



ITEM SUMMARY

MEETING DATE: September 28, 2022

FROM: Caryn Gardner-Young, Zoning Administrator

SUBJECT: **Ordinance 2022-25, ZTA-22-09**
Sign Code

BACKGROUND

This Zoning Text Amendment is at the request of the City's Development and Neighborhood Services Department due to the United States Supreme Court's decision in *Reed v. Town of Gilbert*. With *Reed*, the new standard is that any law or regulation of speech that is based on the content of the speech is presumptively unconstitutional and subject to "strict scrutiny," which is the most rigorous standard for First Amendment review. Strict scrutiny requires a challenged regulation to be "narrowly tailored to serve a compelling governmental interest," with legal experts stating that such scrutiny is almost always fatal to the regulation in question.

The primary takeaways of the *Reed* case are that local sign regulations must be content-neutral *and* that a sign code will be subject to "strict scrutiny" judicial review if it applies different standards based on:

- a sign's content (i.e., what is written or portrayed on the sign);
- the purpose of the sign; or
- who is putting up the sign.

In other words, if you have to differentiate the type of sign being regulated by reading the sign's content or knowing the sign message's author, then the regulation is probably unconstitutional. Before *Reed*, most regulations, if challenged, would have been subject to a "lesser" scrutiny test.

Even though it raises a lot of unanswered questions, the *Reed* case makes it clear that local governments need to review their sign codes and update them in response to a changing legal landscape. It is important for cities, counties, and towns to heed that advice, and embark upon the significant work of regulating signs in a manner that both meets local expectations and passes constitutional muster. The purpose of the proposed language is to accomplish just that.

The Development Review Committee has reviewed these text amendments and is recommending approval. The Planning and Zoning Board of Appeals has reviewed these text amendments on August 11, 2022, and recommended approval. The City Council voted four (4) to zero (0) to recommend approval of Zoning Text Amendment ZTA-22-09 as presented by

staff on September 14, 2022.

ANALYSIS

The principal intent of these proposed text amendments to the Zoning Code is to provide a comprehensive update of the City's sign code which over the last decade has only been amended for specific reasons. The proposed amendments will ensure that the sign code is in compliance with state, federal, county laws as well as court cases and will ensure that the City's sign code is enforceable.

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City Codes.

FINANCIAL INFORMATION

N/A.

LEGAL

Ordinance 2022-25 was prepared in accordance with all applicable state statutes and City Code Requirements and has been reviewed by the City Attorney.

STAFF RECOMMENDATION

Approval of ZTA-22-09 through the adoption of Ordinance 2022-25.