

CDCA Advisory Committee Recommendation

Agenda item: Signs

Underlying need to address:

Circle D restrictions are silent on regulating these structures except for the broadly worded Reference to signs in General Restrictions #3. What constitutes consent? ACC would like Advisory Committee to make recommendations around this. What types of signs are permissible, which are not permissible, are there time limits on how long they can be up? What about political or religious signs? What about signs in the easement, which is county jurisdiction. What are their rules on this?

Current statement: (General restrictions #3)

"No sign, advertisement, billboard or advertising structure of any kind may be erected or maintained on any parcel without the consent in writing of the Committee. Timewealth or members of the Committee shall have the right to remove any such sign, advertisement or billboard or structure which is placed on any parcel without such consent, and in so doing shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith, or arising from such removal.

General discussion and understandings:

In reviewing the intent of the phrasing in the statement, this Committee believes the following items should be checked.

- Define types of signs and who has jurisdiction over them
- Determine what kinds of signs can be installed permanently
- Temporary vs. permanent signs

Define types of signs and who has jurisdiction over them

After review by the Committee, signs can be broken down into the following groups.

- State definition of signs
- Business signs
- Temporary Directional Signs
- Realtor Signs
- Construction Advertisement signs
- Warning / Advisory signs
- Political signs
- Religious signs

State definition of signs:

To clarify what we are referring to as a “sign,” we are using the following state definition.

TITLE 6. ROADWAYS - SUBTITLE H. HIGHWAY BEAUTIFICATION - CHAPTER 393. OUTDOOR SIGNS ON PUBLIC RIGHTS-OF-WAY

***DEFINITION.** In this chapter, “sign” means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.*

Business Signs

As defined in the Committee’s business rule recommendations, no storefront can be created for a business; this includes no signage. As such, business signs are already disqualified by those recommendations and are not allowed.

Temporary Directional Signs

These signs are temporary and include signs for yard sales, birthdays, auctions, family reunions, and other events. These signs are allowed and should be removed within five days of the completion of the event. Specific items like multi-week estate auctions would be allowable until five days after the last event was held. They are allowed under these restrictions.

Realtor Signs

Having empty houses does not benefit the association, so realtor signs help move houses more quickly. They are allowed but should be removed within 30 days of the sale of the home.

Construction Advertisement Signs

This includes signs that are put in front of your property by contractors working on your property. It is a way to get their name out and gives others in the neighborhood the ability to check with the homeowner about the quality of their work. These signs are allowed but should be removed 30 days after completion of the project.

Warning / Advisory signs

Signs put up to make people aware of hazards or risks and advisory signs that let others know about conditions. This would include but is not limited to, Beware of dog, no trespassing, Horse crossing, slow children, signs with instructions about deliveries, etc. These signs are allowed. If any are put in permanently in easements, they may be removed by the county, and they should seek approval for same.

Political Signs

State restrictions on what an HOA can and cannot restrict about political signs are contained in TX ELECTION CODE - TITLE 15. REGULATING POLITICAL FUNDS AND CAMPAIGNS – CHAPTER 259. POLITICAL SIGNS. This code indicates in section 259.002 that HOA/POA’s cannot enforce a restriction on signs 90 days before or ten days after an election; however it could create restrictions around the

number of signs and has eight different prohibitions that would be allowed. The text of this code is attached for review.

At present, the HOA does not have any political sign restrictions, and the Committee is recommending it remain that way. We have provided the code that would dictate what policies they could adopt in the future.

Religious Signs

State restrictions on religious displays or signs were changed recently in the TX legislature. SB no 581 made changes to section 202.018 that dictates what an HOA can and cannot be prohibited. The Senate bill is attached for reference. The board had its lawyers prepare a policy that addressed these changes. This Committee, after review, recommends that ACC approval for anything other than a permanent display is unnecessary. The homeowners nor the ACC should bother themselves every time someone wants to put a display in their yard if it is seasonal. This should be nothing different than someone planting flowers in a wheelbarrow that will move in the fall. If the display violates 202.018, section (b), the homeowner be in violation, and the policy would grant ACC authority to pursue violations based on it.

PENDING

TX ELECTION CODE
TITLE 15. REGULATING POLITICAL FUNDS AND CAMPAIGNS
CHAPTER 259. POLITICAL SIGNS

Sec. 259.001. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written 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."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

Added by Acts 1991, 72nd Leg., ch. 288, Sec. 5, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 1134, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1349, Sec. 71, eff. Sept. 1, 1997.
Transferred and redesignated from Election Code, Section 255.007 by Acts 2019, 86th Leg., R.S., Ch. 824 (H.B. [2554](#)), Sec. 2, eff. September 1, 2019.

Sec. 259.002. REGULATION OF DISPLAY OF POLITICAL SIGNS BY PROPERTY OWNERS' ASSOCIATION. (a) In this section, "property owners'

association" has the meaning assigned by Section [202.001](#), Property Code.

(b) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a candidate or measure for an election:

(1) on or after the 90th day before the date of the election to which the sign relates; or

(2) before the 10th day after that election date.

(c) This section does not prohibit the enforcement or adoption of a covenant that:

(1) requires a sign to be ground-mounted; or

(2) limits a property owner to displaying only one sign for each candidate or measure.

(d) This section does not prohibit the enforcement or adoption of a covenant that prohibits a sign that:

(1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component;

(2) is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;

(3) includes the painting of architectural surfaces;

(4) threatens the public health or safety;

(5) is larger than four feet by six feet;

(6) violates a law;

(7) contains language, graphics, or any display that would be offensive to the ordinary person; or

(8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

(e) A property owners' association may remove a sign displayed in violation of a restrictive covenant permitted by this section.

Added by Acts 2005, 79th Leg., Ch. 1010 (H.B. [873](#)), Sec. 1, eff. June 18, 2005.

Transferred, redesignated and amended from Property Code, Section 202.009 by Acts 2019, 86th Leg., R.S., Ch. 824 (H.B. [2554](#)), Sec. 3, eff. September 1, 2019.

Sec. 259.003. REGULATION OF POLITICAL SIGNS BY MUNICIPALITY.

(a) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) A municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner:

- (1) prohibit the sign from being placed;
- (2) require a permit or approval of the municipality or impose a fee for the sign to be placed;
- (3) restrict the size of the sign; or
- (4) provide for a charge for the removal of a political sign that is greater than the charge for removal of other signs regulated by ordinance.

(c) Subsection (b) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(d) Subsection (b) does not apply to a sign that:

- (1) has an effective area greater than 36 feet;
- (2) is more than eight feet high;
- (3) is illuminated; or
- (4) has any moving elements.

Added by Acts 2003, 78th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 2003. Transferred and redesignated from Local Government Code, Section 216.903 by Acts 2019, 86th Leg., R.S., Ch. 824 (H.B. [2554](#)), Sec. 4, eff. September 1, 2019.

AN ACT

relating to regulation by a property owners' association of certain religious displays.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 202.018(a) and (b), Property Code, are amended to read as follows:

(a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a provision in a dedicatory instrument, including a restrictive covenant, that prohibits a property owner or resident from displaying or affixing on the ~~[entry to the]~~ owner's or resident's property or dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief.

(b) This section does not prohibit the enforcement or adoption of a provision in a dedicatory instrument, including a restrictive covenant, that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the ~~[entry to the]~~ owner's or resident's property or dwelling that:

- (1) threatens the public health or safety;
- (2) violates a law other than a law prohibiting the display of religious speech;
- (3) contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content;
- (4) is installed on property:
 - (A) owned or maintained by the property owners' association; or
 - (B) owned in common by members of the property owners' association;
- (5) violates any applicable building line, right-of-way, setback, or easement; or

(6) is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture [in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or resident's dwelling; or

[(5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches].

SECTION 2. Sections 202.018(c) and (d), Property Code, are repealed.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

PENDING