Concerning the legality of private or government-sponsored holiday displays on public property, what is a public forum?

In many instances, the government allows private individuals or groups to display holiday themed items on public property.

The Supreme Court of the United States has identified three types of public property for First Amendment expressive purposes: the traditional public forum, the open or designated public forum, and the non-public forum.\(^1\) Certain government properties are presumed to be traditional public fora (streets, sidewalks, and parks).\(^2\)

As the Supreme Court has stated, “Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public, and time out of mind, have been used for the purposes of assembly, communicating thoughts between citizens, and discussing public questions.”\(^3\)

In addition to streets, sidewalks, and parks, other areas that “the state has opened for use by the public as a place for expressive activity” may be considered “open or designated” public fora.

While the First Amendment does not require the government to allow privately owned permanent or seasonal displays in public parks, the government must act in a viewpoint neutral manner if it chooses to do so.\(^4\)

(Continued on next page.)

---

\(^1\) Perry Educ. Ass’n v. Perry Local Educators’ Ass’n, 460 U.S. 37, 46 (1983).
\(^4\) See Pleasant Grove City, 555 U.S. at 480.
Whether the property in question is considered a traditional public forum (e.g., street, sidewalk, park, or plaza) or a designated public forum (e.g., a government building, community center or other state-owned facility), the ability of governing authorities “to limit expressive activities [is] sharply circumscribed.”

State officials may not prohibit religious speakers from these places on the basis of viewpoint unless they demonstrate a compelling government interest for doing so. As the Court held in Lamb’s Chapel, “[t]he principle that has emerged from our cases ‘is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others.’”

---

5 *Perry Educ. Ass’n*, 460 U.S. at 45–46.
7 508 U.S. at 394 (quoting *Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789, 804 (1984)).