

Reading The Writing On The...Yard? Regulating Political Signs

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Many local governments have ordinances on the books that regulate the number, size, location, and duration of political yard signs. However, many of these regulations probably do not pass constitutional muster and are not enforced. The difficulty with enacting yard sign regulations is that the signs constitute political speech which is one of the most precious and protected forms of free speech guaranteed by the First Amendment of the United States Constitution. Courts across the country have consistently ruled that political speech cannot be regulated more stringently than commercial speech. For example, a local ordinance that sets time limits on how long political yard signs can be placed prior to an election and a time to remove them after the election are typically invalidated because other types of signs, such as real estate signs, have no durational limits. Similarly, ordinances that limit the number of political signs to no more than two per property have been struck down. Limiting the number of signs restricts free speech because the household residents may have different political viewpoints. Further, many election seasons are to fill the seats of many different offices, thus limiting the number of signs impermissibly limits the number of candidates that a property owner can support. Regulating the size of political yard signs is problematic too if the local sign ordinance limits political signs to a smaller size than permitted for other types of signs.

This does not mean, however, that local authorities have no power at all to regulate political yard signs. The governments may enact reasonable, content-neutral regulations pursuant to their police power to protect the public health, safety, and welfare. Thus, local ordinances can validly prohibit political yard signs on public property and within the public right of way. All signs over a certain size, regardless of content (and including political signs) may have to be set back from roadways and sidewalks and be constructed or anchored for legitimate safety reasons, such as to prevent them from being blown away, falling down or blocking the view of driveways and intersections.

Finally, other types of signs are protected as political speech even if not directly related to an election. As such, they are entitled under the First Amendment to remain in place subject to the same content-neutral regulations as for election yard signs. For example, signs expressing anti-war or other cause oriented beliefs such as views on abortion or gay rights have a fundamental right to remain in place for as long as the person expressing the belief wants to keep them in place, subject only to the limited, content-neutral requirements related to materials, method of anchoring, etc. that are in place for other signs displaying noncommercial speech.

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