



COMMONWEALTH of VIRGINIA

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The Honorable David Ramadan
Member, House of Delegates
23456 Rock Haven Way, #105A
Dulles, Virginia 20116

Dear Delegate Ramadan:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire regarding the validity of ordinances governing the posting of campaign signs on private property. Specifically, you ask whether ordinances imposing stricter size limitations on political signs than on other temporary signs are permissible in light of § 15.2-109 of the *Code of Virginia*.¹

Response

It is my opinion that any zoning ordinance that places heavier burdens or greater restrictions on temporary political signs than are placed on any other classification of temporary sign is pre-empted by state law, thereby rendering any such ordinance invalid.

Background

You state that political campaigns routinely use 4 x 8, 4 x 4, and 2 x 2 foot signs during campaigns. You also state that various localities seek to limit political signs to 2 x 2 feet while permitting larger signs for other categories of temporary signs. According to your description, the zoning regulations implicated in your question require the permitting of political signs along with other temporary signs.

Applicable Law and Discussion

The power of a local governing body, unlike that of the General Assembly, "must be exercised pursuant to an express grant"² because "the powers of boards of supervisors are fixed by statute and are

¹ Because it is not within the scope of your request, I express no opinion on the constitutionality of a permit requirement for placing political signs on private property absent some compelling government interest.

² Nat'l Realty Corp. v. Va. Beach, 209 Va. 172, 175, 163 S.E.2d 154, 156 (1968).

limited to those conferred expressly or by necessary implication.”³ Conversely, “[a]n ordinance in conflict with a state law of general character and state-wide application is universally held to be invalid.”⁴

Generally, pursuant to its zoning powers, “[a]ny locality may, by ordinance, . . . regulate, restrict, permit, prohibit, and determine . . . [t]he size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures . . .,”⁵ including signs. Nonetheless, irrespective of this broad authority, the General Assembly specifically has provided in § 15.2-109 that

No locality shall have the authority to prohibit the display of political campaign signs on private property if the signs are in compliance with zoning and right-of-way restrictions applicable to temporary nonpolitical signs, if the signs have been posted with the permission of the owner. The provisions of this section shall supersede the provisions of any local ordinance or regulation in conflict with this section.

“When a statute is clear and unambiguous, the rules of statutory construction dictate that the statute is interpreted according to its plain language,”⁶ and “[t]he manifest intention of the legislature, clearly disclosed by its language, must be applied.”⁷ I therefore conclude that localities may regulate temporary political signs under zoning ordinances only in the same manner as other temporary signs. Any ordinance that places heavier burdens or greater restrictions on temporary political signs than are placed on any other temporary signs is invalid.

Conclusion

Accordingly, it is my opinion that any zoning ordinance that places heavier burdens or greater restrictions on temporary political signs than are placed on any other classification of temporary sign is pre-empted by state law, thereby rendering any such ordinance invalid.

With kindest regards, I am

Very truly yours,



Kenneth T. Cuccinelli, II
Attorney General of Virginia

³ Bd. of Supvrs. v. Horne, 216 Va. 113, 117, 215 S.E.2d 453, 455 (1975).

⁴ Hanbury v. Commonwealth, 203 Va. 182, 185-86, 122 S.E.2d 911, 913-14 (1961) (internal quotation marks and citations omitted).

⁵ VA. CODE ANN. § 15.2-2280 (2008).

⁶ Va. Polytechnic Inst. & State Univ. v. Interactive Return Serv., Inc., 271 Va. 304, 309, 626 S.E.2d 436, 438 (2006).

⁷ Barr v. Town & Country Props., Inc., 240 Va. 292, 295, 396 S.E.2d 672, 674 (1990) (quoting Anderson v. Commonwealth, 182 Va. 560, 566, 29 S.E.2d 838, 841 (1944)).