

POLICY AND PROCEDURE # 4-2016
POLITICAL SIGNS POLICY AND ENFORCEMENT PROCEDURES ON VIOLATIONS

This Policy and Procedure documents, for all Park Trace Estates members and residents, the Board of Directors policy on the display of any political signs during the election season from 16 August through 15 November 2016. It also spells out how violations of that policy will be enforced. Outside of those dates political signs will be treated as any other signs, requiring individual prior approval.

All members should note that our Declaration of Restrictions, in Article IV Paragraph 20 (“Signs”) prohibits residents from displaying any sign to public view on any Lot with very few exceptions (ornamental house name or number plate; temporary sign in connection with the sale of a Lot; and a builder’s sign during construction on a Lot). It also states in sub-paragraph (d) that:

“Other signs may be displayed if such signs are approved by Developer [now read: Board of Directors] as to size, design, location and content.”

This restriction was originally established by the Developer to protect the residential nature and aesthetics of Park Trace from being detrimentally cluttered with all manner of signs, but also to recognize that in unpredictable special circumstances allowing signs (almost always temporary) may be appropriate. For example, a family welcoming home a military service member from a deployment, or the arrival of a new-born family member. The Board will generally approve such well-meaning personal signs.

With the upcoming elections, the Board is aware that some members may wish to show their support for a particular candidate or party in one electoral contest or another. Given the advice of legal counsel, past history involving signs within Park Trace Estates, and given past Board precedents on this topic, the current Board has decided on the policy described below.

But first, it is important to understand that the Board is not a “state actor” (e.g., part of a Federal, State, County or Municipal governmental entity). None of those, in accordance with the second of the five freedoms guaranteed all citizens in the First Amendment to the U.S. Constitution can regulate “free speech” (although in practice there are a very few exceptions, e.g., inciting riots, or panics) – but a Homeowners Association (HOA) can! Why? Because HOA restrictions are established **under contract law**, and the Declaration of Restrictions is in fact a contract we all signed when we took title to our homes. This has been very consistently upheld by all courts over many years.

The political season presents several unique issues for the Association and its Board of Directors. Our main issues deal with establishing a very clear policy, and then enforcing clear violations of that policy in a practical, timely, fair, even, and effective manner.

In 2012, the Board put out a policy that if anyone wanted to display a political sign, they needed to seek prior approval (which had to be voted on at a properly noticed Board of Directors meeting), and that if the sign met some common-sense criteria as to size, location, etc., the Board would approve one and only one sign. At the time, there was

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no enforcement mechanism available to the Board due to the then-language of the applicable state law (Florida Statutes Chapter 720) and the fact that our deed restrictions did not specify the enforcement process to include fines or other enforcement short of filing a lawsuit. Our deed restrictions have not changed, but the law certainly has (specifically Section 720.305(2)). And in accordance with that change in the law, the Board recently established the necessary mechanisms and procedures to back up deed restriction violation(s) enforcement with fines of up to \$100 per day up to a maximum of \$1,000, at which point the Board may opt to place a lien against a property for continued violation(s), and authorize our attorneys to pursue collections against the lien. Fortunately, most residents have promptly responded to the few deed restriction violation notices recently sent out by Casey Management – our professional management company – and so we have thus far never exercised that route for enforcement, and we hope we will never have to. But make no mistake; we will if necessary. And specifically including violations of our political sign policy.

So, for this year (2016), and based on careful review by our legal counsel, **without any specific prior approval, any lot may display one and only one political sign, provided that it is professionally printed, not more than nine (9) square feet in total size, in good condition, displayed independently standing on a front lawn (not in house windows, on roofs, or nailed to trees, etc.) and not containing any inflammatory or objectional content or display (in the Board's sole opinion), from the date of this policy. Such sign must be removed by sunset on 15 November 2016.**

Please note that no signs are allowed anywhere else on a Lot, no signs in windows are allowed, and it means **one and only one sign – not one sign per electoral race.** A single sign (e.g., for a primary contest) may at a member's discretion, be replaced by an appropriate single sign for any other race or candidate, at any time, provided that there is one and only one sign on the front lawn at any given time. You can even rotate single signs for different candidates and races, as long as it is restricted to one sign per Lot at a time.

We do not plan to approve any exceptions to this clear policy.

Also please note that bumper stickers, or any other signs anywhere on or in vehicles, within reason as determined by the Board of Directors (e.g., no large signs on top of a vehicle) are **NOT** included in this policy. That includes residents' vehicles or authorized guests' vehicles, even if parked on a driveway.

As for enforcement, any violations of this policy reported to, or noticed by the Board of Directors or by Casey Management will be immediately documented (date/time-stamped photograph, signed statement, etc.). At the earliest opportunity a violation notice will be sent to the alleged violator by Casey Management with direction to immediately remove the violating sign(s) pending imposition of a fine of \$100 per day.

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At the next regular properly noticed meeting of the Board of Directors, all violation data will be reviewed, and the Board will take a vote on each case to impose a fine of \$100 per day up to an aggregate of \$1,000, even if all signs were eventually removed after-the-fact. You will be liable for a \$ 100 fine for a single documented day's violation.

Casey Management will then notify the member of the fine, and offer a hearing before a properly constituted Fining Committee, at the offices of Casey Management, with at least 14 calendar days advance notice. A member who receives such a notice of fines may or may not choose to attend such hearing. If a fining hearing is in fact accepted and held, the fining committee by law may only approve or dismiss the entire fine – no adjustments as to amount fined, days of violation, etc. are allowed. Up or down. And the committee's decision is final. If approved, the Board will aggressively proceed with appropriate collection. If the fining hearing is declined, after 14 days the (full) fine will be imposed.

In summary, the Board of Directors hopes that everyone understands that all we are trying to do is establish a very clear and reasonable policy on political signs, in compliance with all laws and legal counsel, and enforce that policy in an appropriate, fair, timely and effective manner.

We are neither recommending nor discouraging the display of a single sign that meets the criteria of this published policy. It's each member's personal decision. We do, however, suggest that each member consider the potential effects of displaying signs. In this year's heated election environment members may want to consider numerous reports in media, including in Florida, about arguments among neighbors being generated or exacerbated, and even occasional vandalism, associated with the display of political signs. We all hope not to have to deal with that sort of nonsense.

Thank you for your understanding and full cooperation.

Park Trace Board of Directors