

MEMORANDUM

TO: Planning & Zoning Department Staff and Other Interested Parties

FROM: Frank Simeck, CZA, Zoning Administrator

DATE: February 21, 2019

SUBJECT: Election Signs

In 2015 in *Reed v. Town of Gilbert*, the U.S. Supreme Court ruled that the regulation of temporary non-commercial signs must be content neutral and that content-based regulation is unconstitutional. Currently, the Town Code regulations of temporary signs is content based, providing different requirements for temporary real estate signs, temporary public and semi-public signs, temporary election signs, and temporary construction signs. Therefore, Section 18-185.E, in the opinion of the Town Attorney and Zoning Administrator, is unconstitutional.

Going forward, the Planning and Zoning Department will enforce the least restrictive standards for all temporary signs, allowing not more than 50 square feet total of temporary signs, for no longer than 6 months. The Town will also not require bonds for any temporary signs. It is important to note that signs within the Town right of way are still not allowed, as regulated by *Section 10-28.1. – Unlawful use of public right-of-way or other property*, and that this determination only pertains to non-commercial temporary signs on private property.

Section § 18-185. - *Special regulations for certain uses and signs.*

E. Temporary signs. A temporary real estate sign and signs of a public and semi-public nature not exceeding 50 square feet in area may be erected upon issuance of a temporary six-month renewable permit. Such sign shall not be illuminated, nor shall it be less than 75 feet from any dwelling. No such temporary permit shall be granted unless a \$25.00 bond has been posted. All temporary real estate signs and public and semi-public signs shall be dismantled within five days after expiration date of the temporary permit.

1. *Temporary signs of a public or semi-public nature pertaining to elections. Five temporary signs not exceeding 20 square feet total may be posted on residential property after securing the necessary permits and posting of a \$25.00 bond, for a period of 30 days prior to election day and shall be removed not more than five days after election day. Failure to remove signs shall constitute forfeiture of all bonds posted and all material will become property of the Town.*
2. *A banner across Maple Avenue at the intersection of Maple Avenue and Center Street shall be erected two weeks before election day to announce Town elections, such wording shall be "Town Council Election, Tuesday, May (date)" and removed the day after election.*
3. *Temporary signs during construction.*
 - a. *In the event an existing approved exterior sign permitted under section 18-184 requires temporary removal due to reconstruction or renovation of the building exterior where located, a temporary business identification sign of a size not exceeding the original may be substituted therefor during the period of actual reconstruction or renovation, or six months, whichever is less. All such temporary business identification signs shall be subject to approval of the Board of Architectural Review.*
 - b. *One construction sign identifying a construction site or project, located on the identified project site and meeting the permit requirements of this article, may be erected no more than five days prior to the beginning of construction and must be removed prior to issuance of an occupancy permit in the case of new construction. In the case of renovation or other construction during occupancy, such signs shall be removed on or before that date provided in the application for the sign permit as the date of estimated completion of renovation or other construction.*
 - c. *The zoning administrator is authorized to extend the time periods provided for in subsections E.3.a and b of this section, for one additional period not to exceed six months, for good cause shown.*

CC: Cindy Petkac, AICP, Director of Planning & Zoning
Steve Briglia, Town Attorney
Mercury Payton, Town Manager
Lynne Coan, Communications and Marketing Manager