

**City Manager's Report****May 9, 2017 City Council Meeting****Prepared By: Pierre Rivas, Development Services Director****Item#: 12.2**

Subject: Adopt a Resolution of Intention (ROI 17-02) to initiate amendments to Title 10 *Zoning Ordinance*, Chapter 4 *General Regulations*, Section 17 *Sign Regulations* of the City Code regarding regulations of signs.

Background:

In *Reed v. Town of Gilbert* (June 18, 2015), the United States Supreme Court clarified when municipalities may impose content-based restrictions on signage. In 2005, the Town of Gilbert, Arizona, adopted a municipal sign ordinance that regulated the manner in which signs could be displayed in public areas. The ordinance imposed stricter limitations on signs advertising religious services than signs that displayed "political" or "ideological" messages. When the town's Sign Code compliance manager cited a local church for violating the ordinance, the church filed a lawsuit in which they argued the town's sign regulations violated its First Amendment right to the freedom of speech.

Writing for a majority of the Court, Justice Clarence Thomas held that the town's sign ordinance imposed content-based restrictions that did not survive "strict scrutiny" because the ordinance was not narrowly tailored to further a compelling government interest. Justice Thomas also clarified that "strict scrutiny" should always be applied when a law is content-based on its face.

Strict scrutiny is the most stringent standard of judicial review used by U.S. courts. It is part of the hierarchy of standards that courts use to determine which is weightier, a constitutional right or principle or the government's interest against observance of the principle. The lesser standards are "rational basis review" and exacting or "intermediate scrutiny". These standards are used to test statutes and government action at all levels of government within the United States.

Discussion: It is the opinion of staff that changes are needed to bring the City's sign ordinance into compliance with the U.S. Supreme Court's decision in the *Reed v. Town of Gilbert* case. The City's current sign ordinance does make distinctions between political, directional, directory, real estate, and temporary signs, etc.; applying differing standards for the different categories which may be considered content-based regulations and may run afoul of the Supreme Court opinion.

The requested resolution would direct staff to begin the process of amending the Zoning Ordinance. The draft ordinance would be available for public review and consideration by the Planning Commission at a noticed public hearing. The Commission would review and make recommendations for consideration by the City Council as would staff and the City's legal counsel.

The City Council may initiate amendments to the Placerville Zoning Ordinance by Resolution of Intention or minute order, per Section 10-1-7(A-1) of City Code.

Cost and Budget Impact: Minimal. The cost of staff time to schedule hearings before the Planning Commission of City Council for consideration of proposed amendments to the City Code including staff report preparation and noticing. The draft ordinance revisions will require review by the City Attorney.

Recommendation: Adopt a Resolution of Intention (ROI 17-02) to initiate amendments to Title 10 *Zoning Ordinance*, Chapter 4 *General Regulations*, Section 17 *Sign Regulations* of the City Code regarding the regulation of signs.



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director

Attachments:

1. Resolution of Intention 17-02
2. Supreme Court of the United States Syllabus, *Reed et al. v. Town of Gilbert, Arizona, et al.*