

2017
SHORT ANSWERS TO
COMMON QUESTIONS

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CAMPAIGN SIGNS ON ROADS

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The  symbol indicates sections that have been updated since the previous publication.

Introduction

As each election day approaches, we receive questions concerning the laws and procedures governing placement of campaign signs on county road and state highway rights of way. Below are answers to some of the more frequently asked questions on these issues.

1. May campaign signs be placed in state highway right-of-way?

No. It is a Class C misdemeanor (fine not to exceed \$500) to put a sign in the right-of-way of a state highway. Tex. Trans. Code, §392.032.

2. May campaign signs be placed in public road right-of-way?

No. With some exceptions, it is a Class C misdemeanor to place a sign on a public road right-of-way. Tex. Trans. Code, §393.002.

3. May a County or a City (within its boundaries) adopt additional regulations?

Certain urban counties may adopt regulations on use of off-premise portable signs (signs on a trailer) in unincorporated areas of the county. Tex. Trans. Code §394.061. Ordinances more restrictive than the general prohibition against signs in the state highway right of way supersede state law. Tex. Trans. Code §392.038.

A city may regulate sign placement on rights-of-way maintained by the municipality that are not part of the state highway system. Tex. Trans. Code §393.0025. For campaign signs, these restrictions often set a first day for placement and require removal by a certain point after election day. Contact your city to see if it has adopted any sign regulations.

4. May campaign signs be placed on private property visible from a rural road?

Yes. Campaign signs visible from the main-traveled way of a rural road are acceptable if they are placed on private property and are erected solely for a public election. The signs may be placed no earlier than the 90th day before the election, removed no later than the 10th day after the election, and must meet certain size and material provisions. See Tex. Trans. Code, §394.003.

5. Is there specific language that must be included on a campaign sign or poster that is intended to be visible from a road or highway?

Yes. The Texas Election Code, §255.007, **requires** the following notice be printed on each political advertising sign:

NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.

6. Who may remove a campaign sign that has been impermissibly placed in a right of way?

The Texas Highway Commission has authority to remove a sign placed in the right of way of a state highway without notice to the owner and may recover removal costs from the owner. Tex. Trans. Code, §§392.033, 392.035.

For a sign placed in a rural road right of way, the sheriff or constable may remove the sign. (Note that the county commissioners court may also designate volunteers to remove illegally placed signs.) Tex. Trans. Code §393.003.

7. How does a county dispose of illegally posted signs that are confiscated?

Signs with a value less than \$25 may be discarded without giving the owner any notice. This would apply to most political campaign signs.

For signs worth more than \$25, generally the county has to give the owner an opportunity to reclaim the sign by providing notice either by certified mail or in the local newspaper. The owner has 21 days after notice to reclaim the sign.

The commissioners court also may issue an order exempting certain types of signs, such as campaign signs, from the notice requirements by determining they are unlikely to be reclaimed. Once such a determination is made, signs may be discarded after 21 days. Tex. Trans. Code, Chapter 393.

8. May a candidate be prosecuted or sued for placing campaign signs in a right of way?

Yes. However, it is a defense to prosecution or suit that the candidate was running for elective public office and the sign was placed in connection with the campaign by a person other than the candidate. Tex. Trans. Code §§392.036, 393.006.

9. Are there civil penalties for placing campaign signs in a highway or rural road right of way?

Yes. A district or county attorney or a municipal attorney in the jurisdiction in which the placement allegedly occurred may sue to collect a civil penalty. (For signs placed in a state highway right of way, the attorney general also has jurisdiction.) The penalty range is not less than \$500 or more than \$1000 for each violation. The amount assessed is determined based on the seriousness of the violation and whether the person has previously violated the prohibitions against placing signs in rights of way.

A separate penalty may be collected for each day a continuing violation occurs, with the funds deposited to the county road and bridge fund if collected by the district or county attorney, the general fund of the municipality if collected by a municipal attorney, or to the state highway fund if collected by the attorney general. A district, county, or municipal attorney may recover reasonable attorney's fees. Tex. Trans. Code §§392.0355 and 393.007.