



**TOWN OF LOS GATOS  
COUNCIL STUDY SESSION  
REPORT**

MEETING DATE: 08/15/2023

ITEM NO: 1

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DATE: August 10, 2023  
TO: Mayor and Town Council  
FROM: Gabrielle Whelan, Town Attorney  
SUBJECT: Receive and Discuss Information Regarding a Recommended Update to the Town's Sign Ordinance Provisions Regarding Temporary Signs and Provide Direction to the Town Attorney

**RECOMMENDATION:**

Receive and discuss information regarding a recommended update to the Town's sign ordinance provisions regarding temporary signs and provide direction to the Town Attorney.

**BACKGROUND:**

The Town's sign ordinance is codified at Sections 29.10.100 – 29.10.140 (Attachment 1) of the Town Code and was most recently amended in 1994.<sup>1</sup> Since then, a number of court decisions affecting sign regulations have been issued. These court decisions discuss the First Amendment and "freedom of speech." The most significant of these decisions is *Reed v. Gilbert*, 576 U.S. 155 (2105). In *Reed v. Gilbert*, the court overturned a local ordinance that imposed content-based regulations. A government regulation of speech is considered to be "content-based" if the law applies to particular speech because of the topic discussed on the idea or message expressed.

The level of judicial review differs based on whether a sign is located in a "public forum," which is a place typically used for expressive conduct such as streets or sidewalks, or a "non-public forum," which is a place not typically used for expressive conduct such as private property. If a regulation affecting signs in the public right-of-way is "content-based," a court will only uphold the regulation if it: 1) serves a compelling government interest; and 2) is narrowly tailored to

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<sup>1</sup> The Town also has adopted "Signage Guidelines" in its "Commercial Design Guidelines," which pertain to permanent commercial signage as opposed to temporary signs.

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, Parks and Public Works Director, and Finance Director

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BACKGROUND (continued):

serve that interest. A regulation affecting signs on private property will be upheld if it is: 1) reasonable; and 2) content-neutral.

DISCUSSION:

The Town's sign ordinance currently includes content-based regulations for several types of temporary signs. Examples of this are regulations that are specific to "political signs," real estate open house signs, "grand opening" banners, and event signs. The best practice is to have a category for "temporary signs" and apply the same regulations to all forms of temporary signs.

Case law does authorize the Town to impose "time, place, and manner" regulations on signage. Examples of "time, place, and manner" regulations are those related to size, location, and time limits for display. In order to develop proposed "time, place, and manner" regulations, the Town Council's input is sought on the following questions:

- 1) Should all temporary signs in the public right-of-way be prohibited?<sup>2</sup>
  - a. Alternatively, should temporary signs be prohibited only in the median and on the sidewalk?<sup>3</sup> In other words, should temporary signs be permitted in any grassy areas in front of or beyond the sidewalk?
- 2) Should there be a distance requirement between temporary signs in the public right-of-way? For example, some jurisdictions require at least a 50-foot distance between temporary signs in the public right-of-way but allow one temporary sign at each corner of an intersection on weekends.
- 3) Should there be a limited duration for the display of temporary signs?<sup>4</sup> For example, some jurisdictions limit the placement of temporary signs to 45 days before the event related to the sign and 10 days after. The Town's regulations for event signs/banners currently limit them to no more than 14 days prior to the event, and require removal within 24 hours after the event.
- 4) What should the size limit be for temporary signs that are allowed in the public right-of-way? For example, some jurisdictions limit temporary signs in the public right-of-way to a maximum of six square feet and 3 feet in height, which helps maintain a line of sight for vehicular traffic and does not impede access for people with disabilities.

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<sup>2</sup> Sandwich boards are currently prohibited. During COVID, the Town did not enforce this prohibition but anticipates doing so now unless the Town Council directs otherwise.

<sup>3</sup> Temporary signage on sidewalks is currently prohibited. If allowed, the ordinance would need to allow for a three-foot wide path of travel in accordance with the Americans with Disabilities Act.

<sup>4</sup> Town Code Section 29.10.120 currently provides that "grand opening" signs are permitted for a maximum of 45 days. This is a content-based regulation, which should be adjusted to apply to all temporary signs.

DISCUSSION (continued):

- 5) What should the size limit be for temporary signs that are allowed on private property? The Town currently has different limits for different types of temporary signs on private property, allowing, for example to a range of between 18 and 25 square feet for subdivision signs, with a 15-foot height limit, and requires that they be located at least 15 feet away from the edge of the public right-of-way. Other temporary signs are limited based on the same formula(s) used for permanent signage. Some jurisdictions contain a maximum square footage for all signage and a maximum square footage for each individual sign.<sup>5</sup>

CONCLUSION:

After the Town Council has provided direction, the Town Attorney will prepare a draft ordinance with possible revisions to the Town's Sign Code, conduct public outreach, bring the matter before the Planning Commission for its recommendation, and set a public hearing for Town Council consideration.

COORDINATION:

This report was coordinated with the Town Manager's Office and the Community Development Department.

FISCAL IMPACT:

This study session will not have fiscal impact.

ENVIRONMENTAL ASSESSMENT:

Because the Town Council is providing direction rather than taking action, this study session is not a project subject to CEQA, and no further action is required.

Attachment:

1. Town of Los Gatos Sign Ordinance

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<sup>5</sup> One example would be to impose a limit of 10 square feet for total signage in all residential zones and 16 square feet for total signage in all other zones – with a limit of 6 square feet for each individual sign.