



Creating a community valuing diversity, equality, and religious freedom.

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Citizens Project Recommendation for Banners in Public Rights of Way
Submission to the City of Colorado Springs Temporary Banner Working Group
January 26, 2010

Background:

Citizens Project's mission is to promote and protect equal rights, religious freedom, respect for diversity and civic engagement in the Pikes Peak region. Our interest in the municipal sign code is to ensure that the guidelines for banners on public rights of way uphold these traditional American values, especially the religious freedom protections of the First Amendment to the U.S. Constitution, by not discriminating on the basis of religion: "*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.*"

First Amendment case law would define the banners on public light poles as a "designated public forum." According to one constitutional lawyer, in a designated public forum the government may "restrict access to the forum to certain groups or for the discussion of certain topics, but any restriction must be reasonable in light of the government's purpose in opening the forum. And while government may open the forum only for discussion of certain content, it cannot discriminate among speakers based on their viewpoints on those topics." In other words, if religious topics are allowed, the government cannot allow one viewpoint and not another. For example, if a banner declaring "Jesus is Alive!" is allowed, the government cannot disallow the famous Nietzsche quote, "God is Dead."

Recommendation:

Citizens Project supports a more open forum, allowing for a variety of topics without viewpoint discrimination, rather than a restricted forum that bans religious or other controversial topics.

We recommend the city define a purpose for the banner program, and find the following guidelines (drawn from city staff's draft and the Downtown Partnership's guidelines) to be a good starting point to define the purpose.

- To aid in the aesthetic improvement of the downtown area by adding color and visual excitement to downtown.
- To aid in the promotion of cultural, charitable and civic events or activities of general interest to the public.
- To promote the identity of a local community or business district.
- Not to contain commercial copy or advertise a product or service.

In order to avoid one group, event, or message to dominate the banner "forum", we recommend a shorter timeframe than 120 days for each permit (perhaps 8 or 12 weeks), and would not allow permit renewal if another group or event has requested a permit for the banner space.