

# Sign Regulations

ZOA 193-2016  
ZOA 194-2016



City Council  
July 13, 2016

*Hampton*  
VIRGINIA

# Why Regulate Signs?

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- **Traffic Safety**
  - Clutter distracts motorists and creates hazards
- **Pedestrian Safety/Access**
  - Blocking sidewalks
  - Moving/unsafe signs
- **Property Values and Economic Development**
  - Attract business/investment



# First Amendment

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- Signs = Speech = First Amendment Protections
- Core question is whether a regulation is content-based or content-neutral
  - Exists to protect citizens from regulations motivated by hostility to certain speech
  - **Content-based** → subject to strict scrutiny and presumptively unconstitutional
  - **Content-neutral** → subject to intermediate scrutiny and likely to survive if valid basis

# U.S. Supreme Court

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- **Reed v. Town of Gilbert, AZ (2015)**  
changed the landscape for all localities
  - Ordinance treated signs differently depending on the type of speech displayed
    - **Political signs** – 32 square feet, 60 days
    - **Ideological signs** – 29 square feet, no limit
    - **Directional signs** – 4 square feet, 12 hours
  - “A speech regulation is content-based if the law applies to a particular speech because of the **topic discussed** or the **idea or message expressed.**”



# Impacts of *Reed*

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Before *Reed*, the federal 4<sup>th</sup> Circuit test was **viewpoint** neutrality – subject matter distinctions were generally OK

After *Reed*, regulations based upon viewpoint **or** **subject matter** are considered content-based too

- E.g., Political signs, real estate signs, directional signs
- “On its face” rule of thumb - If you have to read the sign to determine how it is regulated, the regulation is content-based

# Impacts of *Reed*

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## **Content-based laws are subject to strict scrutiny:**

- Presumed unconstitutional
- Government must prove the regulation serves a compelling governmental interest and is narrowly tailored to achieve that interest
- Traffic and aesthetics will not justify it

# Proposed Changes - Legal

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## **Remove all distinctions based on content:**

- Political – information related to a local, state, or national election
- Real estate – information concerning rent, lease or sale
- Directory – provide on-site direction
- Construction – names of the principal contractors, architects, lending institutions or other firms
- Menu board – communicate offerings of food

# Proposed Changes - Legal

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## Maintain distinctions based on zoning district and use of the property:

- *E.g., In conjunction with outdoor seating areas*, one (1) sign located within the designated outdoor seating area, provided that the sign shall not exceed two (2) square feet in area and four (4) feet in height, shall not contain lighting, and shall be movable with flat footing.
- *E.g., Types of signs permitted in the BB-3, BB-4, and BB-5 districts*
  - (i) *Wall signs.*
  - (ii) *Painted window signs.*
  - (iii) *Canopy signs.*
  - (iv) *Projecting signs.*
  - (v) *Sandwich board signs.*



# Proposed Changes – Legal

- Size
- Height
- Duration
- Illumination
- Emissions
- Movement
- Safety
- Maintenance
- Location



# Proposed Changes - Legal

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<b>When Permitted</b>	<b>Commercial Districts</b>	<b>Residential Districts</b>
Proximity to Election Day	32 square feet	8 square feet
In Conjunction with Property for Sale	32 square feet	8 square feet

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- Sizes the same for all types, varying by zoning district
- No regulation of what the sign says
- Enforcement is easier
  - Count # of temporary signs; determine whether number exceeds maximum depending on use, event, or permit

# Proposed Changes - Legal



- House for sale → 1 sign
- House for sale and it's during an election period → 1 sign + # of contested elections + # of issues on ballot
- House is for sale and under construction and it's during an election period → 2 signs + 1 sign per # of contested elections + 1 sign per # of issues on ballot
- **Every single sign** could say "I love Hampton"

# Looking Ahead

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- **Sign law is evolving**

- *“As the challenges to [sign laws] mount, courts will have to invalidate one after the other. This Court may soon find itself a veritable Supreme Board of Sign Review.”* – Justice Kagan
- Every policy change will require a review

# Opportunity for User-Friendly Changes

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**August  
2013**

**Consolidation of use permits  
and conditional privileges**

**January  
2014**

**Adoption of a use table**

**March  
2015**

**Recodification of ordinance**

**Now**

**Adoption of sign tables**

# Proposed Changes - Zoning

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## **Freestanding**

1 table, 1 page,  
all zoning districts

## **Wall**

1 table, 1 page,  
all zoning districts

## **Temporary**

1 table, 1 page,  
all zoning districts

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- Transformation of 30+ pages of text into 3 more user-friendly sign tables and 11 pages of text
- Less confusion between general regulations and special regulations in special zoning districts
- Definitions for all sign types

# Ordinance Amendment

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- Bring ordinance into compliance with new Supreme Court case law
- Improve enforcement
- Modernize format

# Recommendation

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Approval of  
ZOA 193-2016  
and  
ZOA 194-2016