



# TOWN COUNCIL

## WORKSHOP AGENDA DOCUMENTATION

**PREPARATION DATE:** September 11, 2018  
**MEETING DATE:** September 17, 2018

**SUBMITTING DEPARTMENT:** Legal  
**DEPARTMENT DIRECTOR:** Audrey Cohen-Davis  
**PRESENTER:** Lea Colasuonno

**SUBJECT:** Town of Jackson Sign Code Land Development Regulation

### PURPOSE OF WORKSHOP ITEM

The purpose of this item is to discuss with Council the types of changes to the Town sign code Land Development Regulation (LDR) necessitated by a recent constitutional law ruling by the United States Supreme Court and gather feedback from the Council on its policy preferences.

### DESIRED OUTCOME

The desired outcome is for Council to provide guidance to staff with regard to amending the sign standards in the current LDR.

### BACKGROUND/ALTERNATIVES

Given the need for this LDR change derives from a shift in the federal legal landscape, staff has outlined its recommended approach for Council consideration, amendment and approval:

1. The Constitutional Standard:
  - The Town sign code should be re-worked so it does not regulate signs based on the content or subject matter of the sign, but rather, based on content-neutral features.
2. What Changes Are Necessary:
  - Staff recommends the following types of changes specifically:
    - ❖ Eliminate separate rules for categories of signs that are defined by the content or subject matter of their message: e.g. take out rules that set size, height, or duration requirements for “political” signs, “directional” signs, “real estate” signs, etc.
    - ❖ Review “exceptions” to regulations to make sure they are not content based.
    - ❖ Ensure the sign code regulates with content neutral, “time, place, and manner” regulations. Examples of these types of regulations already in the sign code include:
      - ✓ Size
      - ✓ Location of signs
      - ✓ Amount of time signs are displayed
      - ✓ Distinguish between lighted and unlighted signs
      - ✓ Distinguish between signs with fixed and changing messages and electronic messages
      - ✓ Distinguish between signs on public and private property
      - ✓ Distinguish between “on-premises” and “off-premises” (e.g. a billboard) signs
      - ✓ Distinguish between signs on commercial and residential property
3. Schedule for Ordinance Presentation to Council:
  - Given the Planning and Legal Departments current workload, staff proposes the following timing for this ordinance:

- ❖ Town notices the sign code LDR in the paper in late August;
- ❖ The LDR is reviewed by the Planning Commission on October 3;
- ❖ The LDR is presented to Council for its initial review on November 5.

4. Staff's Recommended Changes:

- Staff recommends presenting an ordinance to repeal the offending provisions of the current code.
- Staff recommends presenting a revised sign code ordinance for Council discussion and consideration.

### STAKEHOLDER ANALYSIS

All residents and visitors are stakeholders for this item because First Amendment speech rights apply uniformly.

### FISCAL IMPACT

The fiscal impact of passage of ordinances after third reading varies between \$250.00 and \$700.00 depending on the length of the ordinance. Shorter ordinances average around \$350.00 and franchise ordinances can reach \$700.00. Ordinances appear in the Jackson Hole News & Guide after third reading, but are sent to the Jackson Hole News & Guide prior to Council action on third reading. Ordinances appear in the Jackson Hole News & Guide the Wednesday following Council's action on third reading (two days after being enacted). If Council makes changes to the ordinance on third reading, the ordinance needs to be re-advertised in its final form.

### STAFF IMPACT

The staff impact of this item is felt most keenly in the Legal and Planning Departments, though also has an impact on the Police Department's enforcement division.

Additionally, the Office of the Town Clerk is affected because that office handles advertising with the Jackson Hole News & Guide for all ordinance amendments.

### LEGAL ISSUES

The United States Supreme Court confirmed in its *Reed v. Town of Gilbert* decision that a content-based sign code violates the First Amendment of the United States Constitution. This decision upended decades-old rules, thus necessitating cities and towns across the nation to rework sign codes. While there is little question that government may regulate signs in general, different standards now apply and this item is intended to keep the Town's sign code current with this changed legal landscape.

The Town sign regulations (which complied with the Supreme Court's previous standards) need to be revised so they comply with the Court's recent interpretation.

### ATTACHMENTS

None.

### RECOMMENDATION

Staff recommends Council direct staff to 1) draft a repeal ordinance for the next Council meeting and 2) begin and complete the LDR update process for the sign code.

### SUGGESTED MOTION

I direct staff to 1) draft and present a repeal ordinance for the necessary portions of the sign code for the next Council meeting and 2) to revise the sign code LDR as necessary under federal law and present such at a future Town Council meeting.

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