



# Text Amendment: Chapter 40 Article VIII Signs

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Reed V. Town of Gilbert 2015

APRIL 13<sup>TH</sup> , 2021

MILES MURPHY – SENIOR PLANNER

# Background

- Sign ordinances are utilized primarily for aesthetic and economic purposes
- Free speech generally overrides any state, county, or local sign ordinance
- Sign ordinances may not be “content-based” in almost all circumstances



# Supreme Court Decision

- In 2015 the Supreme Court heard the case of Reed V. Town of Gilbert
- The Town of Gilbert had a sign ordinance with 23 exempted categories and each category was treated differently based on the content



- The Ninth Circuit Court of Appeal initially upheld the exceptions
- The Supreme Court determined that the sign ordinance, and its exceptions, were based on the “face” since the content of the signs dictated their limitations

# Local Ordinance Implications

- CB sign ordinance currently has 11 sign categories that are regulated individually and are based on content
  - Governmental
  - Window/door signs
  - Real Estate/off-site
  - Political
  - Open
  - Patriotic
  - Government required
  - Construction/Future Development
  - Subdivision
  - Nonprofits
  - Special events

# Revisions

- Addition of location restriction to prevent traffic sight distance triangle obstructions
- Addition of a catch-all category for “temporary non-commercial signage” with regulations pertaining to aesthetics and time-frames only.
- Remove categories specifically regulating signs by content.
- Clarified/corrected language throughout Article 8

# Example: Yard Signs

## a. Yard Signs

i. Four temporary signs related to noncommercial activities or events may be placed on a parcel 30 days prior to said activity/event, remain up during said activity/event, and must be removed within 10 days of the conclusion of said activities/event. These yard signs shall follow the regulations below:

1. The sign shall be non-illuminated and may not exceed 20sqft or 5ft in height.
2. The sign shall be setback at least 5' from the road and not impose upon the intersection sight triangle (Sec. 40-232 c)
3. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly liable for the removal of such signs.
4. The lot occupant or, in the case of unoccupied lot, the lot owner, shall be responsible for violations on a particular lot.
5. No temporary signage is permitted in the public right-of-way.
  1. With the exception of NCDOT rights-of-way in accordance with Session Law 2011-408
6. Off-site directional signage shall be related to an event, will only be permitted while the activity/event is on-going, and shall be removed within 48 hours of the conclusion of said activity/event.
7. No commercial signs shall be placed off-site on a residential lot *which are unrelated to ongoing activities on that residential lot.*
  1. Signs related to ongoing activities shall be removed within 10-days from the completion of said activity

# Recommendation

- Staff recommends the approval of the ordinance
- Planning & Zoning approved the ordinance 7-0

# Amend Chapter 40, Article VIII Sign Regulations

- (1) It is recommended that Planning and Zoning open the public hearing for comments.
- (2) Close the public hearing
- (3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

## New Statutory Requirements

The General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements. The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is **reasonable and in the public interest**. However, the form of the required statement has changed. The statement must take one of these forms:

- A Statement of Approval – The Council, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article VIII to update the sign ordinance to comply with the 2015 Supreme Court decision is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans. (If applicable - List any recommended restrictions or requirements)
- A Statement of Denial – Town Council deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.