



Sign Code Update

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Legal Analysis – Key Findings for Developing New Sign Code

The legal analysis assumes there is relative safety to signage with time, place, or manner restrictions provided the restrictions are: (1) without reference to the content of the regulated speech; (2) are narrowly tailored to serve a significant governmental interest; and (3) leave open alternative channels for communication of the information the signage was intended to communicate. Such time, place, and manner restrictions include:

- Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.
- Rules regulating the locations in which signs may be placed. These rules may distinguish between free-standing signs and those attached to buildings.
- Rules distinguishing between lighted and unlighted signs.
- Rules distinguishing between signs with fixed messages and electronic signs with messages that change.
- Rules distinguishing between the placement of signs on private and public property.
- Rules distinguishing between the placement of signs on commercial and residential property.
- Rules restricting the total number of signs allowed per a specified distance of roadway.
- Rules regulating commercial speech under the intermediate *Central Hudson* test (as modified by Ninth Circuit):
 - 1) Speech is protected;
 - 2) The rule(s) serve a *substantial* as opposed to a *compelling* governmental interest;
 - 3) The rule(s) directly advance the real governmental interest asserted; and
 - 4) The rule(s) be narrowly tailored to serve that interest.





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Legal Analysis – Emerging Themes Moving Forward

High-level themes emerging from legal review that are important to consider as development of the new sign code moves forward:

- Since the First Amendment prevents sign codes from treating noncommercial messages less favorably than commercial messages, restrictions cannot carve out specific exceptions for particular commercial messages not allowed for noncommercial messages.
- The implications of *Reed* on the City's subsequent sign code revisions reach outside of the Sign Code (OMC 18.42). The City must consider changes to the definitions located in OMC 18.02 (Basic Provisions), the design review standards in 18.100 (Design Review), policies for sign application, possibly solicitation, etc.
- The Design Review guidelines and criteria must be sufficiently specific and content-neutral and also must be consistent with the sign code. Those guidelines/criteria need better clarification as to the interface between the general sign code and the allowances provided by design review.
- The inclusion of sign regulations in the design review sections is not applied consistently. There are design districts that lack specific provisions for signs, while others have such section.
- The inclusion of sign regulations in the design review section stretches the regulations out within the code making it more challenging for an individual to understand the full scope of the regulations.
- Certain uses are called out throughout the sign code. Any differentiation of uses will need to be carefully considered and implemented in a content-neutral manner going forward.
- While a regulation can relate to the parcel, it cannot be required to relate to the use.
- The City will need to make a policy decision on how conservative it would like to be with regard to commercial signs. A conservative approach would be to examine all sign provisions during this process.
- Content based regulations are intermingled throughout the code, not just in the political sign or temporary sign sections. For example, see OMC 18.42.040.

