

### *Can municipalities regulate political signs?*

Vermont law authorizes municipalities to regulate signs pursuant to their “police power” in both 24 V.S.A. § 2291(7) and pursuant to their zoning authority in 24 V.S.A. § 4404. While the power to regulate signs includes the power to regulate political signs, municipalities should use caution when crafting an ordinance or bylaw because of the First Amendment right to free speech.

Campaign yard signs are a form of political speech, which means they are afforded a high degree of protection and courts will be suspicious of any regulation. While regulation of the *content* of political signs would be unconstitutional, *content-neutral* “time, place and manner” restrictions are allowable. The justification for such regulations is the protection of public safety, and protecting the aesthetics of the community.

For municipalities seeking to enact a content-neutral ordinance, the courts have provided a few guideposts regarding the limits of sign regulation. First, a complete ban on political yard signs would be unconstitutional. Second, municipalities cannot regulate non-commercial signs (such as political campaign signs, protest signs, news information and historical information signs, as well as signs wishing “good luck” to the local baseball team) more stringently than commercial signs. And third, municipalities ordinarily may not pick and choose among various types of *noncommercial* signs based on their content.

So where does this leave municipalities? Typically, courts will uphold “time, place and manner restrictions” as long as they are not selectively enforced. A municipality may decide to place time limits on temporary signs, but in so doing, must be sensitive to providing ample opportunity for communication. Courts will closely scrutinize regulations placing time limits, especially when a municipality’s regulation would limit political communication. The shorter time span a municipality allows, the more likely it will be found unconstitutional. Long time span limits are recommended.

Finally, municipalities can likely regulate the size of signs without violating any constitutional right, so long as there is a reasonable basis behind the regulation and the regulation is not based on the content of the sign or is not overly broad or burdensome.

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