

CITY COUNCIL MEMORANDUM

AGENDA ITEM

**Ordinance Amending Sign Regulations in
Articles IV and V of Chapter 31 of the City of
Killeen Code of Ordinances**

ORIGINATING DEPARTMENT

Planning and Development Services

BACKGROUND INFORMATION

In a recent case *Reed v. Town of Gilbert*, the Supreme Court of the United States invalidated sign ordinances across the nation in a significant shift from previous opinions related to freedom of speech and content-neutrality of signage. The plaintiff in the case claimed that the Town of Gilbert's sign ordinance made impermissible content-based distinctions between "Temporary Directional Signs", "Ideological Signs", and "Political Signs." These categories were based on what message the sign communicated and included varying size and time limitations based on those categories. The Supreme Court stated that content based laws, those that target speech based on its communicative intent, are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. This standard is often called strict scrutiny and regulations subject to strict scrutiny are very rarely upheld. Therefore, the Supreme Court found these distinctions to be based on content and found them unconstitutional.

DISCUSSION/CONCLUSION

Staff completed a comprehensive review of the City's sign ordinances to identify any regulations that are not in compliance with the *Reed* decision. Like the Town of Gilbert's ordinance, the city's sign regulations include various categories of signs with different requirements that could now be considered content regulations and subject to strict scrutiny by the courts.

Due to these findings, Staff began to draft revisions necessary to comply with the new law. The Planning and Zoning Commission held three public hearings to gain public input. Additionally, at the request of the Planning and Zoning Commission, Staff met with a group of sign companies to ensure the involvement of affected parties.

The primary purpose of the proposed ordinance is to remove content based distinctions found mostly in the "Definitions" and "Signs allowed without a permit" sections. In addition, the revisions update and reorder parts of the ordinance for clarity, address citizen concerns that were voiced during the review process, and add a substitution clause allowing noncommercial speech anywhere commercial speech is allowed.

FISCAL IMPACT

There is no fiscal impact associated with this ordinance.

RECOMMENDATION

The Planning and Zoning Commission unanimously recommends that the City Council adopt the proposed ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.