



Sign Ordinances and Free Speech, an Update

 Nashua Regional Planning Commission

November 2016

Community Action Items

- Review your ordinance (along with your town counsel) to see if you are compliant with the ruling in *Reed v. Town of Gilbert*
- To determine if your sign ordinance is content-based and unconstitutional, use the rule of thumb, “If you have to read the message to figure out how a sign is to be regulated, then it is content-based and subject to challenge under *Reed*”
- The only way a community can survive strict scrutiny analysis is if their regulations “further a compelling interest and are narrowly tailored to achieve that interest” (e.g., public safety)
- Evaluate the purpose of your sign ordinance to see if similar goals can be accomplished through the regulation of design, building material, or location

Reed v. Town of Gilbert, 576 U.S. ____ (2015)

Gilbert, Arizona’s sign ordinance prohibited displaying outdoor signs without a permit, except for 23 categories, which were exempt. Each of these categories (e.g., Ideological, Political, and Temporary Directional Signs) had different standards, such as their size and how long they could be outdoors.

After receiving a citation from the Town, a church that did not have a permanent space and relied on signage to advertise the location of their meetings sued the Town for violating their First Amendment rights. In an unanimous decision, the U.S. Supreme Court decided that since the Town had different standards for signs based on message, the regulations were content-based and therefore unconstitutional.

For more information on the legal background of the case, please see:

[Sign of the Times](#)

<http://blogs.mml.org/wp/cc/files/2016/03/Sign-of-the-Times-MML-20160311.pdf>

[Court’s Free-Speech Expansion Has Far Reaching Consequences](#)

http://www.nytimes.com/2015/08/18/us/politics/courts-free-speech-expansion-has-far-reaching-consequences.html?_r=0

Implications for Communities

The ruling in *Reed v. Gilbert* leaves many questions for how communities can regulate signs. For the time being, sign ordinances can still have provisions for commercial signage, since the regulation of commercial speech is subject to less scrutiny.

For more guidance on revising your sign ordinances, please see:

[Legal Alert - Reed v. Town of Gilbert](#)

<https://www.nh.gov/oep/resource-library/planning/documents/legalalertreed-v-town-of-gilbert.pdf>

[Sign Regulations After Reed v. Town of Gilbert](#)

<http://wisconsinplanners.org/wp-content/uploads/2015/01/Sign-Regs-After-Reed.pdf>