UPDATE TO SIGN CODE

Post U.S. Supreme Court Decision in Reed v. Gilbert

CITY OF APACHE JUNCTION

PLANNING AND ZONING COMMISSION - JANUARY 12, 2016



Overview

- Reed v. Gilbert
 - History
 - Challenges
 - 10 Regulatory Principles
- Prescott
- Flagstaff
- •What we're working on...



Reed v. Gilbert Summary

•Reed operated a small church in Gilbert that met at a different location each week.

•Reed would put out a small sign in front of the new building.

•Gilbert's sign code would only allow Reed to put the sign out 12 hours before the meeting.

•So if the meeting was at 9 a.m. the earliest he could put the sign out was at 9 p.m.

•Reed sued and the U.S. Supreme Court ruled that cities cannot regulate signs based on the message they display.*





Reed v. Gilbert cont.

Post Reed, municipalities must consider signs as <u>"constitutionally protected free speech"</u> rather than as a land use.*

*James Carpenter November 5, 2015



Challenges*

"Sign Regulation is one of the more vexing tasks that a local government faces on a routine basis."

- The challenge when regulating signs is to balance:
 - Myriad of legal issues-along with Reed
 - Traffic safety
 - Aesthetics/Policies
 - Economic
 - Business and Institutional needs
 - Neighborhood Groups...



10 Regulatory Principles Post Reed*

- 1. Interim-avoid content-based enforcement/permit review
- 2. Content Neutral
- 3. A sign ordinance should contain a substitution clause
- 4. A sign ordinance should contain a severability clause
- 5. Minimize categories-temporary signs
- 6. Minimize categories-other signs
- 7. State purpose/rationale in detail at start of code
- 8. Clearly define all critical words and phrases
- 9. Minimize exemptions
- **10**.Simplify the regulatory scheme



First Amendment Concepts*

- Content (or message) neutrality
- Time, place or manner regulations
- Bans and exceptions
- Off-site vs. on-site signs
- Commercial vs. non-commercial speech
- Permits and prior restraints
- Vagueness and Overbreadth



Prescott, Arizona

Currently, the city's code generally prohibits signs in the public rights-of-way, but provides for a number of exceptions, such as sidewalksale signs, sandwich signs, off-site signs promoting transient events and sales, and campaign signs that follow a number of criteria.*

Council is leaning towards a complete ban on temporary signs in the public right-of-way

Council discussed need to comply with Reed

The Daily Courier



🖂 🖨 🖆

January 05, 2016

F Like Share 🗸 0

Tweet G+1 Recommend this on Google

1/4/2016 6:00:00 AM

Sign ban on Prescott City Council agenda

PRESCOTT - Exceptions to the city of Prescott's general ban of signs in its rights-of-way could go away under an ordinance currently under consideration.

The Prescott City Council will discuss tightening up its sign code during a workshop at 3 p.m. Tuesday, Jan. 5, at Prescott City Hall, 201 S. Cortez St.

A memo from the city legal department notes that the discussion would be a continuation of the topic that has been on the council agenda in recent months.

In early December, council members appeared to support a complete ban of signs in the city's





D See it in Prin

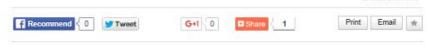
Buy Now

Flagstaff, Arizona

Zoning Code Administrator recommended:

- Council prohibit all signs in a city right-of-way
- Allow business owners to put up a temporary sign without getting a permit from the city
- Temporary signs must be removed by the close of business
- Permits for wall banners for 30 day maximum
- Size limits on signs: 32 square feet total

Sign code returns to Flagstaff City Council agenda





Councilmember Jeff Oravits listens to an answer from staff at a recent Flagstaff City Council meeting.



What we've done

Jim Carpenter's top 10 list

- 1. Interim-avoid content-based enforcement/permit review
- 2. Content Neutral
- 3. A sign ordinance should contain a substitution clause
- 4. A sign ordinance should contain a severability clause
- 5. Minimize categories-temporary signs
- 6. Minimize categories-other signs
- 7. State purpose/rationale in detail at start of code
- 8. Clearly define all critical words and phrases
- 9. Minimize exemptions
- 10. Simplify the regulatory scheme

- 1. Enforcement, low priority
- 2. City Attorney made initial review comments on existing sign code
- 3. Drafted substitution clause
- 4. Drafted severability clause
- 5. Not yet –
- 6. Not yet –
- 7. Drafted new "purpose statement"
- 8. Not yet
- 9. Started this review
- **10**. Contemplating a simpler approach



What's Next?

 Incorporate City Attorney review comments on existing sign code

Work very closely with Joel!

 Continue Drafting/redrafting Contentneutral language

- Simplify permitting scheme
- Pare back Exempt Signs
- Revisit Prohibited Signs
- Revisit Definitions



Discussion/Questions?

Review our current code (in the packet)

 Will be bringing back the first draft for your review/discussion as soon as we can