Division 10-50.100 Sign Standards

Needed amendments following *Reed v. Town of Gilbert*

Flagstaff City Council
December 8, 2015

Overview

- Why are we here?
  - US Supreme Court decision in *Reed v. Town of Gilbert,* No. 135 S.Ct. 2218, 2015
- Revisions to the Current Sign Standards
  - Generally
  - Permanent Signs – relatively minor
  - Temporary Signs – substantial
- Council Direction - A path forward post *Reed*

Reed v. Town of Gilbert, Az.

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- *Reed v. Town of Gilbert, Ariz.*, 587 F.3d 966 (9th Cir. 2009), *on remand*, 832 F. Supp.2d 1070 (D. Ariz. 2011), *affirmed*, 707 F.3d 1057 (9th Cir. 2013), *reversed and remanded*, 135 S.Ct. 2218 (2015).

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Source: http://www.nytimes.com/2015/06/19/us/justices-side-with-arizona-church-in-dispute-over-sign-limits.html

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Ideological

Save the Whales!

20 sf

Where?	How long?
Anywhere	As long as you want

Where?	How long?
Residential (16 sf) NR / public / ROW (32)	60 days before primary 15 days after general

Political

Vote for Pedro!

16 sf

Vote for Pedro!

32 sf

Temporary Directional Sign Relating to a Qualifying Event

Church Meeting 7PM

6 sf

Where?	How long?
Private or public land 4 at a time	12 hours before 1 hour after

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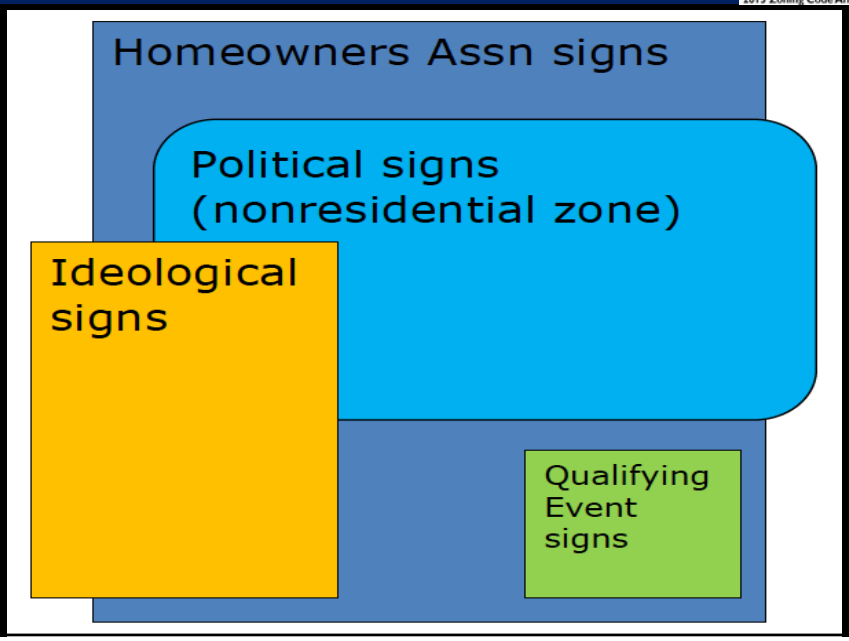

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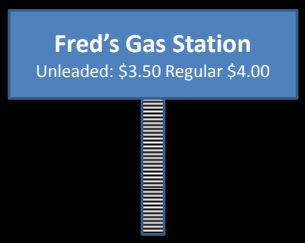
Content

Content-Based

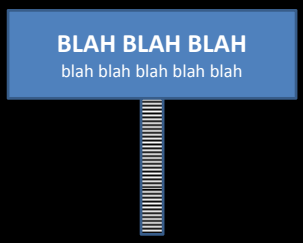
- Message determines if it stays up or down, or whether applicable regulations apply

Content-Neutral

- Size
- Location
- Illumination, materials, etc.



"Gas Station Sign"



"Pole Sign"

Reed v. Town of Gilbert, Az.

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- ***Reed* Takeaways**
  - The *Reed* case is about determining when a government regulation of speech is content based
  - Content-based laws are presumptively unconstitutional
  - Time, place, and manner restrictions OK provided they are content neutral, narrowly tailored, and serve a legitimate governmental interest
  - Reed is not just about temporary signs
  - Careful scrutiny of the Sign Code is essential to ensure content neutrality

Flagstaff's Sign Standards

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- Flagstaff Sign Standards:
  - Permanent signs generally not an issue – only a few minor tweaks
  - Temporary signs – Numerous issues!
  - Comprehensive rewrite needed

Will be providing an overview of staff's desired approach and seeking Council direction on key policy issues

Sign Standards Outline – Div. 10-50.100

Sections:

10-50.100.010	Purpose
10-50.100.020	Applicability
10-50.100.030	Sign Permit Requirements
10-50.100.040	General Restrictions for All Signs
10-50.100.050	General Requirements for All Signs
10-50.100.060	Permanent Signs
10-50.100.070	Comprehensive Sign Programs
10-50.100.080	Sign Design Performance Standards
10-50.100.090	Temporary Signs
10-50.100.100	Sign Districts of Special Designation
10-50.100.110	Nonconforming Signs
10-50.100.120	Enforcement
10-50.100.140	Appeals
10-50.100.150	Severability

10-50.100.010

Purpose

- Minor language amendments for clarity, unrelated to *Reed*
- Table A (Sign Types) deleted – unnecessary

10-50.100.020

Applicability

- Various minor amendments for clarity/simplicity, unrelated to *Reed*
- 2.d Substitution Clause
  - Provides that any non-commercial message may be substituted for a commercial message or any non-commercial message changed to a different non-commercial message on a sign without the need for a permit
- C. Exemptions
  - Comprehensive review – many removed

10-50.100.020

Applicability

- C. Exemptions
  - Comprehensive review – many removed

Exempt Signs:

Building identification signs	unchanged
Business name on an entry door	unchanged
Community bulletin board signs	minor edits
Flags	minor edits
Governmental signs	minor edits
Heritage signs in Landmark Zones	unchanged
Historic and architectural features	unchanged
Internal signs	amended
Seasonal decorations	unchanged
Street light banner sign	unchanged
Vending machine and similar facilities	moved to here

Removed:

Display board daily specials
Neighborhood/district sign
Nonstructural modifications/ maintenance
Political signs
Real estate signs
Signs required by law
Vehicle signs
Yard or garage sale signs

10-50.100.030

Sign Permit Requirements

- C. Nonstructural Modifications and Maintenance
  - Moved from Exemptions
  - Expanded to include:
    - Existing signs on single-tenant buildings
    - Building mounted signs
    - Amendments unrelated to *Reed*

10-50.100.040

General Restrictions for All Signs

- A. Prohibited Signs (formerly Location Restrictions)
  - Numerous minor amendments for clarity/simplicity, unrelated to *Reed*
  - Redundancies eliminated
  - Vehicle signs – considerably simplified

10-50.100.040

General Restrictions for All Signs

- A. Display Restrictions
  - Numerous minor amendments for clarity/ simplicity, unrelated to *Reed*
  - Redundancies eliminated
  - Balloons, spinners, strings of flags, etc. clarified

10-50.100.050

General Requirements for All Signs

- No amendments are required post-Reed
- One minor amendment – include a new illustration to clarify sign area

10-50.100.060

Permanent Signs

- (2) Building Mounted Signs
  - Minor revisions, e.g. to clarify sign placement on a building element, unrelated to *Reed*
- (5) Driveway Sign (formerly Directional Sign)
  - Only the name of this sign type has changed

10-50.100.060

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Permanent Signs

- (7) Freestanding Signs
  - Minor revisions:
    - More flexibility for sign height regarding embellishments, unrelated to *Reed*
    - Allows a sign to be mounted on 2 posts/poles, unrelated to *Reed*
    - Adds a new freestanding sign type – Post Sign; no permit if sign advertises property for sale or lease. Sign area included in total temporary sign area allowance.

10-50.100.060

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Permanent Signs

- (14) Window Signs
  - Minor revisions unrelated to *Reed*
  - Sign area increased from 25% to 40%
  - Inside mounting required rather than preferred
  - Open signs moved here – no permit required
- (15) Vehicle Signs (formerly Other Sign Types)
  - Deleted:
    - Drive-through menu board and confirmation signs
    - Fuel pump signs
    - Menu display box
    - Open sign

10-50.100.060

Permanent Signs

- (15) Vehicle Signs (formerly Other Sign Types)
  - Maintains the same standards as the current code – moved to a more logical location
  - Simplified

10-50.100.070

Comprehensive Sign Programs

- No amendments are required post-Reed
- One amendment proposed - also include building mounted signs

10-50.100.080

Sign Design Performance Standards

- No amendments are required post-Reed
- Only a minor clarifying amendment is proposed to correct a standard

10-50.100.090

Temporary Signs (Current Code)

- A. Purpose
- B. General to All
- C. Specific to Commercial and Industrial Zones …

Temporary Signs:
Approved Temporary Uses
Civic and Non-Profit Events
City Special Recreation Events
Temp. Directional Signs
On-Premises Business Signs
Temp. Construction Signs
Real Estate Signs
Sign Walkers

Temporary Signs:
New Occupancy or Use
Grand Opening
Promotional or Seasonal Sale
Going-Out-of-Business
A-Frame as Secondary Signage

Temporary Signs:
A-frame or Upright Sign
Vertical Banner Sign
Wall Banner Sign
Window Sign

The standards are not content neutral!

10-50.100.090 Current Code

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Table 10-50.100.090.F: Standards for Specific Temporary Business Signs (Includes Temporary A-Frame, Wall Banner, Vertical Banner, and Temporary Window Signs)

	Maximum Duration	Other Requirements
New Occupancy or Use Sign	45 consecutive days within the first 6 months of establishment of a new occupancy or use.	Max. 1 sign per business. May not be combined with a grand opening sign. Sign to be removed when permanent sign is installed.
Grand Opening Sign	30 consecutive days.	Max. 1 sign per business. May not be displayed at the same time as a new occupancy or use sign.
Promotional or Seasonal Sales Sign[1]	Max. of 1 sign for no more than 10 consecutive days, max. 6 times per calendar year.	Only 1 permit is required per calendar year.
Going-Out-of-Business Sign	30 consecutive days.	Max. 1 sign per business. Sign to be removed when business finally closes.
A-Frame Sign used as Secondary Signage in a Multi-Tenant Shopping Center	No limitation on the number of days they may be used	Only on the walkway directly in front of the store. Shall not interfere with pedestrian travel or encroach upon a required accessible path. Not in public right-of-way, sidewalks, parking areas, driveways, or landscape areas. No Temporary Sign Permit required.

10-50.100.090

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Temporary Signs (Proposed)

- A. Purpose
  - Minor revisions only, unrelated to *Reed*
- B. General to All
  - Numerous amendments for clarity/simplicity
- C. Standards for Temporary Signs
  - Extensive rewrite and simplification post-*Reed*

10-50.100.090

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Temporary Signs (Proposed)

- B. General to All
  - Numerous amendments for clarity/simplicity

Staff Proposal

Temporary signs are allowed only in compliance with the provisions of this Section;

1. A Temporary Sign Permit is only required for temporary wall banners. See Section 10-20.40.130 (Temporary Sign Permits).
2. There is no limitation on the length of time that a temporary sign may be displayed except for temporary wall banners (See Table 10-50.100.090.B (Standards for Temporary Signs).
3. Temporary signs must not be placed on or affixed to any City property, including City rights-of-way, except as specifically authorized in connection with a special event permitted under City Code Chapter 8-12 (Special Events).
4. Temporary signs shall not be placed in the clear view zone at street intersections or driveways (Refer to Section 10-50.100.050.F (Sign Placement at Intersection)).

10-50.100.090

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Staff Proposal in More Detail

- No limitation on how long a temporary sign may be displayed and no permit; except for wall banners – permit required and max. 30 days
  - Practically speaking may mean some businesses have signs displayed every day
  - Area limitation would apply
  - Signs must be removed at close of business
  - Applies to all signs – advertising, ideological, political, etc.
  - Wall banners require a permit – limited to 30 days
  - Enforcement manageable

10-50.100.090

Temporary Signs (Proposed)

- C. Standards for All Temporary Signs
  - Time, Place and Manner Restrictions for Temporary Signs
    - Placement – not a hazard
    - Prohibited elements – illumination, animation, attachments
    - Design and construction – professionally crafted

    - Period of use – only wall banners limited to 30 days
    - Hours of use – business hours only except wall banner
    - Area limitation – 32 sq. ft. and 16 sq. ft.
    - Multi-tenant shopping centers – 2 signs per 150' of frontage, 24 sq. ft. combined.
    - No permit required except wall banner

10-50.100.090

Temporary Signs (Proposed)

- C. Standards for All Temporary Signs
  - Types of Temporary Signs
    - A-frame or Upright Sign
    - Vertical Banner Sign
    - Flags displaying a commercial message
    - Wall Banner Sign
    - Window Sign
    - Yard Sign

    - Each has area, height, and width limitations

10-50.100.090

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Temporary Signs (Proposed)

- C. Standards for Temporary Signs
  - Civic and Non-Profit Event Signs on City Approved Sign Support Structures
    - No amendments proposed in this section
    - Now cannot require placement on them …

10-50.100.090

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Temporary Signs (Proposed)

- C. Standards for Temporary Signs
  - Sign Walkers
    - Minor clarifying amendments, unrelated to Reed

10-50.100.100

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Sign Districts of Special Designation

- A. Flagstaff Central District
  - 5.b. Includes Neighborhood or District Sign
  - Excluded from the permitted sign area for the property on which it is located
- B. Downtown Historic District
  - Stanchion signs no longer permitted
- F. Flagstaff Sign Free Zone

10-50.100.090 Current Code

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12. **Political Signs**
Political signs are permitted in compliance with ARS § 16-1019.

13. **Real Estate Signs**

a. **All Residential Zones.**

(1) One real estate sign per street frontage is permitted. Signs must be non-illuminated, constructed of durable materials, placed only on the property for sale, rent, or lease, be no more than six feet in height, and be no larger than eight square feet in area in single-family residential zones and no larger than 12 square feet in area in multi-family residential zones.

(2) Open house/auction directional signs are permitted within one mile of the residence as measured along the streets used to drive to it. Such signs must be no larger than four square feet in area, a maximum of three feet in height, and only one sign is allowed for each turning movement beginning at the residence for sale. Signs may be placed in a public right way or on off-site private property for the duration of the open house only while a sales person is present, provided such signs do not constitute a hazard to pedestrians or vehicular traffic, are not placed on medians, and they are removed no later than one hour after the conclusion of the open house.

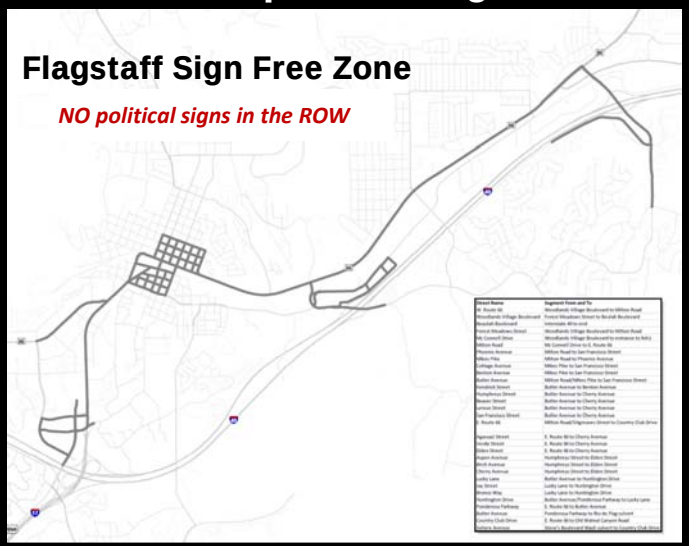
b. **All Commercial, Industrial, and Non-residential Zones:** One real estate sign per street frontage is permitted. Signs must be non-illuminated, constructed of durable materials, placed only on the property for sale, rent, or lease, be no more than six feet in height, and be no larger than 24 square feet in area.

10-50.100.090

- A.R.S. §16-1019. Political Signs
  - City may not remove political signs within a city ROW if …
  - 45 days before primary & 10 days after general election
  - City may remove if a hazard/interferes with ADA or "constitutes an emergency"
  - Max 16 sq. ft. residential zones / 32 sq. ft. elsewhere
  - May establish up to 2 "sign free zones", max. total area of 3 square miles; "commercial tourism, commercial resort and hotel sign free zones"
  - Not permitted in ADOT ROW

10-50.100.100

Sign Districts of Special Designation

- 

10-50.100.110, -120, & -130

Nonconforming Signs

- No amendments are required post-Reed
- No other amendments are needed

Enforcement

- No amendments are required post-Reed
- Only minor clarifying amendments for clarity

Appeals

- No amendments are required post-Reed
- No other amendments are needed

10-50.100.140

Severability

- Already included in the Sign Standards
- No amendments are required post-Reed
- No other amendments are needed

Needed Other Amendments

Chapter 10-20 (Administration, Procedures, and Enforcement

- Temporary Sign Permits – wall banners only

Chapter 10-80 (Definitions)

- Delete various content-based definitions
  - Sign, Real Estate Directional
  - Sign, Temporary Directional
  - Sign, Temporary New Development/Construction,
  - Etc.
- Add new sign types
  - Sign, Temporary Yard
  - Other minor updates

Discussion – A Path Forward

- Seeking direction on how to proceed:
  - Temporary Signs on Commercial Property
    - Permitting: no permit, except wall banners
    - Duration: no limit, except wall banners
    - Removal at close of business, except wall banners
    - Temporary sign area (exclude temporary window signs?)
  - Temporary Signs in the ROW
    - Sign Free Zone
    - Enforcement issues
  - Other issues?

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