPT – B. Yee
Deputy City Attorney - Sarah Owsowitz

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Inspector – C.P. Wong
1660 Mission – B. Gaime

 DPW/BSM/NE/ne

APPROVED: FEBRUARY 2, 2005

EDWIN M. LEE, DIRECTOR