

A Resource Guide to Political Campaign Signs - laws, rules, etc

Laws, ordinances, rules and regulations regarding political campaign signs are enforced by various units of government. The Department of Elections for New Castle does not have the authority to deal with political campaign signs. See page 2 regarding signs at polling places on Election Day.

DelDOT for rights of way under their jurisdiction

- **Applicable law:** Delaware Code, Title 17, § 524, 525, 526, 527 & 1111(c) (see pages 3-5 below)
- DelDOT is enforcing laws designed to keep the State's Rights-Of-Way clear from illegal and dangerous signs.
 - DelDOT must remove any sign posted in the Clear Zone (in medians and approx. 10' from the edge of the pavement), including those attached to utility poles anywhere along the roadway.
 - Any sign in the State's Rights-of-Way that is not in the Clear Zone will also be removed.
 - Exemptions apply outside the Clear Zone only for signs posted during a period of 30-days prior to and 30-days after an election, in a district in which an election is held.
 - Sign owners are subject to fines of \$25 per sign and a recovery fee of \$15 per sign.
 - Confiscated signs will be disposed of after 30 days. The fines still apply.
 - The DelDOT's [brochure](#) shows how the restrictions apply on state highways.
- **Make complaints to:** DelDOT at (800) 652.5600 or (302) 760-2080

New Castle County

- **Applicable law:** County Code, Article 6: Sec. 40.06.040 & 40.06.050 (see pages 6 & 7 below)
- Only restriction is the maximum size of the sign
- **Make complaints to:** Land Use Department at (302)395-5400 or LandUse@nccde.org

City of Wilmington

- **Applicable law:** City Code- Chapter 36: Sec. 36-39 & Chapter 37: Sec 37-94 (see page 8 below)
- The City prohibits the placement of signage anywhere within the public right of way. This includes streets, sidewalks, traffic medians and on any objects within the right of way. The Departments of Licenses and Inspections and Public Works has the authority to simply remove the offending signs and dispose of them.
- **Make complaints to:** Constituent Services at (302) 576-2489 or CityHelp@WilmingtonDE.gov

Other municipalities, community associations, school districts, etc. may have laws, ordinances, rules, regulations, covenants or deed restrictions that cover signs. For example, an entity may limit signs to the day before Election Day, Election Day and the day after Election Day. See page 9 for known restrictions.

- **Make complaints to** the appropriate authority.

Private property. The Department strongly recommends that a person get permission from the owner before posting political campaign signs on private property.

Political Campaign signs at Polling Places

There are no special rules covering political campaign signs at Polling Places on Election Day, and there is no “right” to post signs at Polling Places. The Department suggests the following:

- Get permission from the owner before putting up signs.
- Promptly remove signs after an election.
- Do not obscure signs that tell the name of a building and where it is.
- Do not obscure signs that direct traffic.
- Do not obscure any signs put up by Election Officials that mark parking places or direct voters to correct entrances.
- Please move signs that are near signs put up by Election Officials.

Delaware Code, Title 17 (excerpts)

§ 524. Removal of nonofficial signs from utility poles within state rights-of-way.

(a) Legislative findings. -- The General Assembly finds that persons and firms post nonofficial signs on utility poles without prior authorization from the pole owner. Placing such signs on these poles is unsafe, both for the person attaching the sign and those in the vicinity of such activity when it occurs, including passersby. Therefore, it is appropriate to authorize the Department of Transportation to treat such signs as subject to immediate removal and other enforcement action under §§ 525 through 527 of this title, without regard to the clear zone distance limitations of those sections.

(b) The Department of Transportation may treat any nonofficial signs placed on utility poles at any location within the State's rights-of-way as artificial obstructions within the clear zone, subject to immediate removal and other enforcement action under §§ 525 through 527 of this title, upon confirmation that the utility company had not previously authorized the placement of such signs.

§ 525. Maintenance of clear zones within rights-of-way.

(a) The Department is authorized to maintain clear zones within the rights-of-way under its jurisdiction. In maintaining these clear zones, the Department shall have the immediate authority to remove artificial obstructions placed therein, including, but not limited to, nonofficial signs, poles, mailboxes not placed in conformance with Departmental regulation, or other hazards to safe passage. In removing artificial obstructions, the Department shall attempt to determine the owner of the obstruction and provide written notice and an opportunity for the owner to recover the obstruction after its removal. The Department shall also have the immediate authority to remove or trim vegetation growing within these rights-of-way.

(b) As used in this chapter, the term "clear zone" has the following meanings:

(1) For all roads except those described in paragraph (2) of this subsection, the term includes the total roadside border area within a right-of-way, starting at the edge of the pavement and continuing for a distance of 10 feet perpendicular to the pavement edge.

(2) For all interior streets within residential subdivisions, the term includes the total roadside border area within a right-of-way, starting at the edge of the pavement and continuing for the shorter distance of either:

- a. Seven feet perpendicular to the pavement edge, or
- b. If there is a sidewalk adjacent to the street, the sidewalk edge further from the street.

(3) The total area within the median strips between traveled ways or on any channelization islands, except as permitted by § 1108(d) of this title.

(c) The owner of any obstruction removed pursuant to this section shall be liable for a civil fine of \$25 for each item so removed, payable to the Department. Justices of the Peace shall have original

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jurisdiction for any court proceedings relating to this fine. No owner of any such obstruction shall be entitled to the return of any removed obstruction without proof of payment of all outstanding fines.

(d) Recovery by the owner of any artificial obstruction removed by the Department under this section shall be subject to the payment of a \$15 recovery fee per obstruction. If the owner does not pay the fee and recover the obstruction within 30 days of its removal, the Department shall dispose of the obstruction in the exercise of its reasonable discretion. The Department may also take such legal steps as it deems necessary and proper to collect these recovery fees, including but not limited to a debt action in the courts of this State.

§ 526. Restrictions against commercial use of State rights-of-way; site-based enforcement mechanisms.

(a) Except as provided in subsection (b) of this section, there shall be no commercial activity within any rights-of-way under the Department's jurisdiction in the unincorporated areas of the State. As used herein, "commercial activity" includes, without limitation, such activities as the placement of news boxes in such rights-of-way for the sale of newspapers, the placement of vending machines in such rights-of-way for the sale of goods, the placement of commercial advertising signs in such rights-of-way or the sale of goods from vehicles parked within such rights-of-way. If a commercial activity occurs within the clear zone of any such rights-of-way, the Department shall treat the machines, fixtures, signs or other materials used in such activity as an artificial obstruction under § 525 of this title, and may undertake the immediate removal of said materials as authorized therein.

(b) Any of the following commercial uses of the rights-of-way shall be subject to enforcement under Chapter 11 of this title:

- (1) Commercial activities occurring outside the clear zone; or
- (2) The placement of nonofficial signs outside the clear zone; or
- (3) The placement of vending machines at designated locations at safety roadside rest areas, as permitted by § 132(c)(14) of this title; or
- (4) The placement of news boxes outside the clear zone; or
- (5) Signs displayed on any school bus waiting shelter located with the approval of the Department of Education; or
- (6) Nonofficial signs displayed on transit shelters pursuant to Department-approved contracts.

§ 527. Coordination with other statutes.

In the event of a conflict between §§ 525 and 526 of this title and Chapter 11 of this title, §§ 525 and 526 shall take precedence

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§ 1111(c) (1) Any outdoor advertising sign, display or device which is erected or maintained in violation of § 1108(b)(1) of this title shall be subject to immediate removal and the other enforcement provisions of § 525 of this title, without regard to the clear zone distance limitations of that section.

(2) Paragraph (c)(1) of this section shall not apply during the 30-day period immediately preceding and the 30-day period after an election administered pursuant to Title 15, in those election districts affected by such election or elections.

New Castle County Code (excerpts from Article 6)

Sec. 40.06.040. Permitted signs; limitations on placement; prohibitions.

A. *Signs permitted without limitation:* The following signs shall be permitted in all districts:

1. Signs indicating public transportation stops.

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11. Permanent subdivision identification signs not exceeding twenty (20) square feet in area maintained on private property not to exceed one (1) per each street frontage.

12. Noncommercial signs relating to ideological, religious or political thought, provided they do not exceed thirty-two (32) square feet in area.

B. *Real estate sign.* A temporary sign(s) indicating the sale, rental or lease of a structure or property, limited to the following three (3) types:

Sec. 40.06.050. Administration.

A. The Department shall inspect annually....

D. The Department shall issue permits for signs which conform with this Article upon application by the owner or authorized agent of the property on forms to be supplied by the Department which detail the specifications of the sign, the setback and the zoning classification. The Department shall maintain records of all sign permits and fees issued pursuant to this Section. Issuance of a permit shall not estop the Department from challenging the conformance of a sign to the provisions of this Article.

1. Every sign over twenty-eight (28) square feet in sign area, excluding wall signs, and every off-premises advertising sign, irrespective of size, erected or maintained shall have affixed to it in a conspicuous place thereon the permit issued by the Department, including the date of erection, the permit number, the voltage of any electrical apparatus used in connection therewith, and an annual inspection number as designated by the Department.

2. The Department shall charge a fee for issuance of sign permits as specified in Chapter 6.

3. Notwithstanding the definition of sign area in Section 40.06.020, for the purposes of this subsection, sign area shall be measured including both faces of signs placed back-to-back.

4. Building and sign permits shall be required for all signs except the following types:

a. Real estate sign, lot-premises type.

b. Nameplate.

c. Instructional.

d. Temporary election sign.

E. Nonconforming signs shall comply with the following:

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1. No legal nonconforming sign shall hereafter be relocated, replaced, removed, altered, or modernized unless it is in accordance with this Article.

Wilmington City Code (excerpts)

Chapter 36: Sec. 36-39. - Placing notices, advertisements, etc., on poles, trees, etc., located on streets.

(a)

No person shall post, staple, stick, stamp, paint or otherwise affix, or cause the same to be done by another, any notice, placard, bill, card, poster, advertisement or any other paper or device to or upon any lamppost, electric light, telegraph or telephone pole, hydrant, tree or tree box, or upon any piers or columns located on or along any of the public streets or highways in the city except such as may be authorized or required by law.

(b)

There shall be a prima facie case that the person who is sponsoring the event or activity being advertised or at whose premises or other location selected by it the event or activity is to be conducted or take place, is responsible for the placement of any such notice or other device which is alleged to be in violation of this section. There shall be a rebuttable presumption that such person did himself place or cause to be placed the notice or other device in violation of this section.

(c)

A conviction of a violation of the provisions of this section shall be punishable by a fine of not less than \$100.00 nor more than \$500.00. A corporation may be fined by the court in an amount not exceeding \$1,000.00.

(Code 1968, § 21-1)

Cross reference— *Streets, sidewalks and other public places, ch. 42; trees and shrubs, § 46-26 et seq.*

State law reference— *Placing, etc., advertisements on public highways, 17 Del. C. § 1107 et seq.*

Chapter 37: Sec. 37-94. - Display of unauthorized signs, signals or markings.

Every sign, marking or device that is upon or in view of any city street and that is prohibited by virtue of state or local law or regulation is hereby declared to be a public nuisance, and the department of public works is hereby authorized to cause the same to be removed without notice.

(Ord. No. 92-062(sub 1), § 1(e)(37-19), 8-13-92; Ord. No. 95-043, § 3, 7-13-95)

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Other municipalities, community associations, school districts, etc.

None at this time