



AB5940:

Sign Code Amendment

September 21, 2021

Overview

- A code amendment is needed to bring the City's sign regulations into conformance with the U.S. Supreme Court ruling in *Reed v. Town of Gilbert*
- The Planning Commission recommends adoption of Ordinance No. 21C-21 to amend the city's sign regulations

Code Amendment Process



Reed v. Town of Gilbert

- *Reed v. Town of Gilbert* is a United States Supreme Court case that addresses First Amendment issues in local sign codes.
- This case centers on the City of Gilbert, Arizona's sign code, which prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here.
- Petitioners, Good News Community Church (Church), posted temporary signs early each Saturday bearing the Church name and the time and location for the next day's service. The Church left the signs up for longer than the allowed 1 hour after the event and was cited for exceeding the time limits prescribed for "temporary directional signs." The Church filed suit claiming that the Code abridged their freedom of speech. The case was appealed up to the United States Supreme Court.



Reed v. Town of Gilbert

- The Supreme Court held that the Gilbert sign provisions were content based on their face. If the regulation of speech is content based on its face, then it is subject to strict scrutiny. Strict scrutiny is a level of judicial review that is rarely met and is therefore nearly always fatal.
- Each of Gilbert's sign code categories were defined based upon the message that the sign conveys. Consequently, those restrictions were subject to strict scrutiny.
- Gilbert's sign regulations failed to meet strict scrutiny and were held to be impermissible content-based regulations.



Reed v. Town of Gilbert

Basic Rule

- If a code enforcement officer must read the content of the sign to determine in which category the sign falls, and therefore which regulations apply, then the sign code regulation is content based on its face and is subject to strict scrutiny.



Recommended Code Amendment

- Ordinance No. 21C-21 amends MICC 19.06.020, 19.11.140, 19.12.080 and 19.16.010
 - Updates the sign regulations to:
 - Comply with the Supreme Court ruling in *Reed v. Town of Gilbert* by removing content-based regulations
 - Clarify existing provisions and resolve issues that have arisen during processing of applications



Recommended Code Amendment

MICC 19.06.020 - Temporary Signs

- Shift to define temporary signs based on type and materials rather than duration of placement
- Removes provisions related to political signs as they are content based (political signs will be covered by the general temporary sign provisions)
- Prohibits signs in parks, except as permitted in the parks code
- Additional provisions added related to placement of signs – clarifying signs cannot obstruct sidewalks, sight lines, bicycle facilities, bus stops, etc. It also prohibits signs in medians, roundabouts and traffic circles.
- Added the Commercial Office (C-O) zone the list of zones that allow temporary commercial signs (including TC, B and PBZ)



Recommended Code Amendment

MICC 19.11.140 – Town Center Signs

- Adds allowance for signs along alleyways and through-block connections
- Added allowance for a secondary wall sign on the primary frontage of a business to identify a secondary or affiliated use. This is intended to provide for signs for things like ATMs and coffee stands inside grocery stores
- Clarifies that the 25% limit on window signs applies to each tenant/business window area that faces the street or through-block connection. Allows for lighting of window signs during business hours.
- Revises the lighted sign provisions to add objective standards around the design of the sign and lighting to limit glare and reflection of light.



Recommended Code Amendment

MICC 19.12.080 – Signs Outside Town Center

- Clarifies how sign size should be measured for all sign types
- Adds an allowance for lighted signs, as in the Town Center provisions
- Adds an allowance for signs at neighborhood entrances and driveway entrances for identification and navigation purposes
- Adds an allowance for the replacement of existing non-conforming signs



Recommended Code Amendment

MICC 19.16.010 – Definitions

- Added a definition of “Public Art” and revised the definition of “Sign” to clarify that public art, including murals, is not regulated as signs



Planning Commission Suggestion

- The PC suggested Council give further consideration to the provision in MICC 19.11.140(B)(11)
- Provides the Design Commission the ability to waive Town Center sign provisions if the design is “creative, artistic and an integral part of the architecture”.
- PC had split opinion on the matter
- Staff recommends retaining the provision as-is because the flexibility has benefited local businesses



Recommended Motion

Move to Set Ordinance No. 21C-21 for second reading and adoption at the Council Meeting on October 5, 2021, or soon thereafter.

