



**FAIRFAX**  
**COUNTY** V I R G I N I A

Attachment 1

**PROPOSED AGREEMENT FOR  
SIGN REMOVAL PROGRAM**

Proposed Agreement for Sign Removal Program

**PUBLIC HEARING DATE**

**Board of Supervisors**

February 26, 2013, at 4:00 p.m.

**PREPARED BY  
DEPARTMENT OF CODE COMPLIANCE  
(703) 324-1300**

January 8, 2013

mrc



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information call (703) 324-1334.

## **Staff Comment**

### **Background**

Section 33.1-375.1 of the Code of Virginia authorizes the Board of Supervisors of Fairfax County, Virginia, to enter into an agreement with the Commissioner of Highways to act as the Commissioner's agent for the purpose of removing unlawful signs from the public rights-of-way. Previously, Section 33.1-375.1 of the Code of Virginia contained an exemption for political signs, protecting them from removal until three days after the election to which they applied. By an amendment to Section 33.1-375.1, effective July 1, 2012, political signs placed in the public rights-of-way became equally subject to removal under an agreement between the Board and the Commissioner. Section 33.1-373 of the Code of Virginia was also amended this year to declare that both signs and advertisements placed in public rights-of-way are a nuisance and may be removed by the Commissioner or his representatives.

If the Board chooses to remove signs from the public right-of-way and assess the offenders, it may do so under Section 33.1-375.1 of the Code of Virginia subject to the following procedures:

- Following completion of an advertised public hearing, the Board may enter into a formal agreement with the Commissioner to act as the Commissioner's agent for the purpose of removing illegal signs and advertising placed within the limits of any highway and collecting civil penalties provided for in Section 33.1-373. Virginia Code Ann. § 33.1-351 defines the term "highway" as "every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this Commonwealth."
- Signs advertising or providing directions to a "special event" that are erected from Saturday through the following Monday shall not be subject to the Board's Agreement with the Commissioner.

In coordination with VDOT and the Office of the Attorney General, the Office of the County Attorney has drafted a proposed agreement between the Board of Supervisors and the Commissioner that has been found to be acceptable in both form and content by VDOT on behalf of the Commissioner as set forth in Attachment 2. Additionally, staff has prepared a proposed enforcement program pursuant to the proposed agreement and will develop an education/publicity campaign after the sign removal agreement has been executed.

### **The Problem**

Unlawful signs in the public rights-of-way have been a long-standing problem, but the number of signs has, in some citizens' estimation, spiraled out of control in recent years.

Between fields of popsicle-stick signs for homebuilders and politicians, and signs for weight loss, work-at-home businesses, hauling, and other signs placed on every available traffic sign and utility pole, many citizens in Fairfax County have voiced concern about unlawful signs. One of the issues involved in enforcement is that there is no one agency or department devoted to removal of these signs or enforcement against persons who erect the signs in violation of the law.

### **Current Enforcement Efforts**

Signs within the right-of-way are subject to the provisions of Chapter 7 of Title 33.1 of The Code of Virginia. Va. Code Ann. § 33.1-373 provides, in relevant part, that “any person who in any manner (i) paints, prints, places, puts or affixes any sign or advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, guide-sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any sign or advertisement within the limits of any highway shall be assessed a civil penalty of \$100. Each occurrence shall be subject to a separate penalty.” There are some limited exceptions to the prohibitions of Va. Code § 33.1-373, which are presented in Va. Code § 33.1-355. These include signs for no trespassing, Red Cross stations, signs at the intersections of two or more roads giving the distance or direction to a church, residence, or place of business, and signs denoting only the name of a civic service club or church. Further, as referenced above, signs and advertising promoting and/or providing directions to a special event erected from Saturday through the following Monday shall not be subject to removal under an agreement under Va. Code Ann. § 33.1-375.1.

Currently, VDOT has the primary responsibility for the removal of illegal signs in public rights-of-way. According to VDOT staff, VDOT engages in the removal of illegally posted signs in the public right of way on a complaint basis. It is also VDOT’s policy to send invoices for costs to those parties responsible for the placement of the illegal signs.

### **Adopt A Highway Program**

The Adopt-A-Highway Program sponsored by VDOT has the authority to remove illegal signs from public rights-of-way. Currently, according to VDOT, there are approximately 250 groups in the County, with about half being active in the clean-up programs. Clean-ups are provided on both secondary and primary roadways in segments from ¼ to 2 miles in length. This program, administered as a community-sponsored program, is at a minimal cost to the state and no direct cost to the County. This program would be unaffected by any agreement between the Board and the Commissioner.

### **Proposed Enforcement Program – Initial Phase**

If the Board of Supervisors authorizes the sign removal program, county staff will educate the public and business groups about it after the sign removal agreement has been executed. On this effort, the Department of Code Compliance will work in coordination

with the Sheriff's Office, Office of Public Affairs, and VDOT's public affairs staff. These efforts may include outreach to homeowners and civic groups, business and trade organizations, public service announcements, and outreach to the news media.

### **Proposed Enforcement Program – Second Phase**

Upon selection of the roadway segments and public information effort by County staff, the actual implementation of the program would begin. The steps required for the implementation of the program are as follows:

#### **Community Labor Force**

The Office of the Sheriff will provide its Community Labor Force (CLF) to remove signs in identified areas of the County. It is estimated that the cost of this program will be \$150,000 on an annual basis. CLF crews would remove all signs located in the designated public rights-of-way between Tuesdays and Fridays. Special event signs are only permitted from Saturday through Monday. If they are present during the weekdays they will be subject to removal. These signs will then be stored at a County facility for five (5) days, which would allow the owner of the sign to reclaim it as required by Va. Code Ann. § 33.1-375.1(D). After this five (5) day period, unclaimed signs would be destroyed.

Assuming that this program is maintained for a period of one (1) year in the County, at the end of the one (1) year period it will be evaluated by staff and an analysis of its successes and/or failures will be forwarded to the Board of Supervisors. If it is determined by the Board of Supervisors that the program should be retained, any modifications suggested by the Board of Supervisors will be reviewed and a recommendation will be forwarded to the Board of Supervisors with resource requirements for its consideration.

#### **Proposed Enforcement Program – Cost Analysis**

Staff of the Office of the Sheriff and the Department of Code Compliance will monitor and record all costs associated with the implementation of this pilot program during its initial one (1) year test period. At this time, it is estimated that this program will cost approximately \$150,000 on an annual basis for the removal of the signs.

#### **Staff Recommendation**

Staff recommends that if it is the intent of the Board of Supervisors to implement a sign removal program in the immediate future pursuant to an agreement with the Commissioner, that the Board utilize the Community Labor Force, supplemented by the Adopt-A-Highway Program as outlined in this staff report.