




CITY COUNCIL REPORT FROM STAFF

To: Mayor and City Council

Approved: Brian Dalke, City Manager 

cc: Planning & Zoning Commission, Department Directors

FROM: Steve Careccia, Planner III

THROUGH: Christopher Baker, Development Services Director
Katie Wilken, Planning Manager

DATE: October 13, 2015

RE: Proposed Sign Code Amendments Update

History and Background

At a City Council worksession held on March 2, 2015, staff discussed proposed amendments to the Zoning Ordinance, including several revisions to the sign code. The proposed sign code revisions at that time included, among other items:

- Consideration of electronic message displays
- Provision for larger future development signs
- Expanded use of directional signs

Since the March 2015 worksession, the Supreme Court of the United States has rendered a decision in the *Reed v Gilbert* case. This decision, which was issued on June 18, 2015, addressed the constitutionality of the Town of Gilbert's sign code. Specifically, the provision in question involved the regulation of temporary directional signs placed within Town rights-of-way by a local church (Good News Community Church/Clyde Reed, Pastor).

The Court found that the Church's First Amendment right of free speech was abridged by the Town's sign code. It determined that the sign code treated signs differently based on the subject matter of the sign, and was therefore an example of content-based discrimination. Specific to *Reed*, the Court found that the Church's directional signs were treated less favorably when compared to other similar temporary signs, including political signs and ideological signs. As such, the Court found the Town's sign code to be unconstitutional.



Though the full impact of the Supreme Court's decision has yet to be determined, it has already affected how municipalities approach sign regulation. Post-*Reed*, municipalities are having to ensure that their administrative and enforcement efforts are not regulating signage based on the message conveyed by the sign. Otherwise, municipalities risk the potential claim that their sign codes are unconstitutional. As such, given this potential risk, staff has made it a priority to address the sign-related issues resulting from the *Reed* decision.

It should be noted that the regulation of signage by means of time, place and manner restrictions was not affected by the *Reed* decision. These types of regulations, which address the physical characteristics of a sign, including size, location, building material, lighting, and time of display, remain constitutional.

Proposed Amendment to Sign Code

For municipalities, the main lesson from the *Reed v Town of Gilbert* decision is that sign regulation must be content neutral. In evaluating the City's sign code, staff has found that many of our existing regulations are content neutral. As such, they are consistent with the *Reed* decision and can continue to be administered and enforced. However, staff has also identified several provisions of the sign code that will need to be amended in order to create a fully content-neutral sign code. These proposed amendments are generally described below:

- Removing regulations that limit or direct what can be stated on a sign
- Removing references to sign types based on what is stated on the sign (i.e. 'open house' signs, 'directional' signs, & 'political' signs)
- Limiting exemptions to the sign code to promote more uniform treatment of signs

Action Schedule for Sign Code Amendment

Planning Commission / City Council Joint Worksession – October 19, 2015

- Planning and Legal staff will provide the Commission & Council with an overview of the *Reed* decision, some of the effects it has had on the municipal regulation of signage, and some of the effects it may have on the City's businesses and citizens. Staff will also be seeking direction on a number of items, including:
 - Allowance and permissibility of off-premise signs – Given *Reed*, does the City still want to prohibit off-site signage?
 - Permissibility of signs on City rights-of-way and other public properties – Should private signs be allowed on public property?
 - Consideration of sign code exemptions – Balancing the desire to be flexible and accommodating with the need to be fair and equitable.
 - Treatment of temporary signs permitted within City – The Town of Gilbert got in trouble because its sign code favored some temporary signs over others.



Create Draft Sign Code Amendment

- October – December 2015

Public Outreach

- November / December 2015
- Work with Economic Development on business stakeholders to involve (i.e. Chamber)
- Conduct a business open house to allow businesses the opportunity to review and discuss the sign code revisions
- Conduct business open house prior to Thanksgiving week

Finalize Draft Sign Code Amendment

- December 2015 / January 2016
- Distribute final draft to identified public stakeholders for review and comment

Public Hearings and Adoption

- January / February 2016 – Planning Commission hearing
- February / March 2016 – City Council hearing

Current Implementation of Sign Code

In the meantime, Development Services is working with the Legal Department, and processing sign permits and approving requests for signage, so as to ensure a high level of customer service is maintained. Staff will also ensure that any code enforcement efforts related to signage are not content based.

Regarding the other sign code amendments discussed at the March 2015 worksession, staff will continue to work on those items, including the consideration of electronic message displays within the proposed McDowell Road Entertainment District. That specific amendment will be brought forth as an amendment to Article 9, Special Districts, of the Zoning Ordinance. Staff intends to complete those prior sign code amendments concurrently with the sign code amendment for *Reed*, so that all of the amendments are adopted together.

Fiscal Impact

No fiscal impact is anticipated from this proposed amendment to the Zoning Ordinance.